the FEDERALIST

Why Birthright Citizenship Is Good For America

The Fourteenth Amendment's citizenship clause granting birthright citizenship has aided immigrant assimilation in the United States.

Alex Nowrasteh

August 1, 2016

The Fourteenth Amendment to the U.S. Constitution, adopted 148 years ago on July 9, provides for the grant of birthright citizenship to the American-born children of immigrants, regardless of their legal status. Troublingly, many have criticized this constitutional right lately. But critics need to know how valuable it is. Perhaps most importantly, one major unintentional benefit of the Fourteenth Amendment is that it speeds assimilation for children of immigrants.

Immigrants to the United States assimilate very quickly. Speaking of America's openness to immigrants, former President Ronald Reagan stated, "An immigrant can live in France but not become a Frenchman; he can live in Germany but not become a German; he can live in Japan but not become Japanese, but anyone from any part of the world can come to America and become an American."

Recent mammoth research projects on immigrant assimilation carried out by the National Academy of Sciences and the Organization for Economic Cooperation and Development bear out President Reagan's quote. To sum up his own research that comes to similar conclusions, University of Washington professor Jacob Vigdor wrote, "Basic indicators of assimilation, from naturalization to English ability, are if anything stronger now than they were a century ago."

Americans, immigrants, and their descendants become Americans. Fortunately, our system of birthright citizenship makes that assimilation and integration process even easier. Those who want to curtail birthright citizenship need only look at societies that accept large numbers of immigrants but don't extend birthright citizenship to their children. The results there are often not pretty.

The History of Birthright Citizenship

First, a little bit of history. The Fourteenth Amendment was enacted in the aftermath of the Civil War to guarantee that freed slaves and others would have constitutional rights vis-à-vis their state governments. The amendment included the citizenship clause to overrule the 1857 Supreme

Court *Dred Scott v. Sandford* decision that, in part, stated black Americans could never become citizens.

The citizenship clause of the Fourteenth Amendment reads: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." This clause was not a departure from Anglo-American common law, which embraced birthright citizenship going back centuries.

The debate over the Fourteenth Amendment's passage made it clear that both proponents and opponents understood it would extend citizenship to the children of Asian and other non-white immigrants who were, under the existing immigration law, unable to naturalize. Sen. Jacob Howard introduced the citizenship clause. During Senate debate, he said it "will not, of course, include persons in the United States who are foreigners, aliens, who belong to the families of ambassadors or foreign ministers accredited to the Government of the United States, *but will include every other class of persons*" (emphasis added).

A provision similar to the citizenship clause appeared in the Civil Rights Act of 1866. In President Johnson's list of complaints he sent to Congress along with his veto of that act, he listed the citizenship clause. He griped, "This provision comprehends the Chinese of the Pacific States, Indians subject to taxation, the people called Gipsies, as well as the entire race designated as blacks, people of color, negroes, mulattoes, and persons of African blood. Every individual of these races, born in the United States, is by the bill made a citizen of the United States."

Denying Birthright Citizenship Is Dangerous

The U.S. rule of birthright citizenship offers a stark contrast to policies pursued in Germany and Japan, where the children of immigrants are either denied citizenship or face a much harder path toward obtaining it.

The German guest-worker program of the 1950s through the 1970s admitted large numbers of Turks, Tunisians, Portuguese, and others to work in their growing economy. Originally, the Germans had no intention of letting the workers and their families stay permanently, but many, especially the Turks, did stay. Their German-born children were not allowed to become citizens. The same was true in Japan, where the Korean minority, called *zainichi*, was barred from citizenship for generations despite being born in Japan.

In both countries, the results were tragic. The lack of birthright citizenship created a legal underclass of resentful and displaced young people who were officially discriminated against in the government-run education system and had tenuous allegiance to the country in which they were born. After four generations in Japan, ethnic Koreans still self-identify as foreign. In both countries, these noncitizen youths are more prone to crime and extreme political ideologies like Islamism or communism.

Their failure to naturalize the Turks contrasts with Germany's Aussiedler system that "repatriated" ethnic Germans and their families living in the territory of the Soviet Union, immediately granting them citizenship by virtue of their blood connection to Germany.

Aussliedler inflows peaked in the late 1980s and early 1990s, when approximately 2.2 million ancestral Germans were admitted and given citizenship. Germany partly rectified its system in 1999, extending citizenship to Turks and creating some legal categories that can gain citizenship through birthright.

Equality Breeds Contentment

Youths born to noncitizen immigrants in countries without birthright citizenship have little legal stake in the nations they were born in but also have no place to go. Many might gain citizenship through the ethnicity of their parents in Korea or Turkey, but with no connections to those nations, citizenship there is meaningless.

In the United States, by contrast, children of immigrants are legally on the same playing field as children born to American citizens. Both can serve in the military, purchase firearms, serve on juries, and be treated the same by the legal system. That is one reason why 89 percent of second-generation Hispanics and 96 percent of third-generation Hispanics have described themselves as American only. "Hispanic-American" or "Mexican-American" is still popular among some after several generations, just as "Italian-American" still survives, but these Americans do not view themselves as foreigners.

The likelihood of amending the Fourteenth Amendment's citizenship clause is small, but that amendment should be defended because of how well it has aided immigrant assimilation in the United States. Remembering the Fourteenth Amendment as a correction to previous racist policies and court decisions is essential, but that history should not blind us to its pro-assimilation impact on the descendants of America's immigrants.

Alex Nowrasteh is the immigration policy analyst at the Cato Institute's Center for Global Liberty and Prosperity.