

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 *AMICI CURIAE*
FAITH-BASED ORGANIZATIONS
IN SUPPORT OF RESPONDENTS**

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INTEREST OF *AMICI CURIAE*¹

The 57 *amici* are all faith-based organizations representing a cross-section of religious traditions, including Catholics, Protestants, Muslims, Hindus, and Jews. Each has found a home in the United States. Each has flourished here. Each has benefited from the guarantees of the Constitution. Each includes among its members birthright citizens whose parents came from different lands, including those forcibly brought to the United States and denied citizenship prior to the protections of the Fourteenth Amendment. Each shares the universal value of welcoming the stranger.

Amici offer their perspective as communities of faith on the importance of birthright citizenship, which is an embodiment of their shared moral imperative to “welcome the stranger” and a reflection that the United States has accepted that duty.

¹ No party in this case authored this brief in whole or in part or made any monetary contribution to its preparation and submission.

AMICI CURIAE

- **Alliance of Baptists**
- **American Jewish Committee:** American Jewish Committee (AJC) creates trusted partnerships with leaders around the world to ensure Jews are safe and thriving. We empower leaders in government, education, partner communities, and the private sector to take action to counter antisemitism and be allies to the Jewish people.
- **Central Conference of American Rabbis**
- **Clergy and Laity United for Economic Justice:** At Clergy and Laity United for Economic Justice-CLUE we believe with the strongest conviction of the right to Birthright Citizenship because it aligns with the inherited worth endowed by God to every creature born in our great country. To take this right away is not only unconstitutional, it is the rejection of the highest core of faith values this country professes to claim. It is also a rejection of all the sacred values stated in the Declaration of Independence, one of our most cherished documents.
- **Congregation B'nai Jeshurun (NYC):** B'nai Jeshurun affirms our strong support for birthright citizenship as a constitutional guarantee enshrined in the 14th Amendment and as an expression of our Jewish commitment to welcoming immigrants.

- **Congregation of Our Lady of Charity of the Good Shepherd, U.S. Region**
- **Congregation of the Humility of Mary, Davenport, Iowa:** The Congregation of the Humility of Mary is a group of women religious, i.e. Catholic sisters, who strive to live the Gospel message of Jesus. We believe that all people are created and loved by God. Our faith teaches that all, especially the most vulnerable, are to be received as Jesus. The babies born here, including to the immigrants and refugees among us, need to be citizens of our country so they may enjoy the rights and protection of fellow citizens as well as the rule of law. Therefore, we have decided to sign on to the amicus brief defending birthright citizenship.
- **Convención Bautista Hispana De Texas:** Since 1910, Convención Bautista Hispana de Texas has faithfully served Hispanic congregations across the state. Today, we support nearly 1,100 Hispanic Baptist churches, strengthening their Christian faith and ministry throughout Texas. Any effort to undermine birthright citizenship directly affects these congregations, their pastors, and the communities they serve.
- **Cooperating Baptist Fellowship of Oklahoma:** We affirm Matthew 25's imperative to welcome the stranger, embodying Christ's call to hospitality, justice, and dignity of every child, regardless of their parents' status, reflecting God's inclusive love. We honor the stranger among us as we would Christ himself.

- **Council on American-Islamic Relations:** The Council on American-Islamic Relations (CAIR) is the largest Muslim civil rights and advocacy organization in the United States. Founded in 1994, CAIR’s mission is to enhance public understanding of Islam, protect civil rights, promote justice and empower American Muslims. CAIR recognizes that birthright citizenship is one of the Constitution’s most important and fundamental guarantees. Removing this guarantee would upend the Constitution, spark widespread confusion, and potentially strip an untold number of Americans—including some American Muslims—of their lifelong status as Americans, none of which the Constitution requires.
- **Daughters of Charity of St. Vincent de Paul**
- **Dominican Sisters of Sinsinawa Leadership Council**
- **Episcopal Diocese of Los Angeles:** The Episcopal Diocese of Los Angeles comprises 133 congregations, 30 schools, a half-dozen housing and other service organizations, and about 50,000 members in six counties in southern California and the central coast. Episcopalians’ baptismal covenant centers “the dignity of every human being,” especially when unjust power scapegoats or marginalizes people.

- **Episcopal Diocese of New York:** The Episcopal Diocese of New York is comprised of over 180 Episcopal churches, chaplaincies, and schools throughout New York City and the Hudson Valley. Our faith calls upon us to love God, to welcome the stranger, and to care for our neighbors. The Episcopal Diocese of New York is profoundly committed to Sanctuary and to serving our immigrant community. We strive to elevate our local communities and repair our relationships with each other and the planet.
- **Episcopal Divinity School**
- **Faith Commons:** Faith Commons is an interfaith organization committed to promoting the common good. We advocate for the most vulnerable in our society, including immigrants. We believe that justice requires abiding by the Constitution and upholding the rule of law.
- **Faith in Action:** Faith in Action is a multi-faith network of religious congregations and people of faith working to build community and improve living conditions across more than 250 cities and towns in 25 states in the United States and in 13 countries in Latin America, the Caribbean, Africa, and Eastern Europe. Immigrant families and children are integral to our churches, mosques, temples, and synagogues, and the fabric of communities. We view birthright citizenship enshrined in the 14th Amendment as a cornerstone of a healthy and inclusive society, where all God's people are loved and can thrive.

- **FaithWorks:** The mission of FaithWorks is to mobilize Christians to practice compassion and pursue justice. We are a cross-denominational Christian nonprofit focusing on loving our neighbors outside the walls of the church. We provide financial, volunteer, and spiritual support to a network of pastors, ministries, churches, and nonprofits serving migrants and asylum seekers on both sides of the US-Mexico border.
- **Franciscan Sisters of Little Falls Minnesota**
- **Franciscan Sisters of Perpetual Adoration**
- **Fresno Interdenominational Refugee Ministries (FIRM)**
- **Friends Committee on National Legislation**
- **Friends General Conference (Quaker):** Founded in 1900, Friends General Conference (FGC) is an association of sixteen regional yearly meetings and hundreds of local Quaker meetings and churches. FGC, with Divine guidance, nurtures the spiritual vitality of the Religious Society of Friends (Quakers) by providing programs and services for Friends, meetings, and seekers.

- **General Synod of the United Church of Christ:** Over the past four decades, the United Church of Christ's General Synod has passed over a dozen resolutions affirming the basic human rights of immigrants, migrants, and refugees. We have designated ourselves an "immigrant welcoming church" that sees our call as Christians to care for the sojourner as our neighbor. As an extension of this witness, we denounce any efforts by the federal government to strip the due process and constitutional rights of immigrants, including birthright citizenship enshrined in the Citizenship Clause of the Fourteenth Amendment.
- **HIAS:** Amicus HIAS Inc. was founded over one hundred and twenty years ago, to support Jews fleeing pogroms in Central and Eastern Europe and is the oldest refugee-serving organization in the United States. Although most of the people HIAS serves today are not Jewish, serving them is an expression of Jewish values such as *tikkun olam* (repairing the world) and welcoming and protecting the stranger. Today, HIAS provides services to refugees, asylum seekers, and other forcibly displaced populations regardless of their national, ethnic, or religious background in eleven countries, including the United States. In the U.S., HIAS provides legal and social services to those who have fled violence, persecution, and torture, helping them secure humanitarian legal status and keep their families united through reunification.

- **Hindu American Foundation:** The Hindu American Foundation (HAF) seeks to promote and protect religious liberty by advancing the understanding of Hinduism and Hindu Dharma traditions in the United States. HAF engages in advocacy and education aimed at securing the rights and dignity of Hindu Americans for current and future generations. HAF emphatically supports the role of birthright citizenship in maintaining this country's diverse religious community, particularly for the vast majority of Hindu Americans who are first- and second-generation immigrants.
- **Holy Spirit Missionary Sisters, USA-JPIC**
- **Hope Border Institute:** Rooted in Catholic social teaching, the Hope Border Institute is a strategy center for faith leaders pursuing justice at the U.S.-Mexico border. At the border, we understand the value of welcoming the stranger. For generations, our communities have been a beacon of safety and protection for refugees fleeing religious persecution, violence, and oppression. We are stronger when we recognize each other in the most vulnerable among us and—equal in dignity, rights, and duties—work together for the common good of our communities.
- **Interfaith Center of New York**
- **Latino Christian National Network**
- **Leadership Team of the Felician Sisters of North America**

- **Leadership Team of the Servants of Mary Community:** It is very important to our congregation as Servants of Mary to welcome those who are being treated unjustly which includes those whose birthright citizenship is being questioned. Our charism is being a compassionate presence to all in need, especially those who need it most.
- **Matthew 25 SoCal:** Matthew 25 SoCal is a coalition of pastors and faith leaders across Southern California committed to upholding the dignity of every person as created in the image of God. This matter is of profound importance to us because birthright citizenship is not only a constitutional principle but also a safeguard of belonging and equal protection for the children in our congregations and communities. We join this brief as an expression of our moral and spiritual conviction that the law must protect the vulnerable and reflect the fundamental promise of justice for all.
- **Men of Reform Judaism**

- **Muslim Public Affairs Council:** The Muslim Public Affairs Council Foundation (MPAC) is a 501(c)(3) nonprofit that has worked since its founding in 1988 to enhance American pluralism, improve understanding of American Muslims, and speak out on policies that affect American Muslims and other historically marginalized communities. MPAC routinely works with members of other faith groups and other diverse communities to encourage civic responsibility in order to help preserve our nation's democratic ideals as enshrined in the U.S. Constitution. As such, MPAC has a very strong interest in protecting and preserving the core rights of natural born citizens (especially those of young children) that are at risk of being eroded in this historic case.
- **Muslims for Progressive Values:** The Qur'an affirms the moral duty to welcome and protect those who migrate in search of safety and stability. It honors both the Muhājirūn (migrants) who left their homes to escape harm and the Ansār (helpers) who received them with generosity, praising those who "give preference to others even if they themselves are in need" (Qur'an 59:9). Rooted in values of justice, mercy, and human dignity, Islamic teachings treat the protection of migrants not as optional charity, but as a core ethical obligation of a just society.

- **National Advocacy Center of the Sisters of the Good Shepherd:** The National Advocacy Center of the Sisters of the Good Shepherd (NAC) prioritizes preserving birthright citizenship to protect immigrant families, particularly women, and children, from the threat of statelessness, family separation, and the loss of fundamental rights. As a faith-based organization, we advocate for the dignity of all people and oppose policies that create a marginalized, “lesser” class.
- **National Council of Churches:** The National Council of the Churches of Christ in the USA (NCC) represents 37 Christian denominations, over 100,000 congregations, and more than 30 million people across the United States. Immigrant communities are integral to our churches and to the life of the nation, strengthening its social, cultural, and economic vitality. The constitutional protections at issue safeguard their rights and dignity, consistent with our faith’s affirmation of the inherent worth of every person.
- **NETWORK Lobby for Catholic Social Justice**
- **Pray March Act:** Pray March Act affirms that birthright citizenship reflects a core Christian conviction: that every child bears God’s image and, as a result, should not be rendered vulnerable or stateless because of their parents’ status. Protecting the Fourteenth Amendment’s promise reflects God’s justice by welcoming the stranger, safeguarding the vulnerable, and ensuring our public witness proclaims Christ-oriented courage and compassion.

- **Provincial Council Clerics of St. Viator:** The Clerics of St. Viator is a Catholic order of religious brothers and priests. We are proud to stand with immigrants and whole heartedly support birthright citizenship.
- **Rabbinical Assembly:** The Rabbinical Assembly is the global association of Conservative/Masorti rabbis.
- **Reconstructing Judaism**
- **Reconstructionist Rabbinical Association:** The Reconstructionist Rabbinical Association (RRA) was established in 1974. The RRA is the professional association of Reconstructionist rabbis. Comprised of more than 350 rabbis across the United States, the RRA is the rabbinic voice within the Reconstructionist Jewish movement, represents the Reconstructionist rabbinate to the wider world, and serves as a collegial community for its members.
- **Rhode Island State Council of Churches:** The Rhode Island State Council of Churches is committed to love-based action in the world. Recognizing that all are created in the image of God, we reject fear-based narratives that dehumanize, oppress, or otherwise destroy our common humanity. Birthright citizenship reaffirms not only our faith-based commitments, but also our belief in a democracy united in freedom and inclusion.
- **Sisters of Charity of Cincinnati**

- **Sisters of Charity of the Blessed Virgin Mary**
- **Sisters of Notre Dame de Namur, Ohio Province:** The Sisters of Notre Dame de Namur believe in the dignity of every person and the Gospel teachings of caring for neighbor. We stand in solidarity with those made poor and those whose human rights are violated.
- **Sisters of St. Francis, Clinton, Iowa:** We, the Sisters of St. Francis, Sojourners, and Associates, recognize the inherent sacredness and dignity of each person and that we are all one human family. We believe that every person has a basic human right to an adequate income, safe and affordable housing, food security, affordable health care, quality education, and equal protection of the law.
- **Sisters of St. Joseph of Carondelet:** The Consensus Statement of the Sisters of St. Joseph of Carondelet states, “Stimulated by the Holy Spirit of Love and receptive to those inspirations, the Sister of St. Joseph moves always towards profound love of God and love of neighbor without distinction.” It is through this charism that we, the Sisters of St. Joseph, work, minister, and serve to dismantle systems of oppression and create an inclusive society where human dignity is recognized and humanity can flourish. Thus, denying specific groups of people and children their birthright citizenship, leaving them stateless, and eliminating religious freedom is antithetical to our charism and ministry.
- **Sisters of St. Joseph of Carondelet St. Louis Province**

- **T'ruah: The Rabbinic Call for Human Rights**
- **Union for Reform Judaism**
- **Union Theological Seminary:** Union Theological Seminary (UTS), founded in 1836 in New York City, is a globally recognized seminary and graduate school of theology where faith and scholarship meet to reimagine the work of justice. A beacon for social justice and progressive change, Union Theological Seminary is led by a diverse group of theologians and activist leaders. Drawing on both Christian traditions and the insights of other faiths, the institution is focused on educating leaders who can address critical issues like racial equity, criminal justice reform, income inequality, and protecting the environment. Union is led by Rev. Dr. Serene Jones, the 16th President and the first woman to head the close to 200-year-old seminary.
- **Unitarian Universalist Service Committee:** The Unitarian Universalist Service Committee (UUSC) is a human rights advocacy organization inspired by the values of Unitarian Universalism, a progressive faith tradition based in principles of religious pluralism, toleration, and freedom of conscience. Originally founded in 1940 to aid refugees escaping Nazi persecution in Europe, UUSC has worked for more than 80 years to secure human rights to people in conditions of migration and displacement. This work continues today through our ongoing partnerships with Central American and Haitian asylum-seekers, Rohingya survivors of genocide in Burma, and Temporary Protected Status holders in the United States.

- **The Witness, Inc.:** The Witness, Inc. exists to encourage, equip, and empower Black Christians to live fully free. This issue holds deep significance for our community, as older Black citizens, especially those in the South, may have never been issued birth certificates due to legal segregation, which denied them access to hospitals for childbirth. This jeopardizes the bedrock protections the Voting Rights Act was designed to secure.
- **Women of Reform Judaism**

INTRODUCTION AND SUMMARY OF ARGUMENT

Birthright citizenship as embodied in the Citizenship Clause of the Fourteenth Amendment demonstrates a commitment by the United States to welcome the stranger. That value is central to each of *amici's* faiths. As recognized in *amici's* religious texts, welcoming the stranger is a broadly shared and indelible ethic. The Citizenship Clause represents the apotheosis of this value by extending the same citizenship rights possessed by one's own children to the children of the stranger.

The enshrinement of birthright citizenship in the Fourteenth Amendment also has a deep connection with the Nation's history as a haven for those escaping religious persecution, including the forebearers and current members of many of *amici's* faith groups. Several of the Thirteen Colonies were founded by groups, such as Quakers, escaping religious persecution or seeking to secure religious freedom. Those ideals were then codified in the First

Amendment. In subsequent generations, new groups fleeing religious persecution were welcomed to this country and—following ratification of the Fourteenth Amendment—constitutionally guaranteed birthright citizenship.

Birthright citizenship is protective of other rights, including religious freedom. It ensures that individuals who come to this Nation can be certain that their descendants born in this country will enjoy the liberties guaranteed in the Constitution for generations to come. This permits those seeking refuge to build a new future here, to become part of the Nation's fabric, and to pass on their religious traditions to children guaranteed citizenship at birth. Such individuals need not fear that their children or their children's children will be deemed removable and deported to a country they have never known, where their parents or ancestors faced deprivation or discrimination. The constitutional guarantees of religious freedom and birthright citizenship are integral to America's image as a "city upon a hill."

Although our Nation has not always lived up to the ideal of welcoming the stranger, birthright citizenship acts as a constitutional assurance that—at minimum—those who are born in this country will have the same privileges, immunities, and rights of citizenship regardless of parentage. Providing this guarantee safeguards *amici's* shared values: it recognizes the common humanity of all children born in this country; it prevents children from being rendered stateless or undocumented; and it ensures that children born to individuals who came to this country seeking religious freedom will not be deported to a country where their parents were persecuted.

The Administration seeks to unilaterally subvert the Citizenship Clause of the Fourteenth Amendment through the promulgation of Executive Order No. 14160 (the “Executive Order”). Allowing enforcement of the Executive Order would be a repudiation of the core value in *amici*’s faiths to welcome the stranger. It would also undermine a vital protection for the children of those who have come to this country to escape religious persecution.

The Court should reject the Administration’s attempt to undermine the Citizenship Clause, affirm the Court of Appeals’ decision, and reaffirm our country’s commitment to welcoming the stranger.

ARGUMENT

I. Birthright Citizenship Enshrines the Universal Ethic of Welcoming the Stranger and Safeguarding Children.

Each of *amici*’s faith traditions, indeed, every major religion, emphasizes the moral imperative to welcome the stranger and treat them as we would ourselves:

- In Christianity, the New Testament teaches, “For I was hungry and you gave Me something to eat; I was thirsty and you gave Me something to drink; I was a stranger and you took Me in.” Matthew 25:35.
- In Islam, the Qur’an instructs to “do good to ... those in need, neighbors who are near, neighbors who are strangers, the companion

by your side, the wayfarer that you meet.”
Qur'an 4:36.

- In Judaism, the Torah requires that “the strangers who sojourn with you shall be to you as the natives among you, and you shall love them as yourself; for you were strangers in the land of Egypt.” Leviticus 19:33-34.
- In Hinduism, the Taittiriya Upanishad proclaims that “the guest is a representative of God.” Taittiriya Upanishad 1.11.2.
- In Buddhism, the Divyāvadāna tells the story of a traveling buddha and a homeowner, who upon seeing the buddha turn away asks, “Noble one, why are you turning back? You are in want of food, and I, of merit. Take up residence here in this park and I'll support you with alms with no interruption.” Divyavadana 312.15-16.
- In Sikhism, the Guru Granth Sahib relates that “no one is my enemy, and no one is a stranger. I get along with everyone.” Guru Granth Sahib at 1299.

Birthright citizenship embodies this universal principle. There can be no greater commitment to welcoming the stranger than acknowledging that their children who are born in this country should have the same rights, privileges, and immunities as one's own. As Justice Blackmun observed, citizenship is “a right conferring benefits of inestimable value upon those who possess it.” *Fedorenko v. United*

States, 449 U.S. 490, 522 (1981) (Blackmun, J., concurring in judgment).

By contrast, to withhold citizenship from the children of any group of migrants, is to treat those individuals as others, to exclude them from fully belonging in the only country they have known as home, to deny their common humanity, and to place them at risk of being stateless. A child born in this country but denied citizenship here would be left to the vagaries of the laws of the countries where their parents hold citizenship, even though that child has never set foot in those places. In some instances, if those countries do not grant citizenship to children born abroad, or condition the citizenship of children born abroad—as this country does—on the parents meeting certain criteria, the child could be left without citizenship in any country. Not only would such a result be contrary to the value of welcoming the stranger, it also would be contrary to *amici*’s traditions, which teach the importance of extending mercy and protecting the vulnerable, especially children who are blameless for the actions of their parents.

The Framers of the Fourteenth Amendment wisely chose to codify these core and universal values in the Constitution. Rejecting the odious rhetoric of *Dred Scott v. Sanford*, which denied Black Americans citizenship, “[t]he first section of the fourteenth amendment of the constitution begins with the words, ‘All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States’” *United States v. Wong Kim Ark*, 169 U.S. 649, 675–76 (1898) (quoting U.S. Const. Amend. XIV, § 1). In adopting that language, the

Fourteenth Amendment did more than merely correct the wrong of the *Dred Scott* decision; it also enunciated a “general” principle that restricted citizenship “only by place and jurisdiction” *Wong Kim Ark*, 169 U.S. at 676. The Government “cannot exclude” those “persons born in this country from the operation of the broad and clear words of the constitution: ‘All persons born in the United States, and subject to the jurisdiction thereof, are citizens of the United States.’” *Id.* at 704 (quoting U.S. Const. Amend. XIV, § 1). Those broad and clear words “put citizenship beyond the power of any governmental unit to destroy.” *Afroyim v. Rusk*, 387 U.S. 253, 263 (1967).

Permitting the President to unilaterally redefine and narrow birthright citizenship would be an abnegation of the core and universal ethic of welcoming the stranger; a repudiation of the “broad and clear words of the constitution” that reflect this universal value; and a rejection of those parts of our common history—dating back to the Founding Era—in which we as a Nation have upheld the weighty value of welcoming the stranger.

In fact, adherents to the faiths represented by *amici* were strangers, are strangers, or are descendants of strangers who came to this country. Those individuals arrived here for a variety of reasons, but all have availed themselves of this Nation’s guarantee of religious freedom—a liberty interest safeguarded by this Nation’s historic commitment to welcoming the stranger as reflected in the promise of birthright citizenship.

- II. America Has a History as a Haven for Those Strangers Seeking to Practice Their Religion Freely.**
- A. Many Colonies Were Founded by Groups Escaping Religious Persecution; Others Guaranteed Religious Freedom for All Inhabitants.**

As this Court has noted, “[a] large proportion of the early settlers of this country came here from Europe to escape the bondage of laws which compelled them to support and attend government favored churches.” *Everson v. Board of Ed. of Ewing Twp.*, 330 U.S. 1, 8 (1947). Many seventeenth-century settlers were fleeing the “chronic religious strife and intolerance” in England, where both Catholics and certain Protestants whose beliefs did not align with the Church of England were persecuted. Michael W. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 Harv. L. Rev. 1409, 1421 (1989).

The search for the freedom to worship according to one’s conscience led to the founding of several colonies as “havens for religious dissenters.” *Id.* at 1424. Maryland was initially founded as a home for persecuted English Catholics. *Id.* Pennsylvania and Delaware were founded as “sanctuaries for Quakers.” *Id.* at 1425. Rhode Island was founded by Roger Williams, who had been exiled by the Puritans in Massachusetts. *Id.* at 1424-25. And the Puritans themselves came to Massachusetts to escape demands

that they conform to the teachings of the Church of England.²

In many cases, the founding religious group “extended freedom of religion to groups beyond their own.” McConnell, *supra*, at 1425. This is not to say that their religious tolerance was absolute—for example, the Maryland charter only extended freedom of religion to Christians. And the Puritans had no room for the views of Roger Williams. But it nonetheless marked a break with English practice and seeded a bedrock principle that would develop through the Founding Era.

Indeed, throughout the seventeenth century, principles of religious tolerance were written into the formal governing documents of several of the Thirteen Colonies. The 1663 Rhode Island Charter expressed that colony’s commitment to “liberty of conscience,” providing that residents of Rhode Island could “freelye and fullye have and enjoye his and theire owne judgments and consciences, in matters of religious concernments” McConnell, *supra*, at 1426 (quoting R.I. Charter of 1663, *reprinted in* 2 Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States (B. Poore 2d ed. 1878)). Similar provisions promising religious freedom appeared in formal agreements between prospective settlers and the proprietors of Carolina and New Jersey. See McConnell, *supra*, at 1427.

² See Library of Congress, *America as a Religious Refuge: The Seventeenth Century*, Part 1, <https://www.loc.gov/exhibits/religion/rel01.html> (last visited Feb. 26, 2026).

By the late eighteenth century, free exercise was among the founding principles of the states established in the wake of the Revolution, and by 1789, every state but one “had a constitutional provision protecting religious freedom.” *Id.* at 1455.

Even in colonies with established churches, such as Virginia, public sentiment spurred the movement toward religious freedom. In Virginia, James Madison and Thomas Jefferson helped lead the fight against the renewal of a tax levy to support the state-sponsored church. This fight led to the publication of James Madison’s famous “Memorial and Remonstrance Against Religious Assessments,” which argued for the inalienable right to exercise religion as one’s conscience dictates. *See Everson*, 330 U.S. at 63-64. Ultimately, the Virginia tax failed, and the legislature enacted the Thomas Jefferson-drafted “Virginia Bill for Religious Liberty,” which provided that “no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened, in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief” *Id.* at 12 (quoting the Virginia Bill for Religious Liberty).

B. The United States Codified the Principle of Religious Freedom in the First Amendment.

The founding generation’s “profound commitment to religious liberty,” *City of Boerne v. Flores*, 521 U.S. 507, 564 (1997) (O’Connor, J., dissenting), was preserved in the First Amendment.

The Free Exercise Clause, modeled on similar provisions in state constitutions, bars the federal government from “prohibiting the free exercise” of religion. This clause is “a substantive guarantee of individual liberty, no less important than the right to free speech or the right to just compensation for the taking of property.” *Flores*, 521 U.S. at 550-63 (O’Connor, J., dissenting). The Free Exercise Clause reflects a commitment to welcoming all individuals irrespective of their beliefs.

The Establishment Clause provides that “Congress shall make no law respecting an establishment of religion,” ensuring that the federal government cannot establish a national religion or favor one religion over another. *See, e.g., Everson*, 330 U.S. at 28 (Rutledge, J., dissenting); *Wallace v. Jaffree*, 472 U.S. 38, 97 (1985) (Rehnquist, J., dissenting).

The twin protections of the Free Exercise and Establishment Clauses are reinforced by the guarantee of birthright citizenship in the Fourteenth Amendment. The First Amendment guarantees religious freedom to those currently present in the country. Birthright citizenship guarantees those protections for future generations.

These mutually reinforcing guarantees of the First and Fourteenth Amendments have provided protections for generations of Americans seeking to practice their religion—or no religion—as they see fit. The First Amendment safeguards that liberty for those who arrive in this country—whether or not that was the reason for their migration. The Citizenship Clause of the Fourteenth Amendment ensures that

their children, who are born in this country, will enjoy that same benefit without fear of ostracization or removal. This is not only protective of children. It provides those fleeing persecution with knowledge that they can start their lives anew in this country—safe in the assurance that their children and their children’s children who are born here will not be rejected by this Nation but instead will become an integral part of the polity. The intertwined protections of the First Amendment and the guarantee of birthright citizenship in the Fourteenth Amendment are an example of America living up to its image as a “city upon a hill.”

C. The United States Repeatedly Has Reaffirmed its Commitment to Act as a Safe Haven for those Escaping Religious Persecution.

America’s heritage as a sanctuary for those suffering from religious persecution continued long after its Founding. Mennonites and Amish community members fled religious persecution in Europe and migrated to the United States in the 1700s and 1800s.³ Jews escaping discrimination and religious violence in the late 1800s and early 1900s sought better lives in the United States.⁴ In recent

³ See *Amish in America*, Public Broadcasting Service, <https://www.pbs.org/wgbh/americanexperience/features/amish-in-america/> (last visited Feb. 26, 2026); see also *About Mennonites*, Slate Hill Mennonite Church, <https://www.slatehillmennonite.org/mennonites/about/> (last visited Feb. 26, 2026).

⁴ See Library of Congress, *A People at Risk*, <https://www.loc.gov/classroom-materials/immigration/polish-russian/a-people-at-risk> (last visited Feb. 26, 2026).

decades, Rohingya Muslims fleeing persecution in Burma⁵ and Nepali-speaking Hindus fleeing ethnic cleansing in Bhutan⁶ have sought refuge in the United States.

Recognizing our country’s rich history of welcoming the stranger and protecting those fleeing persecution, Congress—including a unanimous Senate—enacted the Refugee Act of 1980. The Act affirmed that “it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands” and aimed “to provide a permanent and systematic procedure for the admission to this country of refugees” Refugee Act of 1980 § 101. To fulfill this objective, the Refugee Act of 1980 amended the Immigration and Nationality Act of 1952 (“INA”) to significantly increase the number of refugees that could be admitted into the United States each year and defined “refugee” to be a person facing “persecution or a well-founded fear of persecution on account” of a number of characteristics including “religion.” 8 U.S.C. § 1101(a)(42); *see id.* § 1158(b)(1)(A) (requiring asylum applicants to be a “refugee” under the INA). Congress further amended the INA with the Lautenberg Amendment of 1990, which made it easier for Jews and evangelical Christians from the former Soviet Union to show they

⁵ See Imran Mohammad Fazal Hoque, *Rohingya Diaspora in the U.S.*, Pulitzer Center (Aug. 16, 2021), <https://pulitzercenter.org/projects/rohingya-diaspora-us>.

⁶ See Kurt Streeter, *U.S. Deported Bhutanese Who Were Here Legally. They Are Now Stateless*, New York Times (May 1, 2025), <https://www.nytimes.com/2025/05/01/us/trump-immigration-deportations-missing.html>.

were refugees. *See Halaim v. I.N.S.*, 358 F.3d 1128, 1132-33 (9th Cir. 2004) (citing 8 U.S.C. § 1157).

In 1998, Congress specifically acknowledged the importance of welcoming those escaping religious persecution by enacting the International Religious Freedom Act with overwhelming support. Congress noted that the “right to freedom of religion undergirds the very origin and existence of the United States” and “the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution.” International Religious Freedom Act of 1998 § 2. At the time of passage, Congress observed that “[m]ore than one-half of the world’s population lives under regimes that severely restrict or prohibit the freedom of their citizens to study, believe, observe, and freely practice the religious faith of their choice.” *Id.* § 4. To strengthen protections for those seeking refuge or asylum on the basis of religious persecution, the International Religious Freedom Act of 1998 mandated training for those adjudicating claims for asylum and refuge “on religious persecution abroad” and “on the nature of religious persecution internationally.” 22 U.S.C. § 6473(a), (b).

Today, thousands of individuals seeking refugee status or asylum because of religious persecution are present in the United States. The Office of Homeland Security Statistics’ most recent release shows that religion was the third most common basis for asylum grants between 2021 and 2023.⁷ In those years,

⁷ Noah Schofield & Amanda Yap, *Asylees: 2023*, Office of Homeland Security Statistics (Oct. 2024),

between 8 to 15 percent of those granted asylum had faced religious persecution in the country they were fleeing.

III. Birthright Citizenship Acts as a Bulwark Safeguarding Religious Freedom and Reflecting a Commitment to Welcoming the Stranger.

Most fundamentally, birthright citizenship upholds *amici*'s shared interest in welcoming the stranger. Birthright citizenship guarantees that all individuals who are born in this country enjoy the same rights, privileges, and immunities—including religious freedom—regardless of the circumstances of birth. It is a recognition of the common personhood of all who are born in this country, irrespective of their parents' origins, immigration status, religion, or other circumstances. Profoundly, the Citizenship Clause of the Fourteenth Amendment prevents the Government from denying citizenship to a child born in this country, even when the Government has “not permitted” the child’s parents “to become citizens by naturalization.” *Wong Kim Ark*, 169 U.S. at 704. In this way, birthright citizenship acts as a crucial backstop protecting the rights of the children of noncitizens, even when the Government might otherwise be inclined to violate its ideals and principles by denying citizenship to their parents.

Birthright citizenship also has salutary effects for the preservation of religious freedom. At its most basic and direct, birthright citizenship ensures that if

someone comes to this country to escape religious persecution, their children born here will be citizens and will be able to remain in this country regardless of their parents' status. Absent birthright citizenship, a child born in the United States to an individual who came to this country fleeing religious persecution would be at the mercy of whatever status the Government decided to grant them and could ultimately face deportation.

Beyond these direct implications for religious freedom, birthright citizenship also has been an important source of membership in religious communities. Nearly 30 percent of religiously affiliated individuals in the United States are first- or second-generation Americans.⁸ For some religious groups, such as Catholics, Orthodox Christians, Muslims, Buddhists, and Hindus, these numbers are even more pronounced. By way of example, first- and second-generation Americans comprise 43 percent of Catholics and 69 percent of Orthodox Christians in the United States. Underscoring that this country's guarantee of religious freedom contributes to its religious diversity, over half of Muslims, Buddhists, and Hindus are first-generation Americans. As these numbers demonstrate, immigrants and their children—who if born here should be guaranteed citizenship under the Fourteenth Amendment—are a

⁸ See Pew Research Center, *Religious Landscape Study*, “Age, race, education and other demographic traits of U.S. religious groups” (Feb. 26, 2025), <https://www.pewresearch.org/religion/2025/02/26/age-race-education-and-other-demographic-traits-of-us-religious-groups/#immigration-and-region-of-birth>.

continual source of vitality for religious groups in this country.

IV. The Executive Order Is Fundamentally Incompatible with the Values of *Amici*'s Religious Traditions and the Fourteenth Amendment.

The Administration has placed the promise of birthright citizenship at risk through the promulgation of the Executive Order. The Executive Order illustrates the immense harm that can be wrought by leaving the scope of birthright citizenship to the whims of a “governmental unit.” *Afroyim*, 387 U.S. at 263. Despite the plain language of the Fourteenth Amendment, under the Executive Order, the Administration is refusing to “issue documents recognizing United States citizenship” for those individuals whose father was not a citizen or lawful permanent resident and whose mother was either (a) “unlawfully present in the United States” or (b) “lawful[ly] but temporar[ily]” present in the United States. Executive Order § 2(a). The Executive Order fails to define what constitutes an unlawful presence or a “lawful but temporary” presence in the United States.

U.S. Citizenship and Immigration Services has attempted to backfill the missing definitions through guidance issued on July 25, 2025 (the “Guidance”).⁹

⁹ See U.S. Citizenship and Immigration Services, *USCIS Implementation Plan of Executive Order 14160 – Protecting the Meaning and Value of American Citizenship* (July 25, 2025), https://www.uscis.gov/sites/default/files/document/policy-alerts/IP-2025-0001-USCIS_Implementation_Plan_of_Executive_Order_14160%20-

However, the Guidance merely illustrates the broad scope of individuals that the Administration intends to target. Millions of individuals that come to this country would be encompassed by the categories in the Executive Order, including individuals who are applying for but have not yet received asylum, individuals that receive humanitarian parole, and individuals present under temporary protected status.¹⁰

Inclusion of these categories in the ambit of the Executive Order place numerous individuals fleeing religious persecution at risk. Nearly 4,000 individuals from Burma are currently present in the United States under temporary protected status, including Rohingya Muslims escaping persecution from the country's military government.¹¹ Still others are covered by the Executive Order because they currently have pending asylum applications but have yet to receive that status. There are 2.6 million people in that category.¹² Based on government statistics, a significant number of these applicants—between 8 to 15 percent, *see supra*, at 27—likely are seeking to

%20Protecting_the_Meaning_and_Value_of_American_Citizenship.pdf.

¹⁰ *See id.* at 2-3.

¹¹ *See* Camilo Montoya-Galvez, *U.S. ending deportation protections for immigrants from war-torn Myanmar*, CBS News (Nov. 24, 2025), <https://www.cbsnews.com/news/myanmar-tps-temporary-protected-status-deportation-trump/>.

¹² *See* Stephanie Krammer & Jeffrey S. Passel, *What the data says about immigrants in the U.S.*, Pew Research Center (Aug. 21, 2025), <https://www.pewresearch.org/short-reads/2025/08/21/key-findings-about-us-immigrants/>.

start a new life in this country because they faced religious persecution in their country of origin.

Children born in this country to individuals covered by the Executive Order would be denied the “inestimable value” of citizenship. Without citizenship or other “lawful” status, these children would be subject to potential removal and deportation to a country their parents fled. Far from welcoming strangers, including those escaping religious persecution, the Executive Order places their children at risk by denying them the benefits of citizenship that should be guaranteed by the Fourteenth Amendment. Beyond violating the Constitution, imperiling children in this way is incompatible with the values of *amici*’s traditions.

Even if the children are not deported, the Executive Order risks leaving those children stateless, stigmatized, and denied the full benefits of citizenship. As explained above, without birthright citizenship, these children would be subject to the varying laws of their parents’ countries of origins. If the criteria for citizenship in those countries are not met, the children would be left stateless. Among other things, this may prevent them from receiving travel documents, prevent them from receiving social services, prevent them from accessing educational services, prevent them from accessing healthcare, and prevent them from freely moving within the country.¹³ Even if not rendered stateless, children born in the country but denied citizenship may face many of these

¹³ See U.S. Committee for Refugees and Immigrants, *What is Statelessness?* (Sept. 13, 2024), <https://refugees.org/what-is-statelessness/>.

depravations by being rendered undocumented. There is no reason to countenance marking children with such a second-class status. It is anathema to the values of welcoming the stranger and protecting the vulnerable.

Although the Guidance acknowledges that the children of mothers (but not fathers) with refugee or asylee status¹⁴ are not subject to the Executive Order, the Administration also is undertaking a policy of detaining and rescreening individuals who have been granted these statuses.¹⁵ These are individuals fleeing persecution, including religious persecution, who already have been vetted, who have sought sanctuary in this country, and who have begun to rebuild their lives. More than 100,000 refugees may be subject to the policy.¹⁶ Stripping individuals of refugee status would itself be an affront to the core tenets of *amici*'s faiths. Adding salt to the wound, losing refugee status would endanger any children subsequently born in the United States who, under the Executive Order, would not be issued documents recognizing their U.S. citizenship.

¹⁴ As mentioned above, this exception does not apply to individuals that are *applying* for refugee or asylee status—only to those who already have been granted those statuses.

¹⁵ See Arelis R. Hernandez & Teo Armus, *New DHS memo outlines plan to detain refugees for further vetting*, The Washington Post (Feb. 19, 2026), <https://www.washingtonpost.com/immigration/2026/02/18/trump-immigrants-refugees-minnesota-memo/>; see also Priscilla Alvarez & Jennifer Hansler, *Trump administration moves to reinterview refugees admitted to US under Biden*, CNN (Nov. 25, 2025), <https://edition.cnn.com/2025/11/24/politics/trump-refugee-program-interviews-biden>.

¹⁶ See *id.*

The Executive Order also would preclude the children of certain faith leaders and teachers from the benefits of birthright citizenship. Under the Guidance, the children of foreign religious workers who come pursuant to a R-1 nonimmigrant visa would not be entitled to birthright citizenship.¹⁷ An R-1 visa permits the holder to stay in the United States lawfully for as many as 5 years.¹⁸ But because it is a nonimmigrant visa, the Guidance classifies individuals holding an R-1 visa as having a “lawful but temporary” presence. Any child born to such faith leaders or teachers, therefore, would not be issued documents reflecting U.S. citizenship under the Executive Order.

Beyond the examples of those fleeing religious persecution and those present on R-1 visas, the Executive Order is incompatible with *amici*’s values. The imperative to welcome the stranger and protect the vulnerable extends to all individuals—not only religious workers or those fleeing religious persecution. The Executive Order’s attempt to target various categories of individuals and deprive their children of birthright citizenship cannot be squared

¹⁷ See U.S. Citizenship and Immigration Services, *USCIS Implementation Plan of Executive Order 14160 – Protecting the Meaning and Value of American Citizenship* at 3 (July 25, 2025), https://www.uscis.gov/sites/default/files/document/policy-alerts/IP-2025-0001-USCIS_Implementation_Plan_of_Executive_Order_14160%20-%20Protecting_the_Meaning_and_Value_of_American_Citizenship.pdf.

¹⁸ See U.S. Citizenship and Immigration Services, *R-1 Nonimmigrant Religious Workers*, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/r-1-nonimmigrant-religious-workers> (last visited Feb. 26, 2026).

with these principles. The consequences for children are the same regardless of the reasons for, or nature of, their parents' presence in this country: potential statelessness, undocumented status, and withholding the benefits of U.S. citizenship.

The malice of the Executive Order is compounded by other actions taken by the Administration. The Administration has slashed the admission of refugees;¹⁹ has paused asylum decisions;²⁰ has implemented a travel ban from nineteen countries and is considering adding more;²¹ and is rescreening individuals who already have been granted refugee or asylee status. *See supra*, at 33. None of these actions is consistent with the moral imperative to welcome the stranger.

At bottom, the Executive Order conflicts with the fundamental values of *amici* and the bedrock principles of this Nation. Strangers regardless of their reason for coming to the United States should be welcomed and their children born in this country should be granted citizenship as guaranteed by the Fourteenth Amendment. This is a particularly

¹⁹ See Ximena Bustillo, *Trump administration sets lowest-ever cap on refugee admissions to U.S.*, NPR News (Oct. 30, 2025), <https://www.npr.org/2025/10/30/g-s1-95823/trump-administration-sets-lowest-ever-cap-on-refugee-admissions>.

²⁰ Rebecca Santana, *Trump administration halts immigration applications for migrants from 19 travel-ban nations*, AP News (Dec. 2, 2025), <https://apnews.com/article/immigration-border-trump-afghan-asylum-refugee-9f3a804633729b8c258d5c6eccd3424c> (“USCIS also said last week that it was pausing all asylum decisions, and the State Department said it was halting visas for Afghans who assisted the U.S. war effort.”).

²¹ *See id.*

pronounced concern for the religious communities represented by *amici*. Many adherents to the faiths represented by *amici* brought their families to the United States for its promise of religious freedom—a promise they sought not only for themselves but also for their children and their children’s children.

CONCLUSION

For the reasons set forth above, this Court should affirm the Court of Appeals’ decision and reaffirm our country’s commitment to welcoming the stranger.

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March 4, 2026