

Citizenship Rights - US Supreme Court Reaffirms Birthright Citizenship

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Citizenship Rights Latest News

- Recently, the U.S. Supreme Court (SCOTUS), in a 6-3 majority ruling, struck down President Donald Trump's Executive Order (EO) 14160, reaffirming that birthright citizenship under the **Fourteenth Amendment** remains a constitutional guarantee.
- The verdict is a major setback to the Trump administration's immigration agenda and revives the debate over citizenship, immigration, and constitutional interpretation.

Constitutional Basis of Birthright Citizenship

- The Fourteenth Amendment (**1868**) states that all persons born or naturalised in the U.S. and subject to its jurisdiction are U.S. citizens.
- The Immigration and Nationality Act (INA), 1952 reinforces this principle by recognising citizenship "at birth."

- Long-standing **exceptions** include – children of foreign diplomats, and children born during enemy military occupation.

Supreme Court's Ruling

- **Majority opinion:**
 - The Court held that the Executive Order **violated** the Citizenship Clause of the Constitution.
 - The majority interpreted “**subject to the jurisdiction**” to mean anyone physically present in the U.S. and governed by its laws, irrespective of immigration status.
 - The judgment relied on the **jus soli** (right of the soil) principle inherited from English common law.
- **Dissenting opinions:**
 - The citizenship requires domicile and complete allegiance to the U.S., which temporary visitors and undocumented immigrants do not possess.
 - They maintained that the Fourteenth Amendment was intended primarily to secure citizenship for formerly enslaved people, not to establish universal birthright citizenship.
 - Concerns were also raised over illegal immigration and birth tourism.

Historical Evolution of Birthright Citizenship in the US

- The original U.S. Constitution did not define citizenship.
- The Naturalization Act, 1790 restricted citizenship to “free white persons.”
- The infamous Dred Scott (1857) judgment denied citizenship to Black Americans.
- **Following the Civil War:**
 - The 13th Amendment (1865) abolished slavery.
 - The Civil Rights Act, 1866 recognised all persons born in the U.S. as citizens.
 - To permanently safeguard this principle, the Fourteenth Amendment (1868) constitutionalised birthright citizenship.

Political Debate Around Birthright Citizenship

- The issue became central to Donald Trump's anti-immigration agenda and the Make America Great Again (**MAGA**) movement.
- **Critics argue that:**
 - It encourages illegal immigration.
 - It fuels **birth tourism**, where foreigners travel to the U.S. solely to secure citizenship for their children.
- The Supreme Court rejected these policy concerns, holding that changing political circumstances cannot alter the Constitution's clear language.
- **Changing demographic trends:**
 - Births to unauthorised immigrant mothers increased from about 1.2 lakh (~3% of total US births) in 1990 to nearly 3.8 lakh (9%) by 2006–07.
 - After the 2008 financial crisis, the numbers declined to around 2.5 lakh (6%) by 2016.

- According to Pew Research Center, the share rose again to around 9% of U.S. births in 2023, reviving political controversy.

Case of India

- **India's Citizenship law:**

- The acquisition and loss of Indian citizenship is primarily regulated by the Constitution of India (**Part II, Articles 5-11**) and the Citizenship Act of **1955**.
- India does not allow dual citizenship, and citizenship is acquired through birth, descent, registration, naturalization, or incorporation of territory.

- **No unconditional birthright citizenship:**

- **Article 5** of the Constitution initially recognised citizenship based on birth at the commencement of the Constitution.
- The Citizenship Act, 1955 granted citizenship by birth to nearly all persons born in India.
- **1986 Amendment to the 1955 Act:** At least one parent had to be an Indian citizen.
- **2003 Amendment:** Citizenship by birth was denied if either parent was an illegal migrant, further restricting the principle.

- **The Citizenship (Amendment) Act (CAA) 2019:**

- Modifying the rules for naturalization, it reduced the naturalization residency requirement from 12 to 6 years.
- It fast-tracked the path of citizenship of specific **minority** communities (Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians) from Afghanistan, Bangladesh, and Pakistan who entered India on or before December 31, 2014.

Comparison Between Indian and US Citizenship Rights

- **Dual citizenship:**

- In the U.S., the individuals are citizens of both the United States and the specific state they reside in.
- **India has single citizenship**, meaning every individual is solely a citizen of the Union of India, with no separate state-level citizenship.
- Also, the U.S. allows its citizens to hold dual citizenship with other countries. However, in India, acquiring a foreign passport immediately nullifies Indian citizenship.
- Instead, India offers the Overseas Citizenship of India (**OCI**) – lifelong visa-free travel and economic rights (excluding voting or agricultural land ownership) to the Indian diaspora who have acquired foreign passports.

- **Birthright citizenship (Jus Soli):**

- The U.S. grants automatic citizenship to almost anyone born on its soil under the 14th Amendment.
- India previously followed absolute jus soli, but (through amendments) now requires at least one parent to be an Indian citizen, and the other must not be an illegal immigrant.

- **Citizenship by descent:** Both countries allow citizenship by descent if a child is born abroad to citizen parents, though the specific residency/retention requirements for the child differ based on local statutes.

Conclusion

- The U.S. birthright citizenship judgment offers an **important lesson** for constitutional governance and citizenship debates in India.
- It highlights the importance of constitutional supremacy, judicial review, and balancing citizenship policies with fundamental constitutional values and the rule of law.

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