

Formative Assessment: Evaluating Evidence



Thinking historically means identifying the evidence related to a claim, assessing its validity, and corroborating it by comparing multiple sources' interpretations of events, developments, or processes.

Directions: Read the following secondary source and then answer the questions on evaluating evidence that follow. The multiple choice questions for this formative assessment are Weighted Multiple Choice (WMC) Questions. This means that there is only one *incorrect* answer, but the other 3 choices are weighted. The *best* answer is 3 points, the *second-best* answer is 2 points, and the *third-best* answer is 1 point. The *incorrect* answer is 0 points.

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Source: *Yick Wo v. Hopkins*, 1886. [Library of Congress](#).

Note: This case looked at whether a San Francisco city ordinance that refused to grant Chinese men Yick Wo and Wo Lee a permit to operate their laundry businesses violated their rights under the Equal Protection Clause of the 14th Amendment. The Court decided unanimously (9-0) in favor of the plaintiffs. This was the first time the court ruled that a law that is race-neutral on its face, but is executed with discrimination, still violates the Equal Protection Clause.

The 14th Amendment... is not confined to the protection of citizens. It says: "Nor shall any State... deny to any person within its jurisdiction the equal protection of the laws." These provisions are universal in their application to all persons...without regard to any differences of race, of color, or of nationality, and the equal protection of the laws is a pledge of the protection of equal laws...

Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution... The fact of this discrimination is admitted. No reason for it is shown, and the conclusion cannot be resisted that no reason for it exists except hostility to the race and nationality to which the petitioners belong, and which, in the eye of the law, is not justified. The discrimination is, therefore, illegal, and the public administration which enforces it is a denial of the equal protection of the laws and a violation of the Fourteenth Amendment of the Constitution. The imprisonment of the petitioners is, therefore, illegal, and they must be discharged.



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1. Select the piece of evidence from the above document that *best* supports the claim: **A fair law can still be illegal if administered with discrimination.**
 - A. "The 14th Amendment... is not confined to the protection of citizens."
 - B. "Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand... the denial of equal justice is still within the prohibition of the Constitution..."
 - C. "No reason for it is shown, and the conclusion cannot be resisted that no reason for it exists except hostility to the race and nationality to which the petitioners belong, and which, in the eye of the law, is not justified."
 - D. "The imprisonment of the petitioners is, therefore, illegal, and they must be discharged."

2. Justify your choice in the space below.



1. Select the piece of evidence from the above document that *best* supports the claim: **A fair law can still be illegal if administered with discrimination.**
 - A. "The 14th Amendment... is not confined to the protection of citizens." **(0 points)**
 - B. "Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand... the denial of equal justice is still within the prohibition of the Constitution..." **(3 points)**
 - C. "No reason for it is shown, and the conclusion cannot be resisted that no reason for it exists except hostility to the race and nationality to which the petitioners belong, and which, in the eye of the law, is not justified." **(2 points)**
 - D. "The imprisonment of the petitioners is, therefore, illegal, and they must be discharged." **(1 point)**

2. Justify your choice in the space below.

Choice B, worth 3 points, is the best piece of evidence to support the claim that a fair law can still be illegal if administered with discrimination. It claims that "though the law itself be fair on its face" it can result in a "denial of equal justice." Choice C is worth 2 points because it acknowledges that "hostility to the race" of the petitioners "in the eye of the law, is not justified." It is only slightly less direct than Choice B. Choice D is worth 1 point since has to do with wrongful imprisonment, but does not provide enough details to be good evidence on its own. Lastly, Choice A is worth 0 points since it does not relate to the claim.



1. Weighted Multiple Choice

3 points (Choice B)	2 points (Choice C)	1 point (Choice D)	0 points (Choice A)
			Subtotal: _____ / 3

2. Short Answer: Justify Your Answer

3 points	2 points	1 point	0 points
Student thoroughly justifies their choice of the <i>best</i> piece of evidence—which is worth three points as shown on the teacher key—that supports the claim.	Student thoroughly justifies their choice of either the 1 or 2 point option from the WMC question. OR Student's justification of the 3 point option needs deeper analysis.	Student's justification of their choice (either the 1 or 2 point option) lacks deep analysis.	Student either makes no attempt to justify their choice OR try to justify the 0 point option.
			Subtotal: _____ / 3

Total: _____ / 6

