

No. 25-365

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IN THE  
**Supreme Court of the United States**

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

*Petitioners,*

*v.*

BARBARA, *et al.*,

*Respondents.*

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ON WRIT OF CERTIORARI BEFORE JUDGMENT TO THE UNITED  
STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

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**BRIEF OF *AMICI CURIAE* LATINOJUSTICE  
PRLDEF, AFRO-LATINO FORUM,  
HISPANIC FEDERATION, *ET AL.*  
IN SUPPORT OF RESPONDENTS**

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**INTERESTS OF *AMICI CURIAE***<sup>1</sup>

*Amici* are organizations whose missions and work advance and protect constitutional and civil rights. *Amici* believe that it is critically important to uphold the century-old bedrock constitutional principle of birthright citizenship because restrictions on that constitutional guarantee will fall mostly on Latino immigrants, creating stigma, social and economic insecurity, and unequal treatment. Thus, *Amici* have a strong interest in this proceeding, support the Respondents, and all urge affirmance of the decision below. *Amici* are the following organizations:

**LatinoJustice PRLDEF (LatinoJustice).** Founded in 1972, LatinoJustice’s mission is to use and challenge laws to create a more just and equitable society, transform harmful systems, empower Latino communities, fight for racial justice, and grow the next generation of leaders. For over five decades, LatinoJustice has litigated landmark cases and advanced policy reforms in areas including constitutional law, immigrants’ rights, voting rights, and economic justice. LatinoJustice has authored and participated in hundreds of briefs in support of constitutional principles and Latino communities, including *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 143 S. Ct. 2141 (2023) and *United States v. Vaello Madero*, 142 S. Ct. 1539 (2022).

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1. No counsel for any party authored this brief in whole or in part, and no person other than *amici curiae* or their counsel made a monetary contribution to the preparation or submission of this brief. See Sup. Ct. R. 37.6. Counsel of record for the parties received timely notice of the intent to file this brief. Sup. Ct. R. 37.2.

**Afro-Latino Forum.** Afro-Latino Forum is a research and resource center that centers Blackness within Latinidad focusing on Latinos of African descent in the United States. The Afro-Latino Forum works to provide a bridge that expands understanding about the African Diaspora and supports the struggles for racial and social justice, including for immigrant communities. The Afro-Latino Forum has an interest in safeguarding the constitutional right to birthright citizenship.

**ASPIRA of New York.** ASPIRA of New York has served New York City's youth and families since 1961, fighting to improve education in the Puerto Rican and Latino communities and advocating to ensure their equitable access to opportunities. Through its programs, including its Leadership & College Access Program, ASPIRA of New York prepares young people with the tools they need to become leaders in their communities. ASPIRA of New York has an interest in protecting the constitutional right to birthright citizenship, which ensures that children born to immigrants in the United States can equitably participate in the democratic processes that shape their future.

**Association of Latino Marin Attorneys (ALMA).** ALMA is a non-profit unincorporated association of Marin County attorneys. Founded in 2013, ALMA mentors Latino students, facilitates pro bono services to Latino communities in Marin, and promotes diversity in the profession and on the bench. ALMA is dedicated to supporting Latino cultural values, economic interests, and the social dignity of the Latino community.

**California La Raza Lawyers Association (CLRLA).** CLRLA is a statewide association that represents the interests of Chicano and Latino lawyers throughout California. Founded in 1977, it has provided educational and professional opportunities for individuals from underrepresented backgrounds, including immigrants and children of immigrants. CLRLA has an interest in protecting the constitutional right to birthright citizenship.

**East Bay La Raza Lawyers Association (EBLRLA).** Founded in 1978, the EBLRLA's mission is to advance equitable access to justice for the Latino community in Alameda and Contra Costa Counties of Northern California. In support of the Latino community, the EBLRLA creates opportunities for attorneys through mentorship and professional development, provides financial assistance to law students that are making a significant community impact, and advances Latino representation in the judiciary.

**Hispanic Association of Colleges and Universities (HACU).** The Hispanic Association of Colleges and Universities represents more than 500 colleges and universities in the United States and Puerto Rico, and school districts throughout the U.S. It's members nationwide are home to two-thirds of all Hispanic college students. HACU is the only national educational association that represents Hispanic-Serving Institutions (HSIs) and is committed to advancing the educational success of all students. HACU has an interest in protecting the constitutional right to birthright citizenship, including the disproportionate impact the government's policy would have on Hispanic youth.

**Hispanic Federation, Inc. (HF).** HF is the nation's premier Latino nonprofit membership organization. Founded in 1990, HF seeks to empower and advance the Hispanic community, support Hispanic families, and strengthen Latino institutions through work in the areas of civic engagement, immigration, education, health, economic empowerment, and the environment. HF has an interest in ensuring that the constitutionally guaranteed right to birthright citizenship is protected.

**Hispanic National Bar Association (HNBA).** Founded in 1972, the HNBA has a membership comprised of thousands of Latino lawyers, law professors, law students, legal professionals, state and federal judges, legislators, and bar affiliates across the country. The HNBA regularly participates as *amicus curiae* in this Court, including in civil rights and constitutional cases of importance to the millions of people of Hispanic heritage living in the United States.

**Latino Action Network (LAN).** LAN works to ensure Latino voices are heard in every corner of society. Through legal challenges, grassroots campaigns, and advocacy, LAN fights for the issues most important to Latino communities—immigrant rights, education, healthcare, affordable housing, and voting rights. As LAN is committed to advancing the equitable inclusion of diverse communities in all areas of American life, LAN believes that birthright citizenship, which disproportionately benefits U.S.-born Latinos, must be protected.

**Massachusetts Law Reform Institute (MLRI).** MLRI has been a nationally recognized poverty law and policy center for over sixty years, pursuing

groundbreaking initiatives to benefit and protect the rights of low-income people in Massachusetts. It works to eliminate the substantial barriers immigrants face when trying to survive and thrive in the United States, including by helping immigrants acquire and preserve their legal immigration status and ability to work in the United States, protecting immigrants' economic rights, and defending against unfair and/or discriminatory federal policies that target immigrants of color or divide immigrant families. MLRI has an interest in protecting the constitutional right to birthright citizenship.

**Mexican American Bar Association- Los Angeles (MABA).** Established in the late 1950s, MABA is one of the largest and most prominent Latino bar associations in the United States. For over six decades, MABA has dedicated its efforts to the advancement of the Latino community through advocacy and education, and the defense of the constitutional protections afforded to those its members serve. MABA has a profound interest in this proceeding because birthright citizenship is a bedrock constitutional principle that is essential to the social and economic security of the Latino community, which would be disproportionately harmed, potentially creating a stateless caste and subjecting a generation to untold social and economic hardships.

**National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund.** The NALEO Educational Fund is the leading nonprofit organization that facilitates full Latino participation in the American political process, from citizenship to public service. Its constituents include the more than 7,700 Latino elected and appointed officials nationwide who serve at

every level of government, including positions with local and state education jurisdictions; counties, municipalities and special districts; state governance bodies; and the U.S. Congress. The NALEO Educational Fund is committed to the protection of birthright citizenship and a responsive democracy, which ensure that our nation's citizens can fully contribute to civic life.

**National Day Laborer Organizing Network (“NDLON”).** Founded in 2001, NDLON is a nationwide organization whose mission is to improve the lives of day laborers, migrants, and low-wage workers. NDLON builds leadership and power for those facing injustice so that they can challenge inequality and expand labor, civil, and political rights for all. NDLON's members are organizations that support immigrants, including Indigenous communities from Latin America and Latinos, who are with or without immigration status and whose U.S.-born children will be impacted by the abridgment of the constitutionally guaranteed right to birthright citizenship.

**National Hispanic Medical Association (NHMA).** NHMA is the leading national nonprofit membership organization committed to advancing the health and well-being of Latino communities. NHMA collaborates with medical societies, resident and medical student groups, and key partners in the public and private sector to elevate pressing health issues. The organization is dedicated to promoting health care access, enhancing health outcomes, and supporting underserved populations. NHMA has an interest in protecting the interests of Latino communities by ensuring birthright citizenship remains constitutionally protected.

**National Latina Institute for Reproductive Justice (Latina Institute).** The Latina Institute fights for equal access to reproductive health, advocating for individuals to have the power to make informed decisions about their own bodies, families, and futures. The Latina Institute fights for health, dignity, and justice by centering and amplifying the voices of Latinas. The Latina Institute has an interest in upholding the constitutionally protected right to birthright citizenship through its commitment to combat anti-Latino discrimination and the erosion of civil rights.

**National Latinx Psychological Association (NLPA).** NLPA is an organization of mental health professionals, academics, researchers and students whose objective is to generate and advance psychological knowledge and foster its effective application for the benefit of the Latinx population. NLPA aims for physical, psychological, and social environments for Latinxs in the U.S. that reflect the ideals of respect for mental health, dignity, and human and civil rights. NLPA supports the constitutionally protected right to birthright citizenship because the guarantee of citizenship for Latinx children born in the United States will help cultivate a more diverse workforce of Latinx psychologists.

**New York Immigration Coalition (NYIC).** NYIC is a member-led coalition of over 170 immigrant and refugee-rights groups whose mission is to strengthen and build its members' power, organize and educate immigrant communities, and use the collective voice of its constituents to advocate for opportunity and justice. NYIC and its members serve immigrant communities, including Latinos, who will be harmed by the government's policy

purporting to end birthright citizenship for certain classes of immigrants.

**Poder Latinx.** Poder Latinx's mission is to empower Latinx communities to build sustained political power and actively participate in our democracy. Poder Latinx is an integrated voter engagement organization where all aspects of voter engagement, issue-based campaigns, leadership development, voting reform, and narrative change form a continuous cycle of political consciousness, equipping the Latinx community to become agents of change. Poder Latinx advances progressive policies that reflect the needs and voices of Latinx voters on areas such as immigration, environmental, and economic justice. Poder Latinx has an interest in safeguarding the constitutional right to birthright citizenship.

**Rural & Migrant Ministry (RMM).** RMM is a grassroots non-profit organization committed to migrant justice, equity, and civic integration. Nearly ninety percent of those RMM serves are Latinos, many of whom have immigration statuses described in the government's policy purporting to end birthright citizenship. RMM has an interest in safeguarding the constitutional right to birthright citizenship.

**Santa Clara County La Raza Lawyers Association (SCCLRLA).** SCCLRLA's mission is to advance the professional, cultural, economic, and civic interests of the Latino community while strengthening leadership, opportunity, and representation within the legal profession. The Association elevates issues affecting the Latino community in Santa Clara County and throughout the broader legal community. SCCLRLA

serves attorneys, judges, and law students, particularly those from historically underrepresented backgrounds, by fostering professional development, mentorship, advocacy, and meaningful participation in the legal field. It is especially committed to expanding opportunities for first-generation professionals and individuals from traditionally overlooked communities.

**San Francisco La Raza Lawyers Association (SFLRLA).** SFLRLA empowers and creates opportunities for attorneys, law students, and legal professionals in San Francisco. SFLRLA is one of the first Latino bar associations in California. SFLRLA advances these communities through education, professional and leadership development, and meaningful advocacy.

**UnidosUS.** Previously known as NCLR (National Council of La Raza), UnidosUS is a nonprofit nonpartisan organization that serves as the nation's largest Hispanic civil rights and advocacy organization. Since 1968, UnidosUS has united communities and groups seeking common ground and that share a desire to make our country stronger. Through its unique combination of expert research, advocacy programs, and an Affiliate Network of nearly 300 community-based organizations across the United States and Puerto Rico, UnidosUS simultaneously challenges the social, economic, and political barriers that affect Latinos at the national and local levels. UnidosUS has an interest in ensuring that the constitutionally enshrined right to birthright citizenship is protected.

## SUMMARY OF ARGUMENT

The Citizenship Clause of the “[F]ourteenth amendment affirms the ancient and fundamental rule of citizenship by birth within the territory [of the United States], in the allegiance and under the protection of the country, including all children here born of” immigrants. *United States v. Wong Kim Ark*, 169 U.S. 649, 693 (1898). At the time of this pronouncement, persons of Chinese ancestry, like Wong Kim Ark’s parents, endured virulent anti-Chinese hostility. Yet this Court was resolute in upholding birthright citizenship as a constitutional guarantee without regard to parental ancestry, alienage, immigration status, race, or color. *Id.* at 693–94.

Amidst another vitriolic anti-immigrant wave, this time directed mostly at Latino<sup>2</sup> immigrants, who are vilified as being “inva[ders],” “animals,” and “criminals,” the government purports to end birthright citizenship because it is presumably a “magnet” attracting invading immigrants to the United States.<sup>3</sup> *See also* Pet’rs’ Br. 8 (claiming birthright citizenship “provides a powerful incentive for illegal migration”).

We are a nation of immigrants. Latinos have been a part of the social, cultural, and intellectual tapestry of the

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2. Latinos can be of any race. *See, e.g.*, Mark Hugo Lopez et al., *Who Is Hispanic?*, Pew Rsch. Ctr. (Sept. 12, 2024), <https://www.pewresearch.org/short-reads/2024/09/12/who-is-hispanic>. *Amici* use the term to include Afro-Latinos, Indigenous people who identify as Latino, and white Hispanic people. *Amici* also use the terms Latino and Hispanic interchangeably.

3. *See* discussion *infra* Section II(c) and notes 41–42.

United States for centuries. They fought in the Civil War. They built vibrant communities from the West Coast to the East Coast. They drive the economy, creating millions of businesses and providing essential labor. In 2022, immigrants—a majority of whom are Latinos—paid over \$579 billion in federal, state, and local taxes, in addition to over \$25 billion in Social Security taxes and over \$6 billion in Medicare taxes. And undocumented Latinos contribute to the national coffers.

Stripping the U.S.-born children of undocumented Latino immigrants of birthright citizenship flouts an ancient and fundamental right and threatens to unleash untold social and economic hardships. The consequences include statelessness for thousands of children, denial of access to necessary government processes predicated on citizenship—like the right to vote, and the denial of educational benefits, healthcare, and socioeconomic opportunities. Subjecting these children to the laws of the United States but denying them the ability to participate in its democratic processes is a threat to the institution of government itself.

As this Court did over a century ago, it must reject the government's misguided rewriting of the Citizenship Clause. Then as now, the government's bid to impose parental alienage as a condition precedent to the constitutionally guaranteed right to birthright citizenship must fail. *Amici* support the Respondents and urge affirmance.

## ARGUMENT

### **I. The Government’s Policy Abridges the Fundamental Right of Birthright Citizenship and Distorts the History and Meaning of the Citizenship Clause.**

Every court that has examined Executive Order 14160 at issue here, which purports to end birthright citizenship for certain classes of immigrants, has struck it down.<sup>4</sup> See, e.g., *Washington v. Trump*, 145 F.4th 1013, 1035 (9th Cir. 2025). “The plain text and ordinary meaning of the Fourteenth Amendment, controlling precedent interpreting the Citizenship Clause, drafting history, and most post-ratification public understanding” demonstrate that the government’s policy is unconstitutional. *Id.* at 1035.

As explained below, birthright citizenship was a fundamental entitlement over a century ago and it remains so today. The controlling precedent—*Wong Kim Ark*—lays a crucial foundation that birthright citizenship meets the modern-day conception of a fundamental right. Consequently, the government’s policy stripping away that right from the children of undocumented immigrants abridges that fundamental right. Furthermore, the government’s policy distorts the history and meaning of the Citizenship Clause.

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4. Executive Order 14160 is hereinafter referred to as the “government’s policy.”

**A. The government cannot strip U.S.-born children of undocumented immigrants of their citizenship because birthright citizenship is a fundamental right.**

The Citizenship Clause “affirms the ancient and fundamental rule of” birthright citizenship. *United States v. Wong Kim Ark*, 169 U.S. 649, 693 (1898). Sixty years later, this Court again said: “When the Government acts to take away the *fundamental right* of citizenship, the safeguards of the Constitution should be examined with special diligence.” *Trop v. Dulles*, 356 U.S. 86, 103 (1958) (emphasis added). The Court observed that citizenship “is not subject to the general powers of the National Government and therefore cannot be divested in the exercise of those powers.” *Id.* at 92.

Setting aside the Court’s own recognition of birthright citizenship as a fundamental rule or right, birthright citizenship meets the modern doctrinal test for establishing a fundamental right. Over time, the Court has elucidated how fundamental rights are derived. A fundamental right is one that is “objectively, deeply rooted in this Nation’s history and tradition,” and is “implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed.” *Washington v. Glucksberg*, 521 U.S. 702, 720–21 (1997) (internal quotation marks omitted). Put differently, the Court asks whether the right is “so deeply embedded within society’s traditions as to be a fundamental right.” *Michael H. v. Gerald D.*, 491 U.S. 110, 125 (1989). For example, “because the institution of the family is deeply rooted in this Nation’s history and tradition” the Constitution “protects the sanctity of the family.” *Moore v. City of East Cleveland, Ohio*, 431 U.S. 494, 503 (1977).

Another formulation of the fundamental right test asks whether the right is guaranteed under the Constitution. *See, e.g., Harris v. McRae*, 448 U.S. 297, 312 (1980) (“[A] fundamental right [is one] explicitly or implicitly secured by the Constitution” (internal quotation marks and citation omitted)). The right to vote, for example, is enshrined in the Fifteenth Amendment to the Constitution. U.S. Const. amend. XV. *See also Reynolds v. Sims*, 377 U.S. 533, 562 (1964) (“[T]he political franchise of voting . . . [is] a fundamental political right . . . .” (internal citation omitted)).

Under either formulation—whether rooted in tradition or constitutionally granted—birthright citizenship meets the hallmarks of a fundamental right.

*First*, it is deeply steeped in the Nation’s history and tradition. By the time of the Declaration of Independence in 1776, there was general consensus among United States courts that the principle of *jus soli*—birth within a nation’s territory—conferred citizenship in the United States. *See, e.g.,* Michael D. Ramsey, *Originalism and Birthright Citizenship*, 109 *Geo. L.J.* 405, 413, 416 (2020). The principle of *jus soli* prevailed irrespective of parental alienage, ancestry, or immigration status. *Id.* at 414. Thus, in 1844, for example, the U.S.-born daughters of an Irish tourist were “native born citizens of the United States.” *Id.* at 415; *see also Lynch v. Clarke*, 1 Sand. Ch. 583 (1844); *In re Look Tin Sing*, 21 F. 905, 909 (C.C.D. Cal. 1884) (“[T]he inability of persons to become citizens under . . . [naturalization] laws in no respect impairs the effect of their birth, or of the birth of their children, upon the status of either as citizens under the amendment in question.”). Thus, at a bare minimum since

the 19th century—but well before—U.S.-born children of temporary visitors and undocumented immigrants have been full-fledged American citizens.

*Second*, birthright citizenship is enshrined in the Constitution. The first clause of the Fourteenth Amendment declares: “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.” U.S. Const. amend. XIV, § 1. United States citizenship is conferred—as relevant here—by birth on United States soil. *Id.* *Wong Kim Ark* upheld that constitutional guarantee 127 years ago. *Wong Kim Ark*, 169 U.S. at 693.

Birthright citizenship thus qualifies as a fundamental right under theories articulated by this Court.<sup>5</sup> It is rooted deeply in custom, is enshrined in the Constitution, and has been officially recognized by this Court since 1898. Because nothing in modern jurisprudence undercuts the fundamental nature of birthright citizenship, its “deprivation . . . is not a weapon that the Government may use to express its displeasure at [the conduct] of a citizen’s

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5. Abridgement of a fundamental right—like birthright citizenship—is subject to heightened judicial scrutiny. *See, e.g., Moore*, 431 U.S. at 506 (striking down City Ordinance infringing the fundamental right to familial integrity). Just as courts have found that the government’s policy violates the Citizenship Clause, the policy cannot survive judicial scrutiny under a fundamental rights framework. *Accord id.*; *see also Pointer v. Texas*, 380 U.S. 400, 414 (1965) (“[T]o deny . . . the power to impair a fundamental constitutional right . . . [is] to limit the power of both federal and state governments in favor of safeguarding the fundamental rights and liberties of the individual.”) (Goldberg J., concurring).

[parent], however reprehensible that conduct may be.”  
*Trop*, 356 U.S. at 92–93.

**B. The government’s policy collapses under  
 judicial scrutiny because it distorts the history  
 and meaning of the citizenship clause.**

The infamous *Dred Scott v. Sanford* decision broke the *jus soli* tradition by denying people of African descent birthright citizenship. 60 U.S. 393, 403–05 (1857). But following the Civil War, the Citizenship Clause, as previously noted, cured *Dred Scott’s* grievous error by enshrining birthright citizenship in the Constitution. U.S. Const. amend. XIV, § 1. Because the Framers of the Citizenship Clause resoundingly repudiated *Dred Scott’s* holding, it is no surprise that the clause they adopted imposed no restrictions, other than being subject to the jurisdiction of the United States, on birthright citizenship.<sup>6</sup> Neither a parent’s race, color, alienage, ancestry, nor immigration status limits the constitutional guarantee of birthright citizenship.

The Citizenship Clause confers “citizenship by birth . . . by the mere fact of birth under the circumstances defined in the constitution.” *Wong Kim Ark*, 169 U.S. at 702. In *Wong Kim Ark*, this Court held that a child born in the

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6. While on its face, the Citizenship Clause imposes no parentage-based restriction, the *Wong Kim Ark* Court noted several exceptions to birthright citizenship that are inapplicable here: “children of foreign sovereigns or their ministers . . . or enemies within and during a hostile occupation of part our territory [and at the time] . . . children of members of the Indian tribes owing direct allegiance to their several tribes.” 169 U.S. at 693. Members of Indian tribes were later granted birthright citizenship in 1924. (Indian Citizenship Act of 1924, Pub. L. No. 68-175, 43 Stat. 253 (1924)). 8 U.S.C. § 1401(b).

United States to Chinese immigrant parents—who were themselves ineligible for citizenship—was a United States citizen under the Fourteenth Amendment. Interpreting the Clause in light of its plain and unambiguous language, common-law jurisprudence, history, and meaning “familiarily known to the framers,” the Court determined that citizenship by birth is a constitutional guarantee that does not turn on parental immigration status or domicile. *Id.* at 654–732.

The Citizenship Clause establishes a territorial and universal rule in which a person’s birth within the nation’s jurisdiction creates allegiance; allegiance entails protection; and protection confirms belonging. That has been the settled law and public understanding for centuries. The government’s assertion that conferring birthright citizenship to the children of undocumented parents—the majority of whom are Latinos<sup>7</sup>—“degrades the meaning and value of American citizenship,” Pet’rs’ Br. 9, is unsupported by the history and meaning of the Citizenship Clause. Rather, it is the government’s policy to vitiate a time-honored constitutional right by executive fiat that degrades the character and value of American citizenship.

Birthright citizenship is “protected no less for children of undocumented persons than for descendants of *Mayflower* passengers.” *Trump v. CASA, Inc.*, 606 U.S. 831, 884 (2025) (Sotomayor, J., dissenting) (internal citation omitted). This Court must reject the government’s bid to distort the history and meaning of the Citizenship Clause.

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7. See *infra* Section II(d) (noting that Latino children comprise 75% of all children born to noncitizen parents).

## II. The Government's Policy Will Disproportionately Harm the U.S.-Born Children of Latino Immigrants.

As a presidential candidate, Donald Trump famously claimed that there were “record numbers of migrants caught crossing the border” and that birthright citizenship was a “magnet” pulling many of them to do so.<sup>8</sup> He also claimed that there was a “migrant crime” wave, for which he blamed “MS-13” and “Venezuelan gangs.”<sup>9</sup> He vowed to end birthright citizenship.<sup>10</sup> Amidst this anti-Latino climate, the government enacted its birthright citizenship-ending policy. *See also* Pet’rs’ Br. 8 (arguing that the government’s policy was intended to curb “a powerful incentive for illegal migration”).

This Court has previously rejected abridgment of the fundamental rule of birthright citizenship amid anti-immigrant hostility. It should do so again. While the government policy’s violation of the Citizenship Clause is sufficient reason to do so, its harsh effects, which disproportionately fall on immigrants of Latino heritage, merit serious consideration.

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8. Ted Hesson, *Trump Vows to End Birthright Citizenship for Children of Immigrants in US Illegally*, Reuters (May 30, 2023), <https://www.reuters.com/world/us/trump-vows-end-birthright-citizenship-children-immigrants-us-illegally-2023-05-30/>.

9. Jane C. Timm, *Fact-Checking Trump’s Interview with ‘Meet the Press,’* NBC News (Dec. 8, 2024), <https://www.nbcnews.com/politics/donald-trump/fact-check-trump-interview-meet-the-press-rena182995>.

10. *See* Hesson, *Trump Vows to End Birthright Citizenship*, *supra* note 8.

**A. Latinos have long been a feature of the social, cultural, and intellectual fabric of the United States.**

The history of Latino migration to the United States is rooted in our Nation’s territorial and economic expansion. The first significant influx of Latino immigrants to the United States occurred during the California Gold Rush, or just after the modern boundary between the United States and Mexico was established at the end of the U.S.-Mexican War in 1848.<sup>11</sup> As part of the Treaty of Guadalupe Hidalgo, Mexico ceded more than a third of its former territory to the United States, and the treaty offered blanket naturalization to up to 100,000 former citizens of Mexico who chose to remain north of the new border after the war.<sup>12</sup> The outbreak of the Mexican Revolution in 1910 intensified migration across the border—a trend that continued into the twentieth century and dramatically increased in the 1960s after the Cuban Missile Crisis and political turmoil elsewhere in Latin America during the 1970s and 1980s.<sup>13</sup>

Throughout that time, Latino immigrants actively shaped American democracy, culture, politics, and law. They have been central to building the United States as a nation—not only demographically, but also intellectually and legally. As early as 1850, Latino jurists, civic leaders, and writers helped develop American political thought

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11. David Gutiérrez, *An Historic Overview of Latino Immigration and the Demographic Transformation of the United States*, in *American Latinos and the Making of the United States: A Theme Study* (National Park Service Advisory Board, 2013).

12. *Id.*

13. *Id.* at 58, 61–67.

and democratic ideals from within U.S. borders.<sup>14</sup> Spanish and Mexican legal concepts, such as community property, common law marriage, and related rules of inheritance, were incorporated into American jurisprudence in Texas and spread nationwide, profoundly shaping modern family and property law.<sup>15</sup>

Latino immigrants have also helped build core American constitutional and legal norms. Faced with “color of law” segregation in the early 1900s, Hispanic peoples repeatedly invoked First Amendment freedoms like speech, assembly, and petition to demand equal citizenship and schooling equity, which reinforced that “equal treatment under the law” cannot turn on territory, origin, language, or skin color.<sup>16</sup> To that end, Latino-led organizations and advocates pursued school desegregation cases decades before *Brown v. Board of Education*, 347 U.S. 483 (1954) was decided, developing legal arguments about unconstitutional segregation and “educational reasons” used as pretexts—work that anchored equal protection and civil rights enforcement in public education.<sup>17</sup>

Latino-led efforts to expand civil rights and the substantive protections of citizenship have directly

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14. Nicolás Kanellos, *Envisioning & Re-visioning the Nation: Latino Intellectual Traditions*, in *American Latinos and the Making of the United States: A Theme Study* 77, 80–82 (National Park Advisory Board, 2013).

15. *Id.*

16. Victoria-María Macdonald, *Demanding Their Rights: The Latino Struggle for Educational Access and Equity*, in *American Latinos and the Making of the United States: A Theme Study* 307, 307 (National Park Service Advisory Board, 2013).

17. *Id.* at 312.

shaped Fourteenth Amendment jurisprudence as well.<sup>18</sup> In *Hernandez v. State of Texas*, 347 U.S. 475 (1954), the Court held that the Fourteenth Amendment forbade the systematic exclusion of Mexican Americans from juries based on their national origin or descent.<sup>19</sup> The Court reiterated that “it is a denial of the equal protection of the laws to try a defendant of a particular race or color” before a jury “from which all persons of his race or color have, solely because of the race or color, been excluded.” *Id.* at 477. The Court emphasized that the Fourteenth Amendment protects all racial and ethnic groups, not just “white and Negro” classes, and noted that “[u]ntil very recent times” in Texas, children of Mexican descent were forced to attend segregated schools and at least one restaurant in the petitioner’s county posted a sign reading “No Mexicans Served.” *Id.* at 477–80.

Latino immigrants have also advanced their civic and legal contributions to the nation through a tremendous record of military service. The Department of Defense estimates that over 9,000 Latinos fought in the Civil War, 4,000 in World War I, 500,000 in World War II, and 540,000 in post-9/11 conflicts,<sup>20</sup> with thousands more working in defense industries<sup>21</sup>—a massive mobilization

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18. Margaret Montoya, *Latinos and the Law, in American Latinos and the Making of the United States: A Theme Study* 289, 289–92 (National Park Service Advisory Board, 2013).

19. *Id.* at 291.

20. Rosalinda V. Maury et al., Inst. for Veterans & Mil. Fams., *Hispanics and Latinos in the Military: From Service to Civilian Life* 1, 1–4 (Sept. 2020).

21. Lorena Oropeza, *Fighting on Two Fronts: Latinos in the Military, in American Latinos and the Making of the United*

and legacy of service that continues today. As of 2020, Latino servicemembers make up 16% of all active-duty military,<sup>22</sup> including over 17% of the Air Force, 18% of the Army, 21% of the Navy, and 24% of the Marine Corps.<sup>23</sup> Of the more than 1.3 million Latino veterans in the United States, 91% report positively about their military service, despite the fact that 60% of Latino veterans struggle to obtain post-service employment.<sup>24</sup>

**B. Latinos have been a significant driver of the nation’s demographic growth and economic contribution.**

Today, Latino Americans compose roughly 20% of the nation’s total population,<sup>25</sup> or over 65 million people—the largest ethnic minority in the country.<sup>26</sup> They are also the second fastest growing population, accounting for roughly

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States: A Theme Study 251, 258 (National Park Service Advisory Board, 2013).

22. Adrianna Rodriguez, *Latinos Are Fastest Growing Population in U.S. Military, But Higher Ranks Remain Out of Reach*, USA Today (Jun. 11, 2020), <https://www.usatoday.com/in-depth/news/nation/2020/05/23/latino-hispanic-military-high-ranking-commissioned-officer-positions/4668013002/>.

23. Lauren Malone et al, Ctr. for Naval Analysis, *Hispanic Representation in the Military and Civilian Sectors* 5 (2023).

24. *Hispanics and Latinos in the Military*, *supra* note 20.

25. U.S. Census Bureau, *Sectors with the Highest Number of Employees for Hispanic-Owned Employer Businesses: 2020* (2023).

26. Mark Hugo Lopez, *Who Is Hispanic?*, *supra* note 2.

half of all population growth in the United States.<sup>27</sup> By 2050, Latinos are expected to make up a quarter of the population, or over 102 million people.<sup>28</sup> Politically, Latino representation in state legislatures and Congress has steadily increased over the past thirty years,<sup>29</sup> even in states and districts in which they have little or no natural advantage.<sup>30</sup>

The demographic strength of Latino immigrants is reflected in their astounding economic contributions to the nation. As of 2024, Latino immigrants compose nearly half (48.7%) of the foreign-born labor force.<sup>31</sup> They are on average younger<sup>32</sup> and more engaged in the labor force<sup>33</sup> than the U.S.-born population. While

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27. Gabriel Piña & Gracie Martinez, *Key Facts About U.S. Latinos*, Pew Rsch. Ctr. (Oct. 22, 2025), <https://www.pewresearch.org/short-reads/2025/10/22/key-facts-about-us-latinos/>.

28. *Id.*

29. Louis DeSipio, *Demanding Equal Political Voice ... And Accepting Nothing Less: The Quest for Latino Political Inclusion*, in *American Latinos and the Making of the United States: A Theme Study* (National Park Service Advisory Board, 273, 283 (2013)).

30. Jason P. Casellas & Joanne Ibarra, *Changing Political Landscapes for Latinos in America* (Am. Ass'n of Hispanics in Higher Educ., Inc., 2011).

31. *Economic News Release, Labor Force Characteristics of Foreign-born Workers Summary*, U.S. Bureau of Labor Statistics, U.S. Department of Labor (May 20, 2025), <https://www.bls.gov/news.release/forbrn.nr0.htm>.

32. Casellas & Ibarra, *supra* note 30.

33. Evin Millet & Jacquelin Paviol, *Demographic Profile of Undocumented Hispanic Immigrants in the United States*, Ctr. for Migration Studies (Oct. 2022).

Latino immigrants make up the largest undocumented immigrant population in the country, they maintain high labor force participation and employment rates, especially in essential occupations—despite facing significant barriers to education, restraints on employment, and financial instability.<sup>34</sup> In fact, Hispanic undocumented men are 26% more likely to participate in the labor force than U.S.-born men, whereas Hispanic undocumented women are equally likely to participate in the labor force as U.S.-born women.<sup>35</sup>

In 2022, immigrants—the majority of whom are Latinos—paid over \$579 billion in federal, state, and local taxes, in addition to over \$31 billion paid by undocumented immigrants in Social Security and Medicare taxes.<sup>36</sup> Moreover, Latino entrepreneurs have played a central role in the nation’s economic advancement since at least the 1970s and 1980s, during which Latino-owned businesses and commerce exploded.<sup>37</sup> By the end of the twentieth century, Latino-owned businesses accounted for almost six percent of all U.S. businesses, generating \$187 billion in annual revenue.<sup>38</sup> Today, Latino-owned businesses

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34. *Id.*

35. *Id.*

36. Kevin Appleby, *The Importance of Immigrant Labor to the U.S. Economy*, Ctr. for Migration Stud. (Sept. 2, 2024), <https://cmsny.org/importance-of-immigrant-labor-to-us-economy/>.

37. Geraldo Cadava, *Entrepreneurs from the Beginning: Latino Business & Commerce Since the 16th Century*, in *American Latinos and the Making of the United States: A Theme Study*, 215, 216 (National Park Service Advisory Board, 2013).

38. *Id.*

employ roughly 3 million Americans across many sectors of the economy.<sup>39</sup>

**C. Anti-Latino hostility fuels persistent discrimination against Latino immigrants.**

Despite the prolific contributions of Latino immigrants and their children to the American polity, intelligentsia, military, and economy, Latinos experience sustained institutional and interpersonal discrimination in education, employment, health care, policing, the judicial system, voting, and politics.<sup>40</sup> The recent proliferation of federal and state-level anti-immigration policies are quantitatively and qualitatively connected to and exacerbate this discrimination, affecting the overall health and socioeconomic status of Latinos in America.<sup>41</sup>

The President’s campaign rhetoric and policies utilizing the “invasion”<sup>42</sup> trope and “Latino threat

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39. U.S. Census Bureau, *Sectors with the Highest Number of Employees for Hispanic-Owned Employer Businesses: 2020* (2023).

40. Mary Findling et al, *Discrimination in the United States: Experiences of Latinos*, 54 *Health Servs. Rsch.* 1409, 1415–17 (2019).

41. *Id.*

42. Ben Zimmer, *Where Does Trump’s ‘Invasion’ Rhetoric Come From?*, *Atlantic* (Aug. 6, 2019), <https://www.theatlantic.com/entertainment/archive/2019/08/trump-immigrant-invasion-language-origins/595579/>; see also Julia Carrie Wong, *Trump Referred to Immigran ‘Invasion’ in 2,000 Facebook Ads, Analysis Reveals*, *Guardian* (Aug. 5, 2019), <https://www.theguardian.com/us-news/2019/aug/05/trump-internet-facebook-ads-racism-immigrant-invasion>.

narrative” have intensified racist and xenophobic political discourse and media, which pedal stereotypes and vitriolic sketches of Latino peoples as “criminals,” “drug lords,” and “animals.”<sup>43</sup> Perhaps unsurprisingly, the President’s rhetoric has desensitized the public to the inhumane treatment of Latino immigrants and their children, best illustrated by the installation of derelict border facilities akin to refugee camps,<sup>44</sup> in which children suffered documented physical, sexual, and psychological abuse.<sup>45</sup> At the same time, anti-Latino hate crimes increased over 21% in 2018 during the President’s first term, including a mass shooting in El Paso, Texas, in which a white nationalist killed twenty-two people out of rage over the “Hispanic invasion of Texas.”<sup>46</sup>

The President’s policies towards Latinos follows his rhetoric. Immediately after taking office in January 2017, the President signed two executive orders that disproportionately targeted Latinos. The first order authorized the expansion of the Border Patrol, and directed the Department of Homeland Security to construct additional detention facilities along the U.S.-

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43. Stephanie L. Canizales & Jody Agius Vallejo, *Latinos & Racism in the Trump Era*, Am. Acad. of Arts & Scis. 150, 151, 155 (2011).

44. *Id.*

45. *Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection*, University of Chicago Law School - Global Human Rights Clinic (2018).

46. Canizales & Vallejo, *supra* note 43, at 155; *see also* Brad Brooks, *Victims of anti-Latino hate crimes soar in U.S.: FBI report*, Reuters (Nov. 12, 2019), <https://www.reuters.com/article/world/us/victims-of-anti-latino-hate-crimes-soar-in-us-fbi-report-idUSKBN1XM2OP/>.

Mexico border and significantly restrict access to asylum.<sup>47</sup> The second order sought to bridge local and federal law enforcement agencies while increasing the number of Immigration and Customs Enforcement (ICE) agents.<sup>48</sup> The result of these orders was a 38% annual increase in the number of civil immigration arrests.<sup>49</sup> As of the President's second term in office, he has signed nine additional orders related to immigration, including the birthright citizenship-ending order at issue here.

**D. U.S.-born children of Latino immigrants will disproportionately suffer the physical, psychological, social, and socioeconomic consequences of the government's flawed policy.**

The government's policy will impose an outsized and excruciating burden on the U.S.-born children of Latino immigrants—not as an incidental effect, but as a predictable demographic consequence of targeting undocumented, temporary status, and DACA-recipient parents.<sup>50</sup> In 2022, Latino children comprised 75% of all children (ages 0–17) with noncitizen parents—about 4 million children—placing U.S.-born Latino children at the epicenter of any policy that penalizes being born to noncitizen parents.<sup>51</sup>

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47. *Id.* at 153.

48. *Id.*

49. *Id.*

50. Lucía Félix Beltrán et al., *Born into Uncertainty: The Health and Social Costs of Ending Birthright Citizenship*, UCLA Latino Pol'y & Pol. Inst. Policy Brief (Feb. 12, 2025).

51. *Id.*

These children did not choose their circumstances, have broken no immigration laws, and often lack meaningful ties to any other nation at birth.<sup>52</sup> Stripping their citizenship through executive fiat would create a new class of undocumented or stateless minors, condemning millions to live in the shadows, without the protections, stability, and opportunities that citizenship provides.<sup>53</sup> The government's policy would deny an entire generation of children basic healthcare, nutrition, and education, and would further fracture mixed-status families, inflicting profound developmental harms and deepening cycles of poverty, illness, and family separation that would burden Latino communities and the Nation for decades.<sup>54</sup>

None of these harms are speculative. In countries without birthright citizenship, children of immigrants commonly struggle to access even the most basic rights and services, including adequate prenatal and natal care.<sup>55</sup> Those gaps predictably increase downstream pediatric costs: newborns of undocumented mothers who receive no prenatal care incur roughly *double* the postnatal and long-term pediatric care costs of newborns whose mothers

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52. *In Harm's Way: The Consequences of Denying Birthright Citizenship for America's Children and Our Future*, First Focus on Children (Nov. 2024).

53. *Id.*

54. Rachel E. Fabi et al., *Stateless at Birth—Birthright Citizenship and the Safeguarding of Immigrant Maternal and Child Health*, *J. Gen. Internal Med.* (2026).

55. Tianjian Lai, *Disentangling the Consequences for Latino Immigrants' Unauthorized Status for the Health of Their U.S.-Born Children*, *J. Racial & Ethnic Health Disparities* (Jan. 2025).

had at least one prenatal visit.<sup>56</sup> Yet the policy does nothing to grapple with these foreseeable consequences, let alone the moral and ethical implications of punishing blameless U.S.-born children for their parents' immigration status.

The intended effect of the President's rhetoric and actions is clear: a racialized immigration system disproportionately affecting Latino immigrants and their children.<sup>57</sup> This result is not without a cost—a cost the American people will bear alongside Latino communities long after this President's term ends. That cost includes an explosive and near-permanent increase in the size of the unauthorized population,<sup>58</sup> establishing a “stateless” caste barred from ordinary travel, services, and privileges<sup>59</sup>; an abrupt reshaping of the process that defines citizenship for everyone in the United States, including the creation of a “citizenship bureaucracy” and the suppression of American voters who cannot produce passports or other federal recognition of their citizenship<sup>60</sup>; and inevitably, the physical, psychological, social, and socioeconomic

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56. *Id.*

57. Abigail Friedman & Atheendar Venkataramani, *Chilling Effects: U.S. Immigration Enforcement and Health Care Seeking Among Hispanic Adults*, Health Affs. (Jul. 2021).

58. Jennifer Hook, *Repealing Birthright Citizenship Would Significantly Increase the Size of the U.S. Unauthorized Population*, Migration Pol'y Inst. (May 2025).

59. Carol Nackenoff, *Caste and American Citizenship in the Trump Era*, 85 Md. L. Rev. 178, 200 (2025).

60. *Id.*

decline of Latino immigrants and their children in the United States.<sup>61</sup>

Latino immigrants and their children have driven the Nation's development since its earliest days, shaping American law, civic life, and society. The government's policy repudiates that history by entrenching a racialized immigration regime that disproportionately burdens Latino communities and fundamentally distorts the Constitution's guarantee of birthright citizenship. These harms will no doubt overly burden U.S.-born children of Latino immigrants but also reverberate far beyond any single group.

### CONCLUSION

Birthright citizenship has long been a cornerstone of our constitutional order and a moral commitment to equality under the law. The President lacks constitutional authority to unravel more than 150 years of precedent by executive fiat, while transparently targeting Latino immigrants and their U.S.-born children. Simply put, birthright citizenship is a fundamental right guaranteed by the Citizenship Clause. The Court should reject the President's usurpation of Legislative and Judicial power and strike down Executive Order 14160.

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61. *Id.*; Omid Dadras & Mohammad Hazratzai, *The Silent Trauma: U.S. Immigration Policies and Mental Health*, 44 *Lancet Reg'l Health* 1 (2025); Lai, *supra* note 55; Rachel Fabi, et al., *Stateless at Birth – Birthright Citizenship and the Safeguarding of Immigrant Maternal and Child Health*, *Society of General Internal Medicine* (Jan. 2026). Fabi et al., *supra* note 54.

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