

Born in U.S.A? The Political and Legal Storm over Birthright Citizenship Debate during the Trump Era

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Abstract:

The doctrine of birthright citizenship has historically been a fundamental aspect of American constitutional law. In January 2025, President Donald Trump enacted Executive Order 14160 that intended to limit this privilege by denying citizenship to specific children born in the United States. This action sparked substantial constitutional and political debate. The main issue raised in this research is whether the executive authority has the ability to change or restrict the constitutional right that has been affirmed since *United States v. Wong Kim Ark* (1898). The research aims at evaluating the implications of this Executive Order by analyzing its constitutional legitimacy, policy justification, and judicial reactions through employing a qualitative research approach. It concludes that even though the presidential action temporarily affected procedural principles regarding injunctions, the judiciary has maintained the *jus soli* principle, supporting the persistent validity of birthright citizenship within the U.S constitutional framework.

Keywords: Birthright Citizenship, Constitutional Law, Donald Trump, Executive Order 14160, Fourteenth Amendment.

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1. INTRODUCTION

Birthright citizenship, which is automatic citizenship conferred by birth on the U.S territory (jus soli), has historically functioned as a constitutional foundation for American national identity and civil equality. Meanwhile, the Fourteenth Amendment to the American Constitution, passed in 1868 following the Civil War, is one of the most transformational legal provisions in its history. This clause was intended to ensure that the nation's identity would be formed by inclusion rather than exclusion; and to reverse the notorious Dred Scott v. Sandford (1857) decision, which denied citizenship to African Americans (The White House, 2025). For more than a century, courts have uniformly construed this clause to guarantee that birthright citizenship is broadly applicable, irrespective of parental status. This culminated in the pivotal ruling of U.S v. Wong Kim Ark (1898), which confirmed that a child born in the U.S to foreign parents is a citizen by birthright (United States v. Wong Kim Ark, 169 U.S. 649, 1898).

Regardless of this long-standing history, birthright citizenship continues to be a contentious issue and a topic of legal and political discussion, particularly in the context of heated immigration debates. Specifically, the conservatives have characterised the clause as a 'magnet' for illegal immigration, associating it with the problem of "anchor babies" (Chavez, 2017). Despite the fact that previous governments have proposed the idea of restricting the clause's application, none have implemented definitive administrative measures until President Donald Trump. Throughout his first term (2016-2020), Trump consistently proposed the possibility of restricting birthright citizenship via executive order, an assertion regarded with considerable scepticism given the clear language of the

Fourteenth Amendment. However, the matter remained a priority to Trump's immigration policy.

On January 20, 2025, following the start of his second term, president Trump released Executive Order 14160, which aimed to revoke automatic citizenship for specific U.S born children, especially those with unlawful immigrant parents or those possessing just temporary lawful status. This order, according to him, not only protected the value and meaning of American citizenship, but also it redefined the criteria for birthright citizenship for offspring of specific noncitizen parents (Raymond, 2025).

Shortly after the policy's announcement, the decision provoked prompt litigation and public discourse on the limits of executive authority, the interpretation of the Fourteenth Amendment, and the operational capability of federal agencies to execute such a significant change. Proponents of the executive order contended that it was a necessary remedial action to halt the misuse of U.S citizenship laws, while opponents argued that it was an overreach that attempted to change the Constitution via presidential order.

The research problem examined in this study is whether a presidential order can lawfully change or limit a constitutional provision that is so deeply rooted in American legal history. In addition to its legal implications, the controversy surrounding Executive Order 14160 is profoundly political, reflecting broader tensions regarding national identity, immigration, and the judiciary's role in regulating executive authority. Hence, court cases, like *Trump v. CASA, Inc.*, underscores the judiciary's readiness to impede enforcement, and restricts principles like national injunctions. These instances show that the substantive guarantee of *jus soli* is still strong even though courts may modify procedural concepts.

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Accordingly, the research questions addressed in this study are as follows:

- How far does the executive order 14160 question the constitutional interpretation of the citizenship clause of the fourteenth amendment ?
- What role have the courts played in interpreting the constitution and in providing procedural remedies in response to this order, as seen in cases such as Trump v. CASA, Inc.?
- How does this presidential action affect American constitutionalism, democratic governance, and citizenship laws in the U.S more broadly?

By addressing these questions, the study aims at examining Trump's executive order from legal, constitutional, and political perspectives, taking into account the broader debates that surround immigration policy, citizenship, the U.S constitution and its interpretation, and the balance of powers between government's different parts. Hence, it offers a comprehensive analysis of the intended policy change, its legal development, and its enduring effects on the birthright citizenship premise.

The work is significant due to its contribution to constitutional studies and the ongoing policy discussions. Initially, it highlights the persistent strength of the Citizenship Clause as a barrier to discriminatory political practices. Secondly, it illustrates how efforts by executives to alter constitutional interpretation can disturb established judicial doctrine and cause legal doubt, regardless of their ultimate failure. Lastly, it places the American birthright citizenship controversy in a global framework where issues of migration, sovereignty, and belonging are becoming more contentious.

2. Literature Review

2.1 Constitutional Basis of Birthright Citizenship

The Citizenship Clause of the Fourteenth Amendment laid the groundwork for birthright citizenship in the U.S Constitution, with the right of giving citizenship to new born citizens on the U.S soil. That principle was tested through a particular case called *U.S v. Wong Kim Ark* (1898), and was affirmed by the Supreme Court. Therefore, the ruling is explained in the Fourteenth Amendment setting the basis over the meaning of U.S citizenship and shaping debates over immigration more particularly.

2.1.1 The Fourteenth Amendment

The Citizenship Clause of the Fourteenth Amendment, which was enacted in 1868, stipulates that “all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens.” Specifically, the Clause rejected the *Dred Scott v. Sandford* decision and established a comprehensive standard for civic membership. The Clause has been, on several occasions, interpreted in a broad manner by the Supreme Court, which has acknowledged that its central purpose was to guarantee national citizenship without the intervention of state-level constraints (The White House, 2025).

The Citizenship Clause captured the attention of many scholars, with a particular emphasis on its original purpose and scope. Historians like Amar (1998), and Foner (2019) underscore its origins during the Civil War as a protection against discriminatory policies exemplified by *Dred Scott v. Sandford* (1857). According to the majority of legal historians, the founders wanted to ensure that practically every person born in the American soil, regardless of their parents’ position, would be subject to the wide and comprehensive principle of *jus soli*. This interpretation has been further strengthened

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by contemporary constitutional scholars such as Neuman (1994), and Aleinikoff (2009), who contend that the clause is impervious to legislative or executive modification due to its explicit constitutional wording.

2.1.2 United States V. Wong Kim Ark (1898)

In the seminal case known as Wong Kim Ark, it was decided that a man who was born in San Francisco to Chinese parents was a citizen by birth (United States v. Wong Kim Ark, 1898). The Court based its decision on common-law jus soli principles, saying that the 'right of citizenship' comes with being born in the country (United States v. Wong Kim Ark, 1898). Over the course of more than a century, this case has been recognized as the gold standard for interpreting the Citizenship Clause.

Although there have been some scholarly discussions on outliers such as children of diplomats, etc..., the fundamental jus soli rule remained consistent in both theory and practice (United States v. Wong Kim Ark, 1898). On the other hand, there are conservative academics like Eastman (2008) who contends that the term "subject to the jurisdiction thereof" ought to be interpreted restrictively, meaning that children of undocumented immigrants should not be included (Eastman, 2008). Even though there have been recent efforts to interpret "subject to the jurisdiction" narrowly, the Court has not adopted this interpretation. Consequently, any attempt by the executive branch to restrict birthright citizenship is met with a formidable barrier of constitutional precedent (United States v. Wong Kim Ark, 1898).

3. Methodology

The methodology of this research, based on the qualitative legal approach, examines constitutional, political and judicial dimensions through primarily doctrinal and interpretive analysis. The qualitative method is appropriate for this investigation as the research problem entails examining constitutional texts, precedents from the Supreme Court, legislative interpretation, litigation records, rather than numerical data or statistical analysis.

The research's analysis goes through two interconnected steps. First, the doctrinal analysis of the Citizenship Clause along with its judicial interpretation in *United States v. Wong Kim Ark* (1898) sets forth the legal basis of birthright citizenship and *jus soli* constitutional protection. Second, it analyzes case law from Executive Order 14160's litigation, including *Trump v. CASA, Inc.* and associated district court decisions. This latter examines judicial decisions and political actions and their implications on nationwide injunctions.

By adopting this qualitative framework, the study aims to provide a comprehensive understanding on the interplay between executive authority and constitutional limits by combining legal interpretation with political and administrative analysis.

4. RESULTS AND DISCUSSION

In this section, the research assesses the order's validity and consequences by examining legal texts, judicial opinions including litigation records such as *Trump v. CASA, Inc.*, and understanding the broader dimensions about belonging and identity.

4.1 The Trump Administration: Executive Order 14160 on Birthright Citizenship

Enacted on January 20, 2025 by the Trump administration, Executive Order 14160 mandated federal agencies to deny citizenship recognition to specific children born in the U.S. This includes cases where the presence of mothers in the country was either unlawful or only temporary, as in the case of a short-term visa, and cases where the father did not possess either citizenship or lawful permanent residency (The White House, 2025). The order directed authorities to modify the issuance of passports, Social Security numbers, and associated benefits to target births that took place after February 19, 2025 (Bennett, 2025).

Following this announcement, the U.S. Citizenship and Immigration Services disseminated the deployment plan that delineated the operational modifications that were intended to be implemented in accordance with the order. These included updated birth claim evidentiary criteria and consultation with the State Department and Social Security Administration. However, critics contended that these modifications would result in substantial administrative burdens, the potential for statelessness in certain instances, and unequal treatment across jurisdictions before the policy's legitimacy could be resolved by the courts (U.S. Citizenship and Immigration Services, 2025).

Discussion surrounding this order overlaps with various studies on the extent of this executive authority. Presidential authority in immigration policy is substantial, however experts observe that these powers remain limited by constitutional protections (Motomura, 2014). According to studies on executive unilateralism, presidents often test the limits of the Constitution, particularly when legislative gridlock impedes statutory reform (Posner & Vermeule,

2011). However, experts in law such as Ackerman (2019) contended that presidential orders cannot change constitutional provisions like the Citizenship Clause, which clearly delineate the line between acceptable policymaking and unlawful overreach.

Proponents of the executive order advocated a reading of "subject to the jurisdiction thereof" by excluding children born to parents without long-term links to the U.S, contending that the executive might elucidate this scope for administrative reasons. Nonetheless, in light of established legal practice, opponents contended that the order effectively sought to modify the Constitution through executive action, so surpassing the authority granted by Article II (*United States v. Wong Kim Ark*, 1898).

Organizations advocating for immigrant rights, along with states and affected families, initiated lawsuits in various jurisdictions, requesting immediate urgent injunctions. Meanwhile, early decisions from district courts blocked the order temporarily and in some cases across the whole country, claiming its potential violation with the Fourteenth Amendment and irreparable harm to babies and families (Wofsy, 2025).

The Ninth Circuit was the first federal appeal court to decide on the case, declaring the order unconstitutional and preventing its implementation in late July 2025. The decision showed that the judicial branch was very skeptical of the administration's reasoning, even though a review by the Supreme Court is still an option (Raymond, 2025).

4.2 Trump V. CASA, Inc: The Supreme Court in Perspective

On June 27, 2025, the Supreme Court rendered a decision that focused on procedure rather than the fundamental constitutional basis. The Court in *Trump v. CASA, Inc.* restricted the ability of district

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courts to grant national injunctions in civil cases. Instead, it directed subordinate courts to provide more specific relief. In her dissent, Justice Sotomayor stressed the "plain meaning" of the Fourteenth Amendment, as acknowledged in *Wong Kim Ark* (Brownlow, Drozdowski, & Urquijo, 2025). Nonetheless, the Court remanded cases to evaluate the scope of the injunctions, but did not approve the ruling. This decision limited universal injunctions and suggested that properly certified class actions may provide nationwide relief, which lower courts quickly adopted (Brownlow, Drozdowski, & Urquijo, 2025).

In accordance with the Supreme Court's directive, plaintiffs sought class certification to safeguard other newborns and their families in similar circumstances. In August 2025, a national preliminary injunction was obtained by U.S District Judge Deborah Boardman which certified a class and impeded the order for the class members. This reinstated national redress under the procedural framework set by the Supreme Court. In other cases, comparable rulings yielded comparable outcomes. Four Courts have imposed national injunctions as of mid-August 2025, rendering the order unenforceable throughout the U.S (Raymond, 2025).

4.3 Divergent Legal Viewpoints

The history of the Fourteenth Amendment and the case *U.S. v. Wong Kim Ark* set the stage for current arguments about birthright citizenship. Disagreements regarding the Citizenship Clause's intent and scope have been reignited by President Trump's executive order, challenging this constitutional principle. To comprehend the dispute, it is important to consider both arguments in favour of the ruling and the counter-arguments that uphold the conventional meaning of birthright citizenship.

4.3.1 Pro-Arguments

Supporters of Trump's executive order claim that the president has the power to resolve constitutional and statutory ambiguities, especially in cases involving issues of national sovereignty and immigration control. They argue that the phrase "subject to the jurisdiction thereof" reflects a limited understanding of allegiance and jurisdiction at birth, as it does not include children whose parents are only temporarily present or who are in an illegal position. Consequently, they contend that doing so would prevent "birth tourism" and bring American legislation into line with other countries that have prohibited *jus soli* in the past few decades (U.S. Citizenship and Immigration Services, 2025).

4.3.2 Counter-Arguments

Opponents, on the other hand, contend that the U.S. Constitution and tradition afford minimal latitude for presidential interpretation. Wong Kim Ark firmly believed that citizenship is granted to children born on American territory, with the exception of infants born to diplomats and citizens of hostile occupying forces, regardless of the status of the parents (*United States v. Wong Kim Ark*, 1898). Therefore, in violation of constitutional law, the executive order threatens to create statelessness or liminal legal situations for babies, imposing lifetime harms without any legitimate justification. These constitutional claims were repeatedly deemed to have a chance of success by courts issuing injunctions (Associated Press, 2025).

4.4 Federal and Administrative Effects

If it had been implemented, the order would have compelled agencies to create and confirm complicated parental-status criteria at the time of birth registration, which is beyond the scope of the current U.S. civil registration system. New documentation pipelines would

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need synchronization across hospitals, vital records offices, consulates, and federal benefit programs; this could lead to delays, mistakes, and disparities among states (U.S Citizenship and Immigration Services, 2025).

Furthermore, the order's design posed a possibility of conflicting outcomes, as states oversee birth certificates while federal entities handle citizenship papers (e.g., passports); hence, a state may issue a birth certificate that federal authorities might not acknowledge for citizenship purposes. Particularly in areas with large immigrant populations or jurisdictions where the expense of litigation and administrative costs are considerable, the public's trust in critical records could be eroded by such disjointed systems (U.S Citizenship and Immigration Services, 2025).

4.5 Human and Social Effects

Depending on the status of their parents and foreign nationality regulations, advocates warn that children who are denied U.S citizenship may not be able to get another nationality, raising the possibility of de facto statelessness. Therefore, the absence of acknowledged citizenship can obstruct access to education, healthcare, travel, and subsequent employment, so entrenching inequality from birth (Bennett, 2025).

Even families with multiple legal status and immigrant communities would bear a disproportionate share of the anticipated costs. Also, the threat of denial can discourage parents from promptly registering births or pursuing necessary services at hospitals. This would have a negative impact on the welfare of children. Meanwhile, civil society organisations highlighted these damages in legal documents and public guidance which the courts acknowledged in determining irreparable injury (Wofsy, 2025).

4.6 Constitutional and Legislative Change

With the exception of a constitutional amendment, which is politically improbable, Congress is unable to override the birthright rule of the Fourteenth Amendment by the use of statute. Wong Kim Ark would likely overturn any narrower standard Congress may pass. Consequently, initiatives from the executive branch will persist in facing constitutional limitations, and long-term policy reforms will necessitate constitutional revision (*United States v. Wong Kim Ark*, 1898).

Although, over the past few decades, *jus sanguinis* (citizenship by descent) or hybrid models have replaced *jus soli* in a number of democratic countries, advocates of the U.S order used these tendencies to assert that the U.S is unique and different. Nevertheless, comparative practice cannot amend the U.S Constitution; only a Supreme Court decision that overturns *Wong Kim Ark* or constitutional change through Article V could accomplish this outcome, neither of which has occurred (*United States v. Wong Kim Ark*, 1898).

Political rhetoric and public opinion have also been employed to examine birthright citizenship. Scholars have observed that discussions regarding the Fourteenth Amendment frequently arise during periods of elevated immigration concerns (Zolberg, 2008). Trump's claims that associate illegal immigration with birthright citizenship are part of a larger trend of securitising migration and portraying foreigners as a danger to national identity. Empirical researches revealed that partisanship divided immigration discussions, with Republicans increasingly favouring limitations and Democrats primarily advocating inclusive citizenship (Hajnal & Rivera, 2014). The study emphasizes how wider ideological conflicts over sovereignty, national identity, and demographic shifts become intertwined with legal issues pertaining to citizenship.

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Furthermore, the order served as a legal tool and a symbol in immigration and national identity issues. Although, media coverage emphasized the Administration's sovereignty claim and the constitutional challenges raised by critics, the Supreme Court procedural rule briefly focused on judicial power and the future of national injunctions (Raymond, 2025). According to the reporting of Reuters and the Associated Press, these turning points were documented, and highlighted that, practically, the policy is now barred across the country (Raymond, 2025).

Agencies have once again emphasized that the prospect of undertaking comprehensive status re-adjudications at birth is fraught with legal risk and operational complexity. Future reforms, including stricter regulations on "birth tourism," must be precisely defined and firmly established in legislation, ensuring compliance with the Constitution's fundamental principles (U.S. Citizenship and Immigration Services, 2025).

This research serves as a case study that enhances its contemporary importance and analytical depth through linking the ongoing constitutional debate on birthright citizenship with a recent political event, Trump's 2025 Executive Order 14160. By expanding the scope of the discussion beyond a strictly legal description of the Fourteenth Amendment, it demonstrates the interplay between presidential power, judicial reaction, and public discourse as it pertains to constitutional interpretation.

The study, with its qualitative and interpretive approach contributes to a sophisticated knowledge of how jus soli and constitutional equality are tested in contemporary governance. It offers an interdisciplinary viewpoint that supports the article's claims regarding the constraints of presidential power and the strength of

American constitutionalism as a legal and democratic underpinning of American identity.

4. CONCLUSION

In short, the Executive Order 14160, which aims to restrict birthright citizenship in 2025, is considered as a stress test of the constitutional limits of the presidential authority. Although, the unprecedented attempt to redefine the Citizenship Clause of the 14th amendment via executive action instead of constitutional change represents an unparalleled challenge to the separation of powers in the U.S.

The order was blocked by numerous federal courts within months while the U.S Supreme Court restricted the capacity of lower courts to issue nationwide injunctions. The order has been thrown out as of August 14, 2025, and birthright citizenship is preserved, reinforcing the constitutional guarantee of Jus Soli that is still defined by the longstanding precedent of Wong Kim Ark, 1898. That premise remains unaltered in both practice and legislation. Therefore, this episode highlights the significance of the Fourteenth Amendment's promise of equal citizenship at birth and not a policy choice that is subject to presidential interpretation.

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