**Plyler v. Doe (1982)**

**Facts:** Revisions to Texas educations statutes in 1975 allow the state to withhold state funds from school districts that allow the enrollment illegal immigrants’ children. Local districts could refuse to enroll the children of illegal immigrants under the statute as well. Tyler independent school district refused to enroll some students of Mexican origin that could not prove their status as citizens

**Procedural History:** Arose as a class action lawsuit in the US District Court for East Texas. The District Court held that the Texas law violated the Equal Protection Clause of the 14th Amendment and the Supremacy Clause of Article VI. US Court of Appeals for the 5th Circuit ruled that the law did not violate the Supremacy Clause, but that it did violate the Equal Protection Clause. Appealed to the US SC.

**Issues:**

1. Do illegal immigrants residing in a state count as “persons within its jurisdiction” (14th sect. 1)?
2. What test should the Court apply to EP cases involving illegal aliens?
3. Does the Texas educational statute violate EP of the 14th Amendment?

**Holding:**

1. Yes. An illegal immigrant is a person in the “ordinary sense of the term” and have always been considered in a state’s jurisdiction
2. Intermediate scrutiny
3. Yes. Fails intermediate scrutiny test

**Judgment:** Affirmed (5-4)

**Legal Reasoning:**

*Majority by Justice Brennan*

1. Issue of the legal status of illegal immigrants
   1. Illegal aliens are persons in “any ordinary sense of the term”
   2. EP protects all within territorial jurisdiction
   3. Congressional debates on the 14th imply protection of all
2. Issue of which test to apply
   1. Normally, states must only pass rational basis test
   2. Strict scrutiny for fundamental rights/suspect class
      1. Education is not a fundamental right
      2. Illegal aliens are not a suspect class
   3. Lifetime hardship imposed on for their illegal status
      1. Not the children’s fault
      2. Intermediate scrutiny for this case
3. Application of the test
   1. State regulation of immigration must mirror federal policy
   2. State cannot know if an illegal will actually be deported until after a deportation hearing
      1. Federal law leaves their status ambiguous
      2. Not all illegal aliens are deported at hearings
      3. Depriving the right to education before the hearings is unfair to those who will be allowed to stay
   3. State interests evaluated
      1. Preventing financial burden on the state
         1. No evidence that immigrants cause financial stress
      2. Improving the quality of education by reducing expenditures
         1. Lower court ruled factually that the quality of education does not necessarily improve
      3. Deterrent of illegal immigrants staying
         1. Many stay even without public education

*Concurrence by Justice Marshall*

1. Education is fundamental right so this case deserves strict scrutiny
2. No rigid standard for equal protection cases

*Concurrence by Justice Blackmun*

1. State action should never cause a disparity of class
   1. Not educating alien children makes them an underclass
   2. Difference between some schools being better than others and not providing school
   3. The state cannot know who and who will not be deported

*Concurrence by Justice Powell*

1. Illogical to punish a child for parents’ mistakes
   1. Lifelong hardship of illiteracy, etc.
   2. Creating a subclass within our borders is not rational

*Justice Burger – dissenting opinion*

1. Law is unwise but nevertheless constitutional
2. Equal protection does not mandate equal treatment of different categories of persons
   1. Legitimate for a state to distinguish between lawful residents and aliens
   2. State can make classifications based on factors people cannot control
      1. Mentally ill v. not
      2. In one county instead of another
3. States not expected to provide for people whose residence is a violation of federal law
4. Distinction based on the right of education implies a hierarchy of government services
5. Application of rational basis test
   1. Fiscal reasons to exclude illegal aliens from services
   2. No right to any governmental service due to illegal status
   3. Federal government deprives social welfare programs to illegal aliens
   4. No need to “improve” state policy by excluding illegal immigrants
6. The Court’s intervention into immigration serves to weaken the resolve of the legislature to deal with this problem itself

**Relation to other cases:**

Yick Wo v. Hopkins (1886)

SD UH

Plyler v. Doe (1982) N| | |

B| x | |

Plyler broadens Yick Wo by extending equal protection to prevent the state from depriving immigrants the right to make a living to the right of their children to a free public education. Based on Van Geel, Plyler expands the area of impermissible action by the state.

**Sources of law:**

EP Clause of 14th Amendment, section 1

**Interpretation style:**

Justice Brennan seems like an originalist in his reference to the Congressional debates over the language of the 14th amendment, but this seems illogical since Brennan is known as the main proponent of the living Constitution theory. Justice Burger seems to accuse the majority of acting as unelected “platonic guardians” who are coming up with a convenient legal justification for implementing their own policy views into the opinion. He seems extremely concerned with the counter-majoritarian nature of the SC.