

No. 25-365

IN THE
Supreme Court of the United States

DONALD J. TRUMP,
PRESIDENT OF THE UNITED STATES, *et al.*,
Petitioners,

v.

BARBARA, *et al.*,
Respondents.

On Writ of Certiorari Before Judgment to the
United States Court of Appeals for the First Circuit

BRIEF OF THE SOUTH ASIAN AMERICAN JUSTICE
COLLABORATIVE AND OTHER ORGANIZATIONS
SERVING SOUTH ASIAN COMMUNITIES AS
AMICI CURIAE IN SUPPORT OF RESPONDENTS

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INTEREST OF *AMICI CURIAE*

Amici are South Asian–focused civil rights, social justice, advocacy, and community organizations that work to advance the legal rights, safety, and well-being of South Asian communities across the United States. Collectively, *amici* serve immigrants, U.S. citizens, workers, families, and children whose lives and futures are directly affected by the constitutional questions presented in this case.¹

As used here, the “South Asian community” includes individuals in the United States who trace their ancestry to Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka. It also encompasses members of the broader South Asian diaspora—families whose earlier generations migrated from South Asia to regions including the Caribbean, Africa, Europe, Canada, the Middle East, and other parts of Asia and the Pacific Islands before settling in the United States. Many South Asian Americans are immigrants, children of immigrants, or U.S. citizens by birth who nonetheless remain vulnerable to policies that question their belonging or legal status.

The lead *amicus*, the South Asian American Justice Collaborative (SAAJCO), is a national legal nonprofit dedicated to advancing the civil and human rights of the South Asian diaspora in the United States through impact litigation and community engagement. SAAJCO regularly represents and supports South Asian individuals and families

¹ No counsel for any party authored this brief in whole or in part, and no person other than the *amici*, their members, or their counsel made a monetary contribution intended to fund the preparation or submission of the brief.

confronting discrimination, exclusion, and legal uncertainty based on race, national origin, religion, or immigration status.

In addition to SAAJCO, the organizations joining this brief as *amici* are:

- Afghans For A Better Tomorrow
- Alliance of South Asians Taking Action
- Asian Americans Advancing Justice Southern California
- Asian Refugees United
- CAIR
- CAIR Chicago
- Caribbean Equality Project
- Desi Rainbow Parents & Allies
- Hindus for Human Rights
- Indiaspora
- Indo-American Center
- Project ANAR
- SAATH
- SAAVETX EF
- SABA Florida
- SACRED
- Sikh American Legal Defense and Education Fund (SALDEF)
- Sikh Coalition
- South Asian American Chamber of Commerce of Illinois

- South Asian American Policy & Research Institute (SAAPRI)
- South Asian Bar Association of North America Foundation
- South Asian Bar Association of Northern California
- South Asian Bar Association of Ohio
- South Asian Bar Association of Oregon
- South Asian Bar Association of Southern California
- South Asian Legal Defense Fund
- South Asian Network
- South Asian Public Health Association
- The South Asian Bar Association of Florida
- The South Asian Bar Association of Houston
- The South Asian Bar Association of New York
- The South Asian Bar Association of North America

Amici have a strong interest in this case because Executive Order 14,160 threatens to undermine the constitutional guarantee of birthright citizenship on which South Asian families have long relied. The Order would create uncertainty and instability for U.S.-born children in South Asian communities, many of whom are born to parents navigating prolonged immigration backlogs imposed by federal law. *Amici* submit this brief to assist the Court in understanding the historical, legal, and practical consequences of allowing citizenship to depend on administrative discretion rather than constitutional command, and to

urge the Court to safeguard the Citizenship Clause's enduring protections.

SUMMARY OF ARGUMENT

For more than 150 years, the Fourteenth Amendment has guaranteed that children born in the United States are citizens—a guarantee subject only to narrow, settled exceptions. Executive Order 14,160 is entirely incompatible with that settled law. The Order directs federal agencies to refuse to recognize the citizenship of U.S.-born children solely because of their parents' immigration status. In so doing, the Order unconstitutionally attempts to revive the regime of contingent citizenship that the Fourteenth Amendment was enacted to abolish.

The history of South Asian Americans in the United States helps demonstrate why such a regime would be incredibly harmful. For generations, South Asians were treated as outsiders and subjected to shifting judgments about racial identity and assimilation. Those judgments culminated in *United States v. Thind*, 261 U.S. 204 (1923), and the post-*Thind* denaturalization campaign in which South Asian Americans who had become U.S. citizens—who had built lives, families, and businesses in this country—lost their citizenship through administrative action.

The Order resurrects these same dangers for South Asians—one of the most rapidly growing demographics—under a different label. By conditioning recognition of birthright citizenship on parents' immigration status, the Order would destabilize families, deter talented individuals from immigrating to the United States, harm vital sectors of the U.S. economy, and risk statelessness for U.S.-

born children. The Constitution does not permit that result. The Court should affirm the injunction and reject the Order.

ARGUMENT

I. South Asian American History Demonstrates Why Citizenship Cannot Turn On Racialized Judgments Of Fitness.

South Asians share a lengthy, rich, and often-overlooked history of migration to and labor in the United States. That history includes acts of political involvement and resistance to discrimination, and demonstrates a desire by many South Asians to remain in the United States and contribute meaningfully to the economic and social fabric. The common miscasting of South Asians as perpetual “foreigners” hides this deep and ongoing civic participation.

Historical records document South Asians in North America long before the United States became a country. In 1667, for example, a crew leader on a British ship complained that the captain had sold two South Asian lascars (mariners) as slaves to an American captain on a ship bound for Virginia.² And throughout the eighteenth century, South Asians arrived as lascars, indentured servants, and enslaved individuals, working on British and American trading vessels in major port cities such as Salem, Philadelphia, and New Orleans.³ These early arrivals

² Indrani Chatterjee & Richard M. Eaton eds., *Slavery and South Asian History* 189–90 (Indiana Univ. Press 2006).

³ Records include a 1763 account of a sixteen-year-old boy born in Bombay who traveled to New York via Santa Croix and was confined in the Perth Amboy jail, and a late-18th-century diary entry noting a lascar from Madras brought to Salem. Charles R.

were not transient figures, but laborers embedded in the commercial life of the colonies.

South Asians also appear in early U.S. legal history, asserting their rights. In 1785, for example, Bengali lascar Sick Keesar⁴ filed a petition for “redress and relief” before Pennsylvania’s Supreme Executive Council against Captain John O’Donnell of the *Pallas Indiaman*. Keesar accused O’Donnell of reneging on his contract to return him and his companions home, instead “compell[ing] them by force of arms to navigate the ship *Pallas* from Batavia [in present-day Indonesia] to Baltimore.”⁵ Keesar also alleged that the company was starved, “being only allowed one Biscuit per day,” and that “his Son a Lad

Foy, *Ports of Slavery, Ports of Freedom: How Slaves Used Northern Seaports’ Maritime Industry to Escape and Create Trans-Atlantic Identities, 1713–1783* 171 (May 2008) (Ph.D. dissertation, Rutgers, The State Univ. of N.J.); Rajender Kaur, *The Curious Case of Sick Keesar: Tracing the Roots of South Asian Presence in the Early Republic* 4 (J. Transnat’l Am. Studies 2017).

For the reader’s convenience, *amici* include hyperlinks to internet-based sources in the PDF version of this brief submitted electronically.

⁴ “Sick Keesar” is likely an anglicization of “Sheikh Kesar.” Kaur, *supra*, at 4. The frequent anglicization of South Asians’ names tends to obscure them in the archives. *Id.* at 4–5.

⁵ *Id.* at 4–5 (citing Philadelphia, Monday, October 24th, 1785, Minutes of the Supreme Executive Council of Pennsylvania, from its Organization to the Termination of the Revolution: Containing the Proceedings of the Supreme Executive Council from January 1st, 1784, to April 3rd, 1786, Both Days Inclusive, vol. 14, published by the State (Harrisburg: Theo. Fenn & Co., 1853), 561).

about twelve years old was Stole from him.”⁶ Keesar won his petition.

South Asian participation in American civic life continued into the nineteenth century—including fighting in the Civil War. Muhammad Kahn, for example, was an immigrant from Afghanistan who traveled to the United States in 1861. He fought in the Union Army, leaving behind a 200-page pension file documenting his experiences.⁷

By the late nineteenth century, South Asian immigration grew significantly. These immigrants were primarily Sikh men from the Punjab region of British India, who mostly settled in the western parts of the United States and worked as laborers, on farms, and in fields, lumberyards, and mills.⁸ Bengali Muslim merchants arrived around the same period, working primarily as peddlers or seamen.⁹

Although these immigrants were occasionally classified as “white” on government documents, in practice they were routinely segregated due to their national origin and darker skin. Many lived and worked in predominantly African American, Creole, and Puerto Rican neighborhoods.¹⁰ They became embedded in these communities and often formed long-term partnerships and families with women

⁶ *Id.*

⁷ *Fighting for Freedom: The Little-Known Story of Muslims and the Civil War*, PBS (Nov. 21, 2024).

⁸ *Part II: The “Asiatic Barred Zone” of 1917*, S. Asian Am. Digit. Archive (last visited Feb. 24, 2026).

⁹ *Id.*; Vivek Bald, *Bengali Harlem and the Lost Histories of South Asian America* 15, 22–24, 94–98 (Harvard Univ. Press 2013).

¹⁰ Bald, *supra*, at 9.

there, in part because the restrictive immigration policy of the time made it nearly impossible for South Asian women to immigrate to the United States.¹¹

In the early twentieth century, Punjabi immigrants in California helped form a vibrant and growing Punjabi-Mexican community, marrying Mexican and Mexican-American women (in part because of anti-miscegenation laws and the immigration barriers that foreclosed other options). Although cultural transmission of language and religious practices was often limited by resources and discrimination, these communities engaged in collective political action. The Ghadar Party—founded in 1912 in California by individuals originating from the Punjab and Bengal regions of South Asia—organized resistance to British colonial rule in India, shipping arms and publishing revolutionary literature from within the United States.¹² South Asian migrants on the Pacific Coast also mounted a U.S.-based effort to overthrow the British Raj.¹³

South Asians also participated in domestic political movements, including African American Muslim initiatives and broader struggles against racial inequality. And they collaborated with one another to pursue American citizenship, underscoring

¹¹ *Id.* at 53, 74, 164, 170, 197–98; see also *Part II: The “Asiatic Barred Zone” of 1917*, *supra*.

¹² Taz Ahmed, *The Radical History of South Asians in Los Angeles Map*, USC Dornsife (Mar. 15, 2024).

¹³ See Uzma Quaraishi, *South Asian Migration to the United States, 1700s–2010s*, Oxford Res. Encyclopedia of Am. History (Feb. 27, 2024).

their investment in permanent membership in the national community.¹⁴

In short, for centuries South Asian Americans have been woven into the nation's economic, political, and social fabric. When they have been treated as outsiders, it has been not because of a lack of contribution or commitment, but because of racialized judgments about who belongs.

II. The Post-*Thind* Denaturalization Campaign Against South Asians Illustrates The Dangers Of Contingent Citizenship.

Despite deep roots in the United States, foreign-born South Asians were historically precluded from obtaining citizenship. The current Order threatens to replicate and even extend that historical wrong. By conditioning recognition of U.S.-born children's citizenship on their parents' immigration status, the Order introduces a regime of contingent citizenship—one in which status depends not on constitutional command, but on administrative interpretation. History shows that such practices invite abuse and result in irreversible harm. As described below, revoking individuals' legal status—or even just creating ambiguity about their status—has documented negative effects.

A. The Executive Order's citizenship-stripping directive parallels the *Thind* decision.

The Naturalization Act of 1790 limited naturalization to “free white person[s].” Naturalization Act of 1790, Pub. L. No. 1-3, § 1, 1 Stat. 103, 103 (1790). After the Fourteenth Amendment was ratified, Congress

¹⁴ Bald, *supra*, at 3–5, 42, 124, 186.

amended the Act to allow “aliens of African nativity” and “persons of African descent” to become citizens. *See* Naturalization Act of 1870, Pub. L. 41-254, § 7, 16 Stat. 254, 256 (1870). But Asian immigrants—including South Asians—continued to be precluded from naturalizing.

While early records show a generally non-judgmental attitude towards the native customs of Asia, racial attitudes toward “East Indians” and other Asians began to harden in the late nineteenth century, as the United States became a more expansionist power.¹⁵ A 1906 newspaper headline in San Francisco described an “invasion by Hindus and Mohammedans,” while another in the lumber town of Bellingham, Washington, declared: “Have We a Dusky Peril? Hindu Hordes Invading The State.”¹⁶ Less than a year later, Punjabi laborers in the lumber industry were attacked and violently chased out of the town by a mob of approximately 500 white men, spurring anti-Asian mob violence in other cities across North America.¹⁷

The rise of anti-immigrant sentiment culminated in the Immigration Act of 1917, which banned all immigrants from the “Asiatic Barred Zone”—a vast area extending from the Middle East to Southeast Asia. *See* Immigration Act of 1917, Pub. L. No. 64-301, ch. 29, § 3, 39 Stat. 874, 875–76 (1917). As a result, an

¹⁵ Kaur, *supra*, at 10.

¹⁶ *Part II: The “Asiatic Barred Zone” of 1917*, *supra*.

¹⁷ *Id.*

estimated 500 million Asian people were officially barred from immigrating.¹⁸

Application of the Naturalization Act’s limit to “white person[s]” formed part of this anti-immigrant ethos. In 1922, this Court interpreted “white person” in the Naturalization Act to mean “Caucasian,” thereby denying citizenship to Takao Ozawa, a Japanese American who had lived in the United States for two decades. *Ozawa v. United States*, 260 U.S. 178, 198 (1922).

The following year, this Court decided *United States v. Thind*, 261 U.S. 204 (1923). *Thind* demonstrates how fitness-based citizenship tests collapse into racial exclusion.

Bhagat Singh Thind, an immigrant from the Punjab region of India, served as a sergeant in the U.S. Army during WWI. In 1919, he successfully petitioned for naturalization, despite the Naturalization Act limiting such to “free white person[s].” The government filed suit to cancel that naturalization. *Id.* at 214–15. Characterized by the Court as a “a high-caste Hindu, of full Indian blood,” Thind argued—constrained by *Ozawa*’s reasoning—that he qualified as a “white person” eligible for citizenship because various “scientific authorities” classified Indians as “Caucasian.” *Id.* at 206, 210–11.

The Court rejected that argument, holding that “the words ‘free white persons’ [we]re words of common speech, to be interpreted in accordance with the understanding of the common man, synonymous

¹⁸ Erika Lee, *America for Americans: A History of Xenophobia in the United States* 138 (2019). The Immigration and Nationality Act of 1952, Pub. L. No. 82-414, 66 Stat. 163 (1952), repealed the Immigration Act of 1917.

with the word ‘Caucasian’ only as that word is popularly understood.” *Id.* at 214–15. To the Court, it was “a matter of familiar observation and knowledge that the physical group characteristics of the Hindus render them readily distinguishable from the various groups of persons in this country commonly recognized as white.” *Id.* at 215. Because *Thind* was not Caucasian, his citizenship was revoked. *Id.*

The Court’s reasoning rested on precisely the kinds of subjective judgments about appearance, assimilation, and racial identity that the Fourteenth Amendment was designed to remove from the law of citizenship. And although *Thind* concerned naturalization rather than birthright citizenship, its lesson is broader: As we next discuss, when citizenship turns on assessments of belonging, those assessments inevitably track racial and cultural bias rather than constitutional principle.

B. After *Thind*, the government undertook an extensive denaturalization campaign.

After the *Thind* decision, the Bureau of Naturalization—the precursor to today’s U.S. Citizenship and Immigration Services (USCIS)—initiated a denaturalization campaign against South Asian American citizens. More than fifty individuals of Indian origin lost their U.S. citizenship as a result of this campaign.¹⁹

¹⁹ Joy Kanwar, *Stories from the Negative Spaces: United States v. Thind and the Narrative of (Non)Whiteness*, 74 Mercer L. Rev. 801, 841 (2023).

The government initially claimed it would limit denaturalization to those of “bad moral character,”²⁰ but the campaign quickly expanded to include long-standing members of the community—including even the lawyer who argued Thind’s case before the Court, Sakharam Ganesh Pandit.²¹ Most of the targeted individuals had been citizens for over five years,²² and they had embedded themselves into the social fabric of the United States: They owned land or businesses,²³ were married, and had U.S.-born children.²⁴ They relied upon their status as U.S. citizens to “make a life for themselves in this country”—but denaturalization left them unmoored.²⁵ And because they had pursued U.S. citizenship, many now found themselves stateless or social outcasts in their countries of origin.²⁶

Thind and the ensuing denaturalization campaign offer a cautionary tale: Citizenship dependent on the government’s subjective determina-

²⁰ Doug Coulson, *Race, Nation, and Refuge: The Rhetoric of Race in Asian American Citizenship Cases* 76 (2017).

²¹ See *United States v. Pandit*, 15 F.2d 285 (9th Cir. 1926); Kanwar, *supra*, at 841 n.221.

²² Coulson, *supra*, at 75.

²³ See Janna E. Haider, *The Afterlives of Thind: Denaturalizations and the Changing Legal Definitions of Whiteness*, *Ethnic Studies Rev.* Vol. 46, 35–51 (2023); Coulson, *supra*, at 77–78; Sheraly Munshi, “You Will See My Family Became So American”: *Toward a Minor Comparativism*, 63 *Am. J. Comp. L.* 655, 659 (2015).

²⁴ Erika Lee, *The Making of Asian America: A History* 198–99 (2015); Coulson, *supra*, at 77–78; Munshi, *supra*, at 659.

²⁵ Kanwar, *supra*, at 821.

²⁶ Coulson, *supra*, at 78.

tions or grace is inherently revocable. And subjective goalposts—like who qualifies as “white”—can easily be influenced by shifting public biases, such as the current animus against South Asian Americans that mirrors the pre-*Thind* period.²⁷

C. The human costs of denaturalization post-*Thind* preview the harms of the Executive Order.

History shows that making citizenship conditional inflicts irreparable harm. The government’s denaturalization campaign following *Thind* offers a stark preview of the consequences that follow when citizenship is reclassified from a settled legal status into a provisional one.

One casualty of that campaign was Vaishno Das Bagai. His story is well known and was detailed in a moving account in an *amicus* brief by nonprofit organizations in *New Hampshire Indonesian Community Support v. Trump*,²⁸ but bears repeating here. Bagai was born in Peshawar, Pakistan (then part of British India). He, his wife, and his three children immigrated to San Francisco in 1915. Once in the United States, he did everything right—maintaining residence and building community ties—

²⁷ Lydia Polgreen, *It’s One of America’s Most Successful Experiments, and It’s Coming to an End*, N.Y. Times (Dec. 29, 2025).

²⁸ See Br. of Amici Curiae Fred T. Korematsu Ctr. for Law & Equal., Asian Am. Legal Def. & Educ. Fund, Ctr. for Civ. Rights & Critical Just., & 84 Additional Nonprofit & Grassroots Orgs. & Race & Law Ctrs. in Supp. of Pls.-Appellees at 10–12, *N.H. Indonesian Cmty. Support v. Trump*, No. 25-1348 (1st Cir. June 3, 2025).

and in 1921 obtained U.S. citizenship.²⁹ He then purchased a home (which he could not do before becoming a citizen), and opened a neighborhood general store called Bagai's Bazaar.³⁰ Friends and contemporaries recalled that Bagai took great pride in his adopted country: He "wore American suits, spoke English fluently, and adopted Western manners."³¹ As Bagai himself later explained, he and his family had "made ourselves as much Americanized as possible."³²

Bagai's sense of belonging proved illusory. In the wake of *Thind*, the government filed a denaturalization case against him, on the theory that he was not a "white person" and had never been eligible for citizenship. He was denaturalized in May 1925 by the Bureau of Naturalization.³³

The loss of citizenship triggered a cascade of legal and personal devastation. Under California laws targeting "aliens ineligible for citizenship," Bagai was stripped of his property, including his general store.³⁴ The government refused to issue him a U.S. passport to travel abroad to visit family.³⁵ Stripped of legal status, property, and the ability to travel, Bagai found himself without a country to claim or a future to plan.

²⁹ Lee, *The Making of Asian America: A History*, *supra*, at 198–201.

³⁰ Erika Lee, *United States of America vs. Vaishno Das Bagai*, S. Asian Am. Digit. Archive (last visited Feb. 24, 2026).

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*; Asian Am. Educ. Project, *Fighting for Land Rights*, Lesson 1.6.1.4 (last visited Feb. 24, 2026).

³⁵ Lee, *The Making of Asian America: A History*, *supra*, at 222.

A few years after his denaturalization, Bagai took his own life.³⁶

Bagai's suicide was an extreme consequence of denaturalization, but the injuries he suffered were neither illusory nor exceptional. Others targeted after *Thind* experienced the same legal erasure—the loss of property, the right to travel, and the right to vote—as well as the psychological effects that flowed from being declared pariahs by the place they called home. And the government's post-*Thind* denaturalization campaign replaced South Asian Americans' sense of stability with uncertainty.

The current Order risks similar consequences by creating deep uncertainty about the legal status of U.S.-born children of immigrants, including those from South Asia. Even without an actual change to the law, the proposal has already caused anxiety around hospital registrations, passports, and the long-term stability of those children's status.³⁷

The Fourteenth Amendment was adopted to prevent precisely this kind of uncertainty. The mental health consequences of such uncertainty are well documented.³⁸ Differing immigration status also acts as a “stratifying mechanism that shapes institutional access, exposure to stress, and opportunities for

³⁶ Kritika Agarwal, *Living in a Gilded Cage*, S. Asian Am. Digit. Archive (last visited Feb. 24, 2026).

³⁷ See Hojun Choi, *South Asian North Texans wrestle with Trump's push to limit birthright citizenship*, Dallas Morning News (Feb. 3, 2025).

³⁸ Mitra Naseh, et al., *Mental Health Implications of Family Separation Associated with Migration Policies in the United States: A Systematic Review*, Social Sci. & Med. Vol. 352 (July 2024).

upward mobility.”³⁹ Heightened levels of stress, depression, and sleep problems interfere with parents’ ability to care for children.⁴⁰ Parents, fearing family separation, are more likely to keep their children out of school.⁴¹ And this all contributes to the phenomenon of “learning to be illegal”—where kids, as they grow up and realize the strength of barriers against them (e.g., no eligibility for federal financial aid, government work, or social safety net benefits), tend to check out of the system entirely just as they are assuming responsibilities for their own families.⁴²

III. The Order Would Have An Outsized Impact On South Asians And Their Children.

The Order will disproportionately affect South Asian families because of the community’s size, recent migration patterns, and unique entanglement with prolonged immigration backlogs caused by federal law. South Asians comprise one of the largest immigrant populations in the United States and are heavily represented among families waiting—often for decades—for permanent residence in both employment-based and family-sponsored immigrant

³⁹ Igor Ryabov, *The Intergenerational Impact of Parental Immigration Status: Educational and Health Outcomes Among Children of Undocumented Immigrants*, Int’l J. of Env’t Rsch. & Pub. Health (Jan. 14, 2026).

⁴⁰ *Id.*

⁴¹ *Statement of the Effects of Deportation and Forced Separation on Immigrants, their Families, and Communities*, Soc’y for Cmty. Res. & Action: APA Div. 27, Am. J. of Cmty. Psych., Vol. 62, No. 1–2 (Sept. 2018).

⁴² Roberto G. Gonzales & Stephen P. Ruszczyk, *The Legal Status Divide among the Children of Immigrants*, Daedalus, J. of the Am. Acad. of Arts & Scis. (2021).

categories. As a result, South Asian children are more likely to be born to parents who remain in temporary nonimmigrant visa classifications for extended periods of time. Those children fall squarely within the Order's scope.

South Asian immigration skyrocketed in the twentieth century, first with the 1946 Luce-Celler Act, Pub. L. No. 79-483, 60 Stat. 416 (1946)—prompted by the United States's wartime alliance with India, and which restored naturalization rights and established a small immigration quota for Indians⁴³—and then with the Immigration and Nationality Act of 1965, Pub. L. No. 89-236, 79 Stat. 911 (1965). That Act fundamentally reformed U.S. immigration by abolishing discriminatory national-origin quotas and opening the United States to greater immigration from Asia, Africa, and Latin America, as well as creating pathways for immigration by highly skilled workers and family members.⁴⁴ Thus, while in 1960 there were only about 12,000 Indian immigrants in the United States, that number increased to 206,000 in 1980, and grew to 2.04 million in 2013.⁴⁵ In total, there are now around 6.5 million South Asians in the United States.⁴⁶

⁴³ Erika Lee, *Legacies of the 1965 Immigration Act*, S. Asian Am. Ditgit. Archive (last visited Feb. 24, 2026).

⁴⁴ David S. Fitzgerald & David Cook-Martin, *The Geopolitical Origins of the U.S. Immigration Act of 1965*, Migration Policy Inst. (Feb. 5, 2015).

⁴⁵ Lee, *Legacies of the 1965 Immigration Act*, *supra*.

⁴⁶ U.S. Census Bureau, *Asian Alone or in Any Combination by Selected Groups* (last visited Feb. 25, 2026).

Two factors interact to lead to South Asians being disproportionately represented in immigration backlogs.

First, a large percentage of South Asian immigrants have arrived in the last decade or so. More than half of Bhutanese immigrants to the United States, for example, have arrived since 2012. (Most of these are Nepali-speaking Lhotshampas who were forced out of Bhutan.) Similarly, 49.9% of immigrants and refugees from Nepal have arrived in the United States in the past fifteen years—as have 31.3% of Bangladeshis, 27.4% of Sri Lankans, 27.1% of Indians, and 21% of Pakistanis.⁴⁷ In addition, the Afghan immigrant population nearly quadrupled between 2010 and 2022—from approximately 54,000 to 195,000—while the overall U.S. immigrant population grew by only 16% in that period.⁴⁸

Second, while the 1965 Immigration Act loosened many discriminatory immigration rules, it also created other rules that in effect penalize this exponential rise of immigration from South Asia. Immigrants from any one country may receive no more than 7% of green cards, for example, unless those green cards would otherwise go unused. There is also an annual ceiling of 140,000 employment-based work visas.⁴⁹

⁴⁷ AAPI Data, *State of Asian Americans, Native Hawaiians, and Pacific Islanders in the United States* 27–28 (June 2022).

⁴⁸ Julian Montalvo & Jeanne Batalova, *Afghan Immigrants in the United States*, Migration Policy Inst. (Feb. 15, 2024).

⁴⁹ *How the United States Immigration System Works*, Am. Immigr. Council (June 24, 2024).

These factors have combined to result in significant delays and long waiting lists—delays that disproportionately impact the South Asian community. Largely because of the 7% rule, for example, Indians represent 63% of the green card backlog, and thus bear most of the burden of this system.⁵⁰ As of November 2, 2023, over 1.2 million Indians—about 600,000 primary workers and 650,000 dependents—were waiting in the EB-1, EB-2, and EB-3 employment-based green card queues.⁵¹ Without reform, the Indian backlog could exceed 2.2 million by 2030.⁵² And new applicants from India will face a lifetime wait—indeed, more than 400,000 will likely die before they receive a green card.⁵³

Immigrants from Bangladesh and Pakistan also face huge delays. Along with India, these countries represent three of the top ten countries with the longest waiting lists for family visas.⁵⁴

The result is that many South Asian families in extended nonimmigrant status have children before obtaining permanent residence.⁵⁵ The Order targets

⁵⁰ David J. Bier, *1.8 Million in Employment-Based Green Card Backlog*, Cato Inst. (Aug. 29, 2023, 4:28 PM).

⁵¹ Stuart Anderson, *More than 1 Million Indians Waiting For Highly Skilled Immigrant Visas*, Forbes (Apr. 14, 2024, 2:10 PM).

⁵² William A. Kandel, *The Employment-Based Immigration Backlog*, Cong. Res. Serv. (Mar. 26, 2020).

⁵³ Bier, *1.8 Million in Employment-Based Green Card Backlog*, *supra*.

⁵⁴ AAPI Data, *State of Asian Americans, Native Hawaiians, and Pacific Islanders in the United States*, *supra*, at 36.

⁵⁵ In many cases, immigrants' existing children age out of eligibility for permanent residence once they turn twenty-one. "Documented Dreamers" are children of individuals who enter

children born during that period. Framed as a response to “birth tourism” (Gov’t Br. 9), the Order in fact sweeps in long-term residents who work, pay taxes, and have built their lives in the United States while waiting in congressionally mandated queues.⁵⁶

IV. The Executive Order Would Deter South Asian Americans From Continuing Their Significant Contributions To The Nation’s Economy.

The United States’ ability to attract and retain talent depends not only on visas and wages, but on family stability. For decades, immigrants relied on the settled understanding that children born in the United States are citizens. The Order undermines that foundational assurance, altering the calculus for South Asian workers in critical sectors and deterring future participation in the American economy.

Technology. The United States’ global leadership in technology depends heavily on immigrant talent, and South Asian Americans are central to that success. Foreign-born workers account for nearly one-third of the high-skill STEM workforce

the United States under temporary, nonimmigrant visa categories, who age out of eligibility to obtain permanent resident status through a parent. More than 200,000 Documented Dreamers are in the United States, predominantly from India and China. *Documented Dreamers: An Overview*, Am. Immigr. Council (Nov. 18, 2024).

⁵⁶ South Asian communities also include asylum applicants, Temporary Protected Status holders, and individuals who have fallen out of status, including visa overstays. Children born to parents in these categories would likewise be affected by the Order, further magnifying its impact.

nationwide.⁵⁷ Immigrants from India represent the single largest national-origin group within that cohort,⁵⁸ with Pakistani immigrants also represented at rates well above their share of the overall population.⁵⁹

International students also comprise roughly half of all STEM graduate enrollments in the United States, and a substantial share of those students—particularly from South Asia—remain in the country after graduation to work in technology, engineering, and advanced research roles. These workers drive innovation across core industries, including software development, artificial intelligence, semiconductor design, and cybersecurity.

Economists warn that constricting this talent pipeline carries severe economic consequences. A recent report projects that sustained reductions in international STEM participation could cost the United States between \$240 billion and \$480 billion annually over the next decade, reflecting losses in productivity, innovation, and long-term GDP growth.⁶⁰ Those losses would be driven not only by fewer workers, but by fewer patents, fewer startups, and diminished spillover benefits for domestic workers and institutions.

⁵⁷ *Foreign-born STEM Workers in the United States*, Am. Immigr. Council (June 14, 2022).

⁵⁸ *Id.*

⁵⁹ *Id.*; see Carlyne Im, *Facts about Pakistanis in the U.S.*, Pew Res. Ctr. (May 1, 2025).

⁶⁰ Polly Nash, *US to face \$480bn yearly losses from shrinking STEM talent pool*, The Pie (Nov. 3, 2025).

Policies that introduce instability into the lives of skilled immigrants directly undermine the United States' ability to attract and retain this workforce.

Healthcare. South Asian Americans play an outsized role in healthcare. For example, while in 2022 Indian Americans comprised approximately 1.3% of the U.S. population, nearly 10% of doctors were Indian American.⁶¹ More generally, Asian Americans comprised approximately 7% of the U.S. population in 2022, but made up 22% of all physicians.⁶² Asian Americans—and South Asians in particular—are also heavily represented among nurses, nursing assistants, and home health aides,⁶³ fields essential to an aging population in the United States.

Labor, service, and hospitality. South Asians are likewise indispensable in labor, service, and hospitality. Sikh Americans account for 20% of America's truckers.⁶⁴ The Administration's tightening restrictions threaten their livelihoods, as well as supply chains and workforce capacity.⁶⁵ In 2007, South Asians owned over one third of all convenience stores in the United States—between 50,000 and 70,000—generating more than \$100 billion in

⁶¹ Michelle Ko, MD, Ph.D., et al., *Asian American Diversity and Representation in the Health Care Workforce, 2007 to 2022*, JAMA Network (Oct. 17, 2024).

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Asian Am. Educ. Project, *On the Road: Sikh American Truck Drivers*, Lesson 5.1.3 (last visited Feb. 24, 2026).

⁶⁵ Kurtis Lee, *Long-Haul Trucking was a Refuge for Sikh Immigrants. Until Now.*, N.Y. Times (Dec. 21, 2025).

revenue.⁶⁶ Indian Americans also own roughly half the motels in the United States,⁶⁷ and operate over 40% of all independent hotels nationwide, generating thousands of jobs for Americans.⁶⁸

Small business ownership. Asian Americans own a greater share of businesses in the United States that employ workers than their proportion of the population: Asian-owned employer businesses represent 11% of all U.S. employer firms, despite Asian Americans comprising 7% of the population. Many of these businesses are owned by South Asians—Indian-owned firms, for example, make up 32% of Asian-owned firms.⁶⁹ Together, these businesses provide enormous contributions to the United States economy—including an estimated \$1.2 trillion in gross receipts and 5.4 million jobs.⁷⁰

The stakes of Executive Order 14,160 are also illustrated by the many Americans whose parents relied on birthright citizenship’s stability when building their lives in this country. Prominent figures

⁶⁶ *Indian Researcher Suggests South Asians Dominate U.S. C-Store Market*, Convenience Store News (Mar. 19, 2007).

⁶⁷ Yudhijit Bhattacharjee, *How Indian Americans Came to Run Half of All U.S. Motels*, Nat’l Geographic (Sept. 4, 2018).

⁶⁸ *The Rising Tide: Indian Americans Reshape the U.S. Business Landscape*, Indo Am. Chamber of Com. – USA, Blog (last visited Feb. 24, 2026).

⁶⁹ *What the data says about Asian-owned employer businesses*, My Asian Voice (Aug. 15, 2025); *see also* U.S. Census Bureau, *Annual Business Survey: Statistics for Employer Firms by Race for the U.S.: 2022* (last visited Feb. 24, 2026).

⁷⁰ *Id.*

such as former Vice President Kamala Harris,⁷¹ former governors and cabinet officials including Nikki Haley⁷² and Bobby Jindal,⁷³ entrepreneurs and political leaders such as Vivek Ramaswamy,⁷⁴ and artists such as Kal Penn,⁷⁵ were all born in the United States to immigrant parents who, under settled law at the time, understood that their children would be recognized as U.S. citizens at birth. Under the logic of the Order, similarly situated children in the future would be denied that same security—depriving the nation of untold contributions in public service, business, science, and culture.

South Asian individuals' contributions rest on assumptions of stability—among others, that children born here are Americans, not provisional residents. By undermining that longstanding assumption, Executive Order 14,160 threatens to accelerate the departure of skilled workers, discourage future immigration, and exacerbate talent shortages in vital sectors the nation can least afford to destabilize. The

⁷¹ Melissa Cruz, *The Lie About Kamala Harris and Birthright Citizenship*, Am. Immigr. Council, Blog (Aug. 18, 2020).

⁷² *Birthright Citizenship in the United States*, Am. Immigr. Council (March 2025).

⁷³ Scott Wong, *Jindal enters citizenship battle*, Politico (Aug. 4, 2010, 7:15 PM).

⁷⁴ Katherine Koretski, et al., *Vivek Ramaswamy shares his family's citizenship story—and how it has shaped two hard-line policy proposals*, NBC News (Sept. 21, 2023, 2:00 AM).

⁷⁵ Bruce Fretts, *Kal Penn Isn't Making a Political Point with His Immigration Sitcom*, N.Y. Times (Nov. 1, 2021).

resulting brain drain⁷⁶ would harm not only South Asian communities, but the country as a whole.

V. The Executive Order Would Create Statelessness And Enduring Legal Limbo For South Asian Children.

Executive Order 14,160 threatens to produce one of the gravest consequences the Fourteenth Amendment was designed to prevent: U.S. born children who belong fully to no nation. As discussed above, statutory caps on employment-based immigration—140,000 visas per year plus a 7% per-country limit—have forced Indian and other South Asian nationals to endure decades-long queues, substantially increasing the aging out risk for their children. For these families, the Order does not deter “birth tourism” (Gov’t Br. 9); it penalizes long-term residents caught in congressionally created queues.

Ending automatic birthright citizenship could result in approximately *255,000 children per year* being born in the United States without U.S. citizenship,⁷⁷ a compelling indicator of the scale of harm. Because of South Asians’ disproportionate representation in these backlogs, the Order’s effect will be felt acutely in their communities.

The government asserts that children denied U.S. citizenship will instead acquire citizenship through their parents’ countries of origin (Gov’t Br. 47). That

⁷⁶ Stuart Anderson, *Immigrant Labor Declines As Trump Imposes New Immigration Restrictions*, Forbes (Dec. 17, 2025, 10:12 AM).

⁷⁷ *Ending Automatic Birthright Citizenship Would Significantly Increase the Size of the U.S. Unauthorized Population, New Projections Show*, Penn State Social Sci. Res. Inst., Population Res. Inst. (May 13, 2025).

assumption is incorrect. Many South Asian countries do not confer citizenship automatically or reliably to children born abroad, and several present moderate to high risks of statelessness. For example, Nepal's nationality laws are burdened by administrative barriers and the legacy of gender-discriminatory transmission rules.⁷⁸ Afghanistan's citizenship laws are undermined by practical barriers like documentation gaps and limited state capacity.⁷⁹ And Bhutan generally requires *both* parents to be Bhutanese citizens for a child to acquire nationality.⁸⁰

In practice, statelessness may result from any number of foreseeable obstacles such as these. But even where formal statelessness can be avoided, the burden is substantial. To obtain citizenship for their children in their countries of origin, South Asian parents in the United States may be forced to navigate unfamiliar governmental bureaucracies immediately after a child's birth, often under tight deadlines and with incomplete records. Late registration can permanently foreclose the child from obtaining citizenship or rendering citizenship discretionary rather than guaranteed.

The government's vague assurances that it will "propose appropriate action" to prevent "negative immigration consequences,"⁸¹ for children born to

⁷⁸ Kallol Bhattacharjee, *Explained | The controversy around Nepal's new citizenship law*, Hindu (Aug. 21, 2022, 11:01 PM).

⁷⁹ Int'l Org. for Migration, *Documentation and Legal Identification in Afghanistan* 14, 47–49, 61 (2023).

⁸⁰ U.S. Dep't of State, *2018 Country Reports on Human Rights Practices: Bhutan* (last visited Feb. 24, 2026).

⁸¹ U.S. Citizenship & Immigr. Serv., *Implementation Plan IP2-2025-0001* (July 25, 2025).

lawfully but temporarily present mothers provide no meaningful protection against these risks. Indeed, other documents demonstrate that the government's implementation of the Order would result in heavy administrative burdens. A U.S. birth certificate would no longer be enough to obtain a child's Social Security number; parents would now be required to prove their own citizenship or immigration status.⁸² And executive departments would deny benefits—like Medicaid, CHIP, TANF, and SNAP—even for children born before the Order's operative date, who would now need to provide verification documents consistent with the Order to prove their eligibility.⁸³

The Order denies U.S. citizenship at birth while offering no concrete, enforceable alternative pathway to any nationality at all. The result is legal limbo at the moment of birth—a condition that can persist for years and shape every aspect of a child's life, from access to healthcare and education to the ability to travel, work, or fully participate in civic life.

⁸² U.S. Social Sec. Admin., [Guidance on Protecting the Meaning and Value of American Citizenship \(Executive Order 14160\) for Verification Requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996](#) (last visited Feb. 24, 2026).

⁸³ Dep't of Health & Human Servs., [Guidance on Protecting the Meaning and Value of American Citizenship \(Executive Order 14160\) for Verification Requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996](#) (July 25, 2025); U.S. Dep't of Agric. Food & Nutrition Serv., [Guidance on Protecting the Meaning and Value of American Citizenship \(Executive Order 14160\) for Verification Requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996](#) (July 26, 2025).

The Fourteenth Amendment was enacted to eliminate precisely this type of uncertainty. By creating a class of U.S.-born children at risk of statelessness and prolonged legal limbo, the Order resurrects the very conditions of exclusion and insecurity the Citizenship Clause was meant to abolish.

CONCLUSION

The Court should affirm the district court's judgment enjoining implementation of Executive Order 14,160.

Respectfully submitted.

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