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'Birth Tourism' Isn't a Serious Problem. The White House Attack on It Is.

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As a candidate for president in 2015, Donald Trump railed against birthright citizenship, a bedrock of US immigration law ever since the ratification of the 14th Amendment. The principle that anyone born on US soil is a US citizen is a sublime expression of American exceptionalism, not to mention one of the noblest achievements of the Republican Party, but Trump spoke of it with scorn.

“A woman gets pregnant. She’s nine months, she walks across the border, she has the baby in the United States, and we take care of the baby for 85 years?” Only Americans would be “dumb enough, stupid enough,” to accept such a system, he said. Since becoming president, his fulminations haven’t let up. In 2018, he said an executive order to unilaterally abolish birthright citizenship was “in the process.” He told reporters last year that it was “frankly ridiculous” that children born to immigrants who entered the country unlawfully should become US citizens.

In reality, no presidential order will ever override the 14th Amendment. So the White House is moving instead to stop pregnant women from coming here in the first place.

A new State Department rule, aimed at blocking what it calls “birth tourism,” directs consular authorities to deny tourist visas to any pregnant foreigner they believe wants to visit the United States “with the primary purpose” of “obtaining US citizenship for a child.” The new rule labels giving birth on US soil an “impermissible basis” for visiting the United States, and puts the burden of proof on the woman to convince American officials that the primary reason for her trip isn’t to have a baby.

It’s doubtful whether the new policy will have much impact. Tourist visas are typically valid for 10 years, so a woman wishing to give birth in America so her child will be a US citizen need only obtain a visa before becoming pregnant. The State Department rule is more symbol than substance — “another plank in the administration’s long-running effort,” as The Wall Street Journal put it, “to restrict access to the US.”

Though it’s a right-wing bugaboo, “birth tourism” is a nonproblem. Even the restrictionist Center for Immigration Studies estimates that only 33,000 babies are born annually to women on tourist visas — a mere 0.8 percent of the 3.8 million American babies born each year. (The Centers for Disease Control puts the number of births to nonresidents much lower, at about 10,000.)

Naturally, the State Department doesn't attribute its new rule to anti-immigrant animus. Instead, it makes the risible argument that "birth tourism poses risks to national security." And how is the world's mightiest nation endangered by the birth of babies to mothers who live abroad? Well, says the administration, their existence allows "foreign governments or entities to recruit or groom US citizens who were born as the result of birth tourism and raised overseas . . . in manners that threaten the security of the United States." It cites no evidence that such a threat has ever materialized. Maybe that's because none exists. "I have dug through hundreds of national security and terrorism cases over a 30-year period to identify the origins of the offenders," writes the Cato Institute's David Bier, an immigration expert. "Not a single case that I have reviewed followed this fact pattern."

It is true that a relatively tiny number of pregnant foreign women, disproportionately well-to-do and Asian, enter the United States to give birth and acquire American citizenship for their baby. They do so for the reason parents do so many things: to secure opportunities for their children that they themselves never had. For Chinese women, there is a particularly urgent reason to give birth abroad. Their government imposes ruthless population controls and for decades restricted parents to just one child (recently increased to two). But babies born outside China don't count against the limit, so "birth tourism" is often the only option for a woman who wants several children. As one pregnant woman told an American reporter in 2015, "If things were good in China, why would we need to come here?"

The administration's new rule only makes sense in the context of Trump's disdain for most foreigners and his (and others') zero-sum approach to immigration. It is more red meat for his nativist supporters. Perhaps that's all it was meant to be.