

“Invoking Threats from Abroad in New Efforts to Constrict U.S. Citizenship”

Carol Nackenoff and Julie Novkov

Carol Nackenoff and Julie Novkov are the co-authors of [American By Birth: Wong Kim Ark and the Battle for Citizenship](#) (University Press of Kansas, 2022). Carol Nackenoff is Richter Professor of Political Science Emerita at Swarthmore College. Julie Novkov is the Dean of Rockefeller College of Public Affairs & Policy, University at Albany, SUNY.

From the [limitation of naturalization to “free white persons” of “good character”](#) in 1790 to the present, the United States has used immigration and naturalization policy to police and shape membership in the nation. President Trump’s attempt to alter birthright citizenship via [Executive Order 14160](#) reveals another dimension of the effort to control the complexion of the American polity that maps heavily onto an ethnonationalist vision of citizenship. Many current commentators and legal scholars highlight the radical nature of the changes the President is seeking to effect by unilateral proclamation, and in light of the fact that most settler nations offered birthright citizenship liberally, the proposed changes are dramatic. Yet many born in the U.S. to immigrant parents have been considered at best “accidental citizens,” and the battle over birthright citizenship for persons of Chinese ancestry was hotly contested in the latter part of the 19th century. Similar arguments surfaced against children of Japanese immigrants born in the U.S. (Nisei) during World War II. U.S. citizenship did not protect persons of Japanese ancestry on the West Coast from internment, loss of livelihood, and loss of property in World War II, just as in the current moment, citizenship or permanent legal status is not protecting a number of immigrants who share ethnic backgrounds with those who entered the nation without documentation from arrest, detention, and deportation.

National security threats and the likelihood that the Chinese would corrupt American values loomed large in 19th century arguments for exclusion and against birthright citizenship. While the 14th Amendment, ratified in 1868, began by declaring that “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,” nineteenth century opponents of birthright citizenship for children born to Chinese parents pointed to the [Chinese Exclusion Act of 1882](#) as proof that the nation did not want the Chinese and would not permit them to naturalize. The same arguments against allowing them to naturalize applied to their progeny. The contrarians also argued that those of Chinese ancestry were subject to the Emperor of China since they could not renounce their Chinese citizenship. The Chinese, who started arriving in the United States in significant numbers in the 1850s, congregating especially on the West Coast, were vilified as opium smokers, polygamists, sodomizers, traffickers in women, corrupt and diseased, and incapable of assimilation. A [cartoon by George Keller in *The Wasp* \(November 11, 1881\)](#) captures some of the stereotyping. The Chinese were deemed a threat to American morals and lacked commitment to American values. The men wore queues and non-Western dress,

demonstrating their loyalty to the Emperor of China. Men were depicted as unfree labor who undercut opportunities for other workers and female arrivals as either young slaves or as girls destined for prostitution. The [Page Act of 1875](#), the first federal law restricting the immigration of Chinese, was aimed at coolie (unfree) labor and prostitutes (all women unaccompanied by relatives were suspect).

The 14th Amendment extended birthright citizenship to the formerly enslaved and their progeny; “[aliens of African nativity](#)” and “persons of African descent” [were permitted to naturalize in 1870](#). In debating the citizenship clause, members of Congress were well aware that its broad, neutral language would result in the expansion of citizenship beyond the European immigrants welcomed to the United States to settle its lands. [Pennsylvania Senator and Democrat Edgar Cowan](#) warned that this breadth would create serious risks for the states. He speculated about proper state reactions to an “invasion” by “a flood of Australians or people from Borneo, man-eaters or cannibals.” He further invoked the dreadful specter of the Gypsies, “whose sole merit is a universal swindle.” He described “the Mongol race” as the most threatening prospect, “a race in contact with this country which, in all characteristics except that of simply making fierce war, is not only our equal, but perhaps our superior.” These arguments about threat, however, were ultimately unpersuasive to Congress, with little further consideration of potential dangers to the nation from any birthright citizens, regardless of the race, ethnicity, or national origin of their parents.

Following the fourteenth amendment’s adoption, neither Congress nor the executive branch was slow to respond to perceived threats to America from residents deemed too alien to assimilate or insufficiently attached to American principles and values. First [Chinese](#) and then [Asian](#) migration more broadly were restricted in the late nineteenth and early twentieth centuries. President McKinley’s 1901 assassination prompted Congress to take action to [exclude and expel anarchists](#) with ties to other nations. In addition to targeting anarchists, the [Immigration Act of 1907](#) excluded among the undesirable or dangerous classes of immigrants idiots, imbeciles, epileptics, insane, paupers and other mentally or physically defective persons likely to become public charges, those with criminal records, polygamists, prostitutes, and those procuring women for immoral purposes. The [Immigration Act of 1917](#) repeated these exclusions and banned immigration by most parts of Asia. The Palmer Raids in 1919 and 1920 sought to identify and eject dangerous left-wing radical immigrants. This theme re-emerged in 1952, with the 1952 Immigration Reform Act’s expansion of the federal government’s authority to detain and remove ideologically undesirable immigrants and to denaturalize individuals deemed a threat to national security. Yet throughout these periodic moments of perceiving immigrants as threats, no serious attempts were made to target the citizenship of individuals born in the United States. And after the Japanese attack on Pearl Harbor, [President Roosevelt’s executive order of February 19, 1942](#) authorized the internment of such Japanese citizens and residents as the military determined necessary because “the successful prosecution of the war requires every possible protection

against espionage and against sabotage to national-defense material, national-defense premises, and national-defense utilities.”

Contemporary arguments against birthright citizenship for those whose parents crossed the southern border of the U.S. unofficially stress the urgent [need to protect U.S. borders](#), tapping into both recent anxieties and longer-standing, periodically activated concerns about the threat that non-American residents pose to the nation’s security, culture, and identity. Restricting both birthright citizenship and immigration were significant enough to warrant executive orders on Inauguration Day, January 20, 2024. The Executive Order that immediately followed that on “Protecting the Meaning and Value of American Citizenship” the same day makes clear that in the name of his obligation [“to protect the national security and national interest of the United States and its people,”](#) persons from some nations must be barred from obtaining visas so as to protect U.S. citizens “from aliens who intend to commit terrorist attacks, threaten our national security, espouse hateful ideology, or otherwise exploit the immigration laws for malevolent purposes.” All but one of the twelve nations the President barred completely are in Africa or the Middle East.

[Since he first announced his presidential bid in 2015](#), Donald Trump has characterized immigrants crossing the southern border illegally as murderers, rapists and “very bad people.” In response to a recent adverse California federal court ruling involving Secretary Kristi Noem’s removal of temporary protected status from Hondurans, Nicaraguans, Nepalese, an official [Department of Homeland Security statement on August 1](#) lashed out: “For decades, TPS has been abused as a *de facto* amnesty program Too often these programs have been exploited to allow criminal aliens to come to our country and terrorize American citizens. When child abusers and other violent criminals can hide behind a humanitarian designation, the system is broken. . . .” The framing of immigration as an existential threat to the nation warranting a drastic response may be greatest in the [president’s invocation of the Alien Enemies Act](#) to characterize a Venezuelan gang as an invading enemy force warranting the summary removal of Venezuelans on an emergency basis.

While the President has not actively promoted [the “great replacement” conspiracy](#)—the claim that border policies have been deliberately designed to replace white Americans with persons of color (either because the latter will vote illegally for Democrats or because they are more docile), a number of those in the MAGA base want to make American identity whiter in the face of rising diversity. [“You Will Not Replace Us”](#)—a slogan with antisemitic provenance—became a rallying cry of far-right groups rallying in Charlottesville in 2017. [The movement termed remigration](#), which involves removing unwanted immigrants from the United States and which has sometimes been termed a form of ethnic cleansing, is linked to “great replacement” thinking. These ideologies are closely linked to an emerging interest on the right in [pronatalism](#), with an emphasis on greatly increasing birthrates among favored communities.

Stephen Miller, current White House Deputy Chief of Staff and assistant to the President for Homeland Security [declared in April, 2025](#) that birthright citizenship “is the number one magnet for illegal immigration and invasion.” He has claimed that birthright citizenship is a “major national security threat” that had been “used by foreign governments to conduct espionage against the United States.” This theme surfaced as well in the Administration’s reply brief in *Trump v. CASA*, which states that “a policy of near-universal birthright citizenship rewards lawbreaking and creates powerful incentives for illegal migration.

While the substance of President Trump’s executive order on birthright citizenship has not yet been litigated, the [government’s reply brief in *Trump v. CASA*](#) asserts that universal injunctions such as those stopping implementation of the birthright citizenship executive order “thwart the Executive Branch’s crucial policies on matters ranging from border security, to international relations, to national security, to military readiness. They repeatedly disrupt the operations of the Executive Branch. . .” The reply brief contends that “eliminating the incentives for illegal immigration and the national-security risks created by the ability to leverage birth on U.S. soil into U.S. citizenship” is a pressing national problem. These arguments will likely be reiterated and enhanced in future litigation over the constitutionality of the executive order.

Overall, the administration is liberally using the language of danger and emergency to link immigration with race and national origin and to connect these concepts to an assault on birthright citizenship. These initiatives reconfigure citizenship as a privilege to be guarded jealously by the national government and extended on a basis of the administration’s understanding of who truly belongs. Recent rumblings from the administration about launching an [unprecedented and unconstitutional mid-decade census](#) and increasing efforts to [strip citizenship from naturalized citizens](#) further reinforce this shift in citizenship. All of these agendas, advanced through warnings about threats to American national security and the dangers of hosting undesirable immigrants, promote radical changes in how the United States understands citizenship and itself as a nation.