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# Citizenship in the Balance: How Anti-Immigrant Activists Twist the Facts, Ignore History, and Flout the Constitution



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## Introduction

America's broken immigration system requires serious, bipartisan, and comprehensive reform, but a burgeoning movement among anti-immigrant hardliners threatens to jeopardize efforts to fix immigration policies and endanger the rights guaranteed by the United States Constitution. Anti-immigrant activists have devised an extreme agenda to roll back a fundamental constitutional protection: the right to citizenship for all people born on American soil and required to abide by the country's laws. A growing number of Republican politicians and right-wing media personalities have embraced the radical goal of redefining citizenship by peddling false and debunked smears against immigrants and misrepresenting the Constitution and its drafters.

Politicians on both the state and federal level are attacking the citizenship status of U.S.-born children of undocumented immigrants under the guise of toughening immigration laws and restoring the "original" meaning of the Constitution. But anti-immigrant activists and their allies offer nothing more than legally baseless proposals, unhelpful and provocative rhetoric, and distortions of history in their attempts to sink immigration reform, chip away at core American values, and gravely undermine the Constitution.

## Citizenship and the Constitution

The 14th Amendment's Citizenship Clause declares that "all persons born or naturalized" in the United States are considered citizens:

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.

As early as 1898, the Supreme Court, interpreting this clause, flatly declared in *United States v. Wong Kim Ark* that the 14th Amendment affirmed the right of citizenship by birthplace, or *jus soli*. The Court ruled that "every person born in the United States, and subject to the jurisdiction thereof, becomes at once a citizen of the United States, and needs no naturalization," and that the 14th Amendment "has conferred no authority upon Congress to restrict the effect of birth, declared by the Constitution to constitute a sufficient and complete right to citizenship." Indeed, contemporaneous records from the passage of the 14th Amendment elucidate its intent to cover the children of immigrants.

Despite the clear language and history of the 14th Amendment and the Supreme Court's confirmation of its guarantee of citizenship by birthplace, anti-immigrant activists have now

taken aim at constitutional citizenship. In Congress and state legislatures across the country, constitutional citizenship is under attack by right-wing leaders and organizations who want to either redefine or repeal the 14th Amendment's Citizenship Clause.

Opponents of constitutional citizenship have distorted history and constitutional law in order to promote their extreme agenda and paint the children of undocumented immigrants as criminals responsible for the country's social and economic problems. Instead of working towards meaningful immigration reform, the anti-immigrant lobby is preparing an attack on the Constitution to inflame the debate and demonize immigrant families. While most would agree that the country's immigration laws need fixing, scapegoating children and defiling the Constitution are hardly effective ways to repair America's immigration system.

## Distorting American History

Anti-immigrant groups like the Federation for American Immigration Reform (FAIR) maintain that they simply want "Congress to adopt legislation clarifying the meaning of the 14th Amendment." But by calling for "clarification," FAIR and its allies imply that the meaning of the 14th Amendment's Citizenship Clause is vague or uncertain. Some politicians working to retract constitutional citizenship have even claimed, despite extensive historical evidence to the contrary, that they want to return to what they call the amendment's "original" interpretation.

For example, Rep. Gary Miller (R-CA), the sponsor of a bill to end constitutional citizenship by statute, said, "It is unfair to grant birthright citizenship to children of illegal immigrants because it undermines the intention of the 14th Amendment." Kansas Secretary of State Kris Kobach, who prior to his election was an anti-immigrant activist and the force behind Arizona's draconian anti-immigrant law, SB-1070, claimed that he is working to "restore the original meaning of the Fourteenth Amendment" by revoking birthright citizenship.

Many politicians claim that the 14th Amendment was only meant to apply to freed slaves. Sen. David Vitter (R-LA), a leading opponent of constitutional citizenship in the Senate, said that the authors of the Citizenship Clause "drafted the 14th Amendment to address slavery, not immigration." Arizona State Senator Russell Pearce asserted that undocumented immigrants "hijacked" the 14th Amendment, and that "the amendment had to do with African-Americans; it had nothing to do with aliens."

Arizona State Representative John Kavanagh alleged that "if you go back to the original intent of the drafters...it was never intended to bestow citizenship upon aliens," and later proposed legislation that "would require at least one parent to

prove either citizenship or legal residency in order for the child to be recognized as a citizen of Arizona and, by extension, the United States.” Oklahoma State Representative Randy Terrill said that he is “not seeking to amend the Constitution or change the 14th Amendment. In fact, we are merely seeking to restore its original intent.”

But make no mistake, birthright citizenship is settled law and the original intent of the drafters.

According to constitutional scholar and former Senate Republican legal aide James Ho, “the text of the Citizenship Clause plainly guarantees birthright citizenship to the U.S.-born children of all persons subject to U.S. sovereign authority and laws” and “the clause thus covers the vast majority of lawful and unlawful aliens.” The Citizenship Clause does not cover people who are not “subject to the jurisdiction” of the United States, which means people immune from U.S. laws. Such categories include the children of foreign diplomats and enemy soldiers on U.S. soil. Undocumented immigrants, on the other hand, are not immune from the country’s laws and therefore subject to their jurisdiction.

Daniel Farber of Berkeley Law School, the co-founder of *Constitutional Commentary*, told the *American Independent*: “It also says in the Constitution the president must be over the age of 35; you don’t need the Supreme Court to tell you what that means. I usually am not this emphatic about what I think the answer is because constitutional law has a lot of gray areas, but I do feel this one is pretty cut and dry. The 14th Amendment is clear about who is a citizen.”

Rep. Lamar Smith (R-TX), the chairman of the House Judiciary Committee and a leading opponent of constitutional citizenship, manipulatively edited the words of the one of the amendment’s drafters, Sen. Jacob Howard, in order to back up his argument against constitutional citizenship. Smith claimed, “During the debate on the 14th Amendment in 1866, a senator who helped draft the amendment said it would ‘not of course include persons born in the United States who are foreigners.’”

But Howard, a senator from Michigan, made clear elsewhere that “a citizen of the United States is held by the courts to be a person who was born within the limits of the United States and subject to their laws.” His full statement shows that the only people not subject to U.S. jurisdiction are foreigners with special immunities:

This amendment which I have offered is simply declaratory of what I regard as the law of the land already, that every person born within the limits of the United States, and subject to their jurisdiction, is by virtue of natural law and national law a citizen of the United States. This will not, of course, include

persons born in the United States who are foreigners, aliens, who belong to the families of ambassadors or foreign ministers accredited to the Government of the United States, but will include every other class of persons.

By deleting Howard’s reference to “aliens, who belong to the families of ambassadors or foreign ministers accredited to the Government of the United States,” Smith conveniently ignored the immunity exception that is clear in both Howard’s statement and the language of the 14th Amendment.

Howard’s colleague Sen. John Conness of California agreed during the Senate debate that the children of foreigners born on U.S. soil would become citizens under the amendment:

The proposition before us, I will say, Mr. President, relates simply in that respect to the children begotten of Chinese parents in California, and it is proposed to declare that they shall be citizens. We have declared that by law; now it is proposed to incorporate the same provision in the fundamental instrument of the nation. I am in favor of doing so. I voted for the proposition to declare that the children of all parentage whatever, born in California, should be regarded and treated as citizens of the United States, entitled to equal civil rights with other citizens of the United States.

...

We are entirely ready to accept the provision proposed in this constitutional amendment, that the children born here of Mongolian parents shall be declared by the Constitution of the United States to be entitled to civil rights and to equal protection before the law with others.

Ho calls attention to those who voted against ratifying the 14th Amendment, who also recognized that the amendment provided birthright citizenship. Sen. Edgar Cowan of Pennsylvania criticized the amendment, saying that it would grant citizenship to those who “owe [the U.S.] no allegiance [and] who pretend to owe none,” including those who “trespass.” Cowan even lamented that the amendment would compel states to give citizenship to the children of “Gypsies” in Pennsylvania and the Chinese in California.

Contemporary proponents and detractors alike clearly recognized that the rights inherent in the 14th Amendment’s Citizenship Clause were not limited to African Americans.

According to the Congressional Research Service, “Although the primary aim of the Fourteenth Amendment was to secure citizenship for African Americans, the debates on the

citizenship provisions of the Civil Rights Act of 1866 and the Fourteenth Amendment indicate that they were intended to extend U.S. citizenship to all persons born in the U.S. and subject to its jurisdiction, regardless of race, ethnicity, or alienage of the parents.” Columbia University history professor Eric Foner told CNN’s Anderson Cooper that the drafters intended to “create a national standard of citizenship for everybody, not just black people, children of immigrants, Irish immigrants, anybody.”

Michael Gerson, a former Bush adviser, also looked into the intent of the 14th Amendment’s drafters, concluding that “their main goal was expressed in birthright citizenship: to prevent a future majority from stealing the rights of children of any background, as long as they were born in America.”

Clearly, both the amendment’s drafters and its opponents understood that it granted citizenship to anyone born on U.S. soil and subject to United States law. Moreover, any question about the amendment’s application to immigrants who came to the country without proper documentation was definitively addressed by the Supreme Court in *Plyler v. Doe* (1982). As Ho points out, “all nine justices agreed [in *Plyler*] that the Equal Protection Clause protects legal and illegal aliens alike ... precisely because illegal aliens are ‘subject to the jurisdiction’ of the U.S., no less than legal aliens and U.S. citizens.”

Despite the clear language and history of the 14th Amendment, anti-immigrant activists and legislators are pushing for legislation to deny citizenship to children born on American soil, presumably to force a lawsuit that would bring the issue before the Supreme Court. Texas State Rep. Leo Berman, who is spearheading legislation in Texas to undercut constitutional citizenship, said, “If that bill passes, we will be sued immediately. That’s the purpose of the bill.” Arizona State Rep. Kavanagh, who is proposing a similar bill, concurs: “The bottom line: What we want is our day in court.”

Some, recognizing the dim chances of such legislation passing constitutional muster are proposing a constitutional amendment to eliminate constitutional citizenship. Senators David Vitter (R-LA) and Rand Paul (R-KY) have recently introduced such an amendment.

## State Legislative Attacks on Constitutional Citizenship

State Legislators for Legal Immigration (SLLI), the new organization founded by Pennsylvania State Representative Daryl Metcalfe, has members in 40 states who have pledged to offer legislation meant to undercut constitutional citizenship and replicate Arizona’s draconian anti-immigrant law, SB 1070. Kansas Secretary of State Kris Kobach, who the *National*

*Review* described as “the legal mind behind two new proposals to challenge the automatic granting of citizenship to any child born in the United States, regardless of the legal status of his parents,” believes that states can try to deny the children of undocumented immigrants “citizenship of that state” in order to force courts to redefine the 14th Amendment’s Citizenship Clause.

Legislation to do just that has already been filed in Arizona, where the Republican-led legislature will consider bills to deny both U.S. and state citizenship to the children of undocumented immigrants. State Rep. Kavanagh, the lead sponsor in the Arizona State House, said that “the granting of citizenship by GPS location at delivery—giving out citizenship like a door prize ... that is the fringe position.” A similar bill has been introduced in Montana, where a Republican legislator wants to change state policy so that “only babies born to U.S. citizens or legal occupants would get certificates recognizing them as naturally born.”

Likewise, Mississippi Republican State Senator Joey Fillingane proposed SB-2704, which would deny state citizenship to the children of anyone who is not a U.S. national or permanent resident. State Sen. Fillingane authored a recently-passed bill that imitates Arizona’s SB-1070, and also wrote legislation that would charge undocumented immigrants “a fee on all money transfers wired out of the United States” and then use the funds to contribute to the “construction of a border fence.”

In Georgia, the Republican-controlled state legislature is also weighing legislation to undermine the 14th Amendment. Recently elected Republican governor Nathan Deal is a key ally—he was the lead sponsor of legislation to end constitutional citizenship when he was a member of Congress.

Kobach, who is an adviser to SLLI, also floated the idea of creating “a state compact, which has to be adopted by at least two states and approved by Congress to be enacted, that would deny the children of illegal immigrants citizenship at both the state and the federal level.” Plans are in the works for such a compact in South Dakota, where State House Republican Whip Manny Steele, a member of SLLI, is proposing legislation that would allow the governor “to authorize a compact” with other states that would deny citizenship to the U.S.-born children of undocumented immigrants.

Experts agree, however, that state laws undercutting constitutional citizenship do not stand on sound legal ground.

Arizona State University constitutional law professor Paul Bender said that such legislation “would diminish citizenship lower than what the 14th Amendment defines,” and states “can’t do that.” Erwin Chemerinsky, dean of the University of

California at Irvine Law School, similarly refuted the claims of state legislators trying to deny citizenship to the children of undocumented immigrants: “First, states do not get to decide who is a United States citizen. They never have had this power and never will. Second, Section 1 of the 14th Amendment has been interpreted to make all born in this country citizens. That also makes this clearly unconstitutional.”

## Federal Attacks on Constitutional Citizenship

The prominent anti-immigrant group Numbers USA hailed the House GOP leadership for picking Rep. Smith to chair the Judiciary Committee and Rep. Elton Gallegly (R-CA) to chair the Immigration Subcommittee, calling them their “No. 1” and “No. 3” champions in Congress, respectively.

Smith and Gallegly are both vocal opponents of constitutional citizenship: Smith told the notorious right-wing hatemonger Bryan Fischer of the American Family Association that he wants his Judiciary Committee to pursue the elimination of constitutional citizenship, and in the last Congress Gallegly introduced a bill to rescind constitutional citizenship by statute.

Gallegly has fought against constitutional citizenship throughout his career in Congress. Gallegly led the 1995 Congressional Task Force on Immigration Reform, which called on Congress to “end automatic birthright citizenship for children born within the borders of the United States to illegal immigrant parents.”

Rep. Steve King (R-IA), the vice-chair of the Immigration Subcommittee, recently introduced the Birthright Citizenship Act of 2011, which attempts to end constitutional citizenship by statute. The bill already has sixty-three cosponsors – a similar House bill in the last Congress garnered ninety-five cosponsors. According to King, “Sometimes by plan, [undocumented immigrants] have a baby here so they can cash into this great ATM called America.” Congressman Duncan Hunter (R-CA) even expressed support for “deporting natural-born American citizens who are the children of illegal immigrants.”

Speaker John Boehner (R-OH) encouraged Smith’s efforts and said that proposals to revoke constitutional citizenship are “worth considering,” arguing that the 14th Amendment is a “problem” because “an incentive for illegal immigrants to come here so that their children can be U.S. citizens does, in fact, draw more people to our country.”

Senate Republicans are also rallying behind a plan offered by Sen Lindsey Graham (R-SC) to hold hearings geared towards undermining constitutional citizenship. Senate Republican

Leaders Mitch McConnell (R-KY) and Minority Whip Jon Kyl (R-AZ) both came out in favor of Graham’s proposed hearings, as did Sen. John McCain (R-AZ), once a leading supporter of immigration reform. Sen. Chuck Grassley (R-IA), the ranking GOP member of the Judiciary Committee, has also called for “legislation to clarify the 14th amendment.”

As noted, Senators Vitter and Paul recently introduced a constitutional amendment to repeal the Citizenship Clause. Vitter dismissed the clause as simply a “loophole” that should be closed. Paul claims that he tries “to uphold the original intent of the Constitution every day.” But, as Kevin R. Johnson, the dean of the University of California-Davis School of Law, put it, Paul and Vitter “seek to take away a right that has been bestowed faithfully since the Civil War.”

## Extreme Justifications: The “Anchor Baby” Myth

Lacking any sound constitutional arguments or serious public policy proposals, anti-immigrant activists continue to inflame tensions and attack immigrant families in order to advance these radical measures. Opponents of constitutional citizenship dismiss U.S.-born children of undocumented immigrants as “anchor babies,” and allege that granting these children citizenship promotes further illegal immigration and engenders enormous economic, social, and security problems.

Rep. King has claimed that constitutional citizenship is a “perverse incentive,” and that “an entire ‘anchor baby’ industry has developed which exploits a legal loophole caused by a misinterpretation of the Constitution. Many of these illegal aliens are giving birth to children in the United States so that they can have uninhibited access to taxpayer funded benefits and to citizenship for as many family members as possible.”

Some anti-immigrant activists allege that an organized plan exists to increase the population of minorities in order to usher in (White) America’s downfall. John Tanton, who helped found the anti-immigrant groups FAIR and Numbers USA, wrote that “for European-American society and culture to persist requires a European-American majority, and a clear one at that,” and expressed skepticism that non-whites “can run an advanced society.”

SLLI head Daryl Metcalfe warned of “foreign invaders,” and South Carolina State Rep. Daniel B. Verdin compared illegal immigration to the “the malady of slavery.” Alabama State Senator Scott Beason told his fellow Republicans to “empty the clip” on undocumented immigrants, and Tom Creighton, a Republican member of the Pennsylvania State House, said at the SLLI founding press conference, “If we’re allowing these two cultures to compete within our society, we are sowing the

seeds for our own failure.”

Fox News commentator Bill O’Reilly insisted that supporters of immigration reform “want to flood the country with foreign nationals, unlimited, unlimited, to change the complexion” of American society. O’Reilly also declared that the 14th Amendment is “used to encourage foreigners to sneak across the borders to give birth, thus the Constitution is being misused.”

Responding to a statement about the supposed benefits undocumented immigrants have in the U.S., Glenn Beck of Fox News said, “If you are white or you are an American citizen or a white American citizen, you are pretty much toast.” On the Citizenship Clause, Beck said, “Slavery’s a long time ago, it’s time to cut that so people don’t come over the border, have a baby here, and then you’ve got a foot in the door. We’re the only country that does it, stop!”

Sen. Graham told Fox News that constitutional citizenship is a “mistake” and should be eliminated:

People come here to have babies. They come here to drop a child — it’s called drop and leave. To have a child in America, they cross the border, they go to an emergency room, have a child and that child is automatically an American citizen. That shouldn’t be the case — that attracts people here for all the wrong reasons.

The argument that immigrants cross the border in order to have “anchor babies” to gain residency not only dehumanizes the children in question, but is factually inaccurate. PolitiFact called Graham’s comments “misleading” and found that “immigration data and surveys don’t provide much support for Graham’s notion that many women are illegally crossing the border in large numbers to have children, then leaving.”

A recent Pew study also seriously undermines the “anchor baby” myth. The study found that 91 percent of undocumented immigrants who became the parents of American citizens between March 2009 and March 2010 had been residing in the U.S. prior to 2007—61 percent came to the U.S. before 2004.

And, contrary to the claims of anti-immigrant activists, undocumented immigrants who have children on U.S. soil do not automatically gain citizenship themselves. Citizens cannot sponsor an undocumented immigrant for permanent residency until the sponsor is 21 years old, and a child’s sponsorship is still no guarantee that a parent will gain legal status. The whole process would take at least 31 years if successful at all, according to PolitiFact: “Because citizen children cannot sponsor their parents for citizenship until they turn 21— and because if the parents were ever illegal, they would have to

return home for 10 years before applying to come in — having a baby to secure citizenship for its parents is an extremely long-term, and uncertain, process.”

Far from planting “anchor babies,” undocumented parents of citizen children are actually subject to deportation. And despite allegations that undocumented families have children in order to, in King’s words, “have uninhibited access to taxpayer funded benefits,” undocumented and even the majority of legal immigrants are not eligible to receive welfare benefits.

Finally, the U.S. is not, as Beck has claimed, the only country that grants birthright citizenship. In fact, you don’t have to go any farther than Canada to find one of the thirty-three other nations that share our citizenship policy.

But the legal and factual inaccuracies of the “anchor babies” crowd haven’t stopped opponents of constitutional citizenship from leveling absurd claims.

Rep. Louie Gohmert (R-TX) floated the conspiracy theory that terrorists were bringing pregnant women “into the United States to have a baby” in order to gain citizenship for their children, and “then they would turn back where they could be raised and coddled as future terrorists.” Gohmert wasn’t able to produce any evidence that terrorists were involved in such schemes, and a former FBI official claimed that “there was never a credible report — or any report, for that matter — coming across through all the various mechanisms of communication to indicate that there was such a plan for these terror babies to be born.”

## Ineffectual Results

Not only do proposals to rescind constitutional citizenship distort the Constitution, immigration law, and basic fact... they are simply ineffectual policies. Pew found that “340,000 of the 4.3 million babies born in the United States in 2008” had at least one parent who was an undocumented immigrant. Gerson writes on the damaging consequences of attacks on constitutional citizenship:

Anti-immigration activists often claim that their real concern is to prevent law breaking, not to exclude Hispanics. But revoking birthright citizenship would turn hundreds of thousands of infants into ‘criminals’—arriving, not across a border, but crying in a hospital. A whole class of people would grow up knowing they are hunted aliens, through no fault of their own. This cannot be called the rule of law. It would be viciousness and prejudice on a grand scale.

Rather than reduce the number of undocumented immigrants, ending constitutional citizenship would actually have the

opposite effect: the Migration Policy Institute found that “if birthright citizenship were no longer granted to U.S.-born children of unauthorized immigrants, the unauthorized population would likely increase dramatically” and “lead to the establishment of a permanent class of unauthorized persons.”

Legal expert Margaret Stock of the University of Alaska Anchorage points out that politicians seeking to scrap constitutional citizenship “are going to have to set up a bureaucracy, hire thousands of lawyers to adjudicate people’s applications and figure out whether they are citizens or not.” “They never talk about how expensive this would be, they never talk about funding it, and they never talk about the practical aspects,” Stock notes, “Even the states proposing this haven’t talked about how they are going to administer this.”

Members of Congress and state legislators around the country, with the help of anti-immigrant activists, have been coordinating a campaign to challenge constitutional citizenship with little legal weight and erroneous arguments. Ultimately, efforts to pass constitutionally-dubious legislation on the federal or state level only inflame the debate and do nothing to strengthen the country’s immigration laws.

## Bipartisan Opposition to Eliminating Constitutional Citizenship

While many Republican leaders and elected officials have embraced the campaign to end constitutional citizenship, not all conservatives support radically reworking the Constitution to deny citizenship to children. Sen. Marco Rubio (R-FL) said that proposals to end constitutional citizenship are part of “public policy that I don’t think solves the problem” of immigration, and former Arkansas Governor and presidential candidate Mike Huckabee insisted, “you don’t punish a child for the crimes a parent commits.” Rep. Scott Tipton (R-CO) maintained that constitutional citizenship is “a settled question” and that the children of undocumented immigrants are “American citizens,” and former Rep. Charles Djou (R-HI) called the proposal to rescind constitutional citizenship “a bad idea.”

Conservative activist and chair of the Center for Equal Opportunity Linda Chavez said that the anti-immigrant campaign against constitutional citizenship represents “a direct assault on the meaning of what it means to be an American,” asserting that the argument against constitutional citizenship is “clearly ahistorical and clearly conflicts with not just the historical debate, but consequent Supreme Court decisions.” Right-wing columnist Ramesh Ponuru wrote that ending constitutional citizenship represents a “misguided, and potentially disastrous, response to the problems created by our

immigration policies.”

The group Somos Republicans, an organization that seeks to “increase the Latino Republican voting block,” slammed the Arizona legislation undermining constitutional citizenship as “a domestic attack on the 14th Amendment of the U.S. Constitution,” and Alfonso Aguilar of the Latino Partnership for Conservative Principles criticized Republicans for preventing “a constructive dialogue on immigration.”

Lou Dobbs, a leading anti-immigrant voice in the media, has also come out against challenges to constitutional citizenship: “If you are going to insist on the rule of law and order — and I do — I have to insist that we recognize those ‘anchor babies’ as citizens of this country.”

Another conservative commentator, Michael Medved, needled Rand Paul and Tea Party opponents of constitutional citizenship for holding views that don’t “conform to the clear, concise language of the Constitution’s 14th Amendment.” He continued, “In the deepest sense, the attempt to punish children for the actions of their parents before they were born goes against some of the deepest American values... attempts to deny citizenship to the native born, regardless of their parentage, make no sense constitutionally, politically, practically or ethically.”

The Republican National Committee’s own website last year flaunted the role of Republicans in crafting and ratifying the 14th Amendment, an amendment many in the GOP now want to see overturned and abandoned.

## Upholding the Constitution for all Americans

Most Americans and elected officials agree that the country’s immigration system requires serious reform, but anti-immigrant activists and politicians who seek to repeal constitutional citizenship and criminalize the children of undocumented immigrants only inflame tensions with their provocative and legally groundless proposals. State and federal endeavors to end constitutional citizenship do nothing to solve the country’s immigration problem, and instead contribute to an already tense and acrimonious political climate. But anti-immigrant leaders want to turn Congress and state legislatures into battlegrounds over futile plans to undo constitutional citizenship, promoting rhetoric that demonizes immigrant families, distorts American history, and misrepresents the Constitution.

The Constitution’s language is clear on the subject of citizenship, and the 14th Amendment’s drafters and Supreme Court precedent confirm the American principle of citizenship

by birthright. As the late civil rights leader and one of the founders of People For the American Way Barbara Jordan said, “To deny birthright citizenship is to derail the engine of American liberty.”

President Obama declared in his State of the Union address that it’s time to “take on, once and for all, the issue of illegal immigration.” Attacks on constitutional citizenship jeopardize bipartisan efforts to reform America’s immigration laws while threatening our country’s longstanding Constitutional values.

## Who to Watch For:

Anti-immigrant leaders and organizations have become more organized and energized as they continue to hurl discredited and spurious arguments to challenge constitutional citizenship. While sympathetic politicians and media personalities have elevated their stature and influence, their radical views have stayed the same. Here are just some of the groups and individuals pushing the anti-immigrant agenda in Congress and the states:

## Groups



## Federation for American Immigration Reform (FAIR)

At the center of the anti-immigration movement is FAIR, founded by John Tanton in 1979. Tanton, an ophthalmologist, said that he wanted to create a “League for European-American Defense, Education and Research” that would be “tailored to the needs and interests of European-Americans,” and he would later receive prolific funding from a neo-Nazi eugenicist group to help start FAIR. Tanton himself is a proponent of eugenic science, and the Anti-Defamation League linked his organizations with racist and anti-Semitic views and groups. The Southern Poverty Law Center designated FAIR a hate group because of its close connections to racist individuals and organizations, along with its “demonizing propaganda, aimed primarily at Latinos.” Tanton once accused immigrants of “defecating and creating garbage,” and FAIR board member Garrett Hardin opposed giving aid to stop starvation in Africa over fears that it might “encourage population growth.” FAIR, which frequently pushes conspiracy theories of a Mexican Reconquista and

the formation of a North American Union, attempts to wedge minority communities against each other, and has close connections with the radical Minuteman movement.



## Immigration Reform Law Institute (IRLI)

The IRLI, the legal arm of FAIR, helped launch the career of anti-immigrant leader Kris Kobach. The group helps draft anti-immigrant legislation, including SB-1070 and bills that seek to end constitutional citizenship, and brings “test cases” to court. The IRLI greatly benefits financially from lengthy litigation processes as it pressures municipalities and states to pass controversial laws. Along with its work to end constitutional citizenship, the group wants to compel non-citizen children to pay tuition to attend public schools and encourages the formation of armed militias. Executive Director Michael Hethmon was also involved in the founding of the SLLI and has offered SLLI members legal guidance.



## Center for Immigration Studies (CIS)

CIS bills itself as an objective and trustworthy think tank on immigration policy, but the group’s job is simply to make extreme anti-immigrant arguments appear more credible. Founded by John Tanton and FAIR, CIS releases studies with pre-determined conclusions that always oppose advancing the rights of immigrants. The Southern Poverty Law Center reports, “CIS has never found any aspect of immigration that it liked, and it has frequently manipulated data to achieve the results it seeks;” SPLC also found that “CIS regularly circulates articles to its members that come from the white nationalist VDARE.com website.”



## NumbersUSA

NumbersUSA consistently fights comprehensive immigration reform under the guise of protecting the economy and the environment. The group became best known in 2007 during the debate over a failed bipartisan effort to reform the immigration system, when it had its

members send over a million faxes opposing the bill to the Senate and worked with other conservative groups to help kill the reform legislation. NumbersUSA originated from John Tanton's U.S. Inc., and Tanton named NumbersUSA's executive director Roy Beck his "heir apparent." The group has ties to the Council of Conservative Citizens, a White Nationalist group previously known as the White Citizens' Council, and Beck is the publisher of a quarterly journal that the SPLC says "has published articles by 'white nationalists.'" While NumbersUSA tries to represent itself as a mainstream organization, it is a key player in a network of radical and racially-charged groups that oppose immigrant rights.



## State Legislators for Legal Immigration (SLLI)

Daryl Metcalfe, a Republican State Representative from Pennsylvania, says he founded the SLLI "to serve as a unifying force to bring all levels of government together to terminate America's illegal alien invasion." No stranger to right-wing causes, Metcalfe gained notoriety as a leader of the Birther movement (a conspiracy theory that claims President Obama is illegally serving as president) and compared soldiers who support action against climate change to Benedict Arnold. SLLI is pushing legislation, crafted by Kris Kobach, which would push states to unilaterally or through a compact defy the 14th Amendment and engineer a legal battle over the meaning of the Citizenship Clause. The group also launched a petition to "demand enactment of the Arizona-modeled [SB-1070] legislation" in their states.



## VDARE

VDARE is a white nationalist group that warns of "America's Darkening Future" where white Americans are the minority and embraces the "Sailer Strategy," in which the Republican Party ends its outreach to minority voters and instead becomes the party of white America. VDARE, according to the SPLC, regularly publishes "articles by prominent white nationalists, race scientists and anti-Semites," and VDARE's creator Peter Brimelow said the website was named after Virginia Dare, the first "English" (read: white) "child to be born in the New World." Despite

VDARE's racial beliefs, the group's articles and sham studies are favorites in the anti-immigrant echo chamber. Right-leaning media outlets like Fox News and *The Washington Times* have promoted VDARE, Tom Tancredo praised VDARE and Brimelow, and leading anti-immigrant activist Pat Buchanan cited VDARE to claim that students of color were dragging down the United States education system. The conservative Federalist Society's Dallas chapter is even hosting VDARE's Brimelow on its panel "Birthright Citizenship for Children of Illegal Immigrants."

## Individuals



### William Gheen

William Gheen is the founder of Americans for Legal Immigration Political Action Committee (ALI-PAC), which endorses and funds candidates for office who support a hard line stance against immigration reform. ALI-PAC even asks

candidates to pledge to support "impeachment if necessary, to ensure the Executive Branch starts to enforce our existing border and immigration laws." Gheen believes that President Obama is "committing a form of Treason against the American public" and said that "illegal aliens and their supporters are the Nazis." He also blamed undocumented immigrants for rape, murder, and diseases like HIV and hepatitis, and claimed that "illegal aliens in this country have set up ethnic cleansing zones, ethnic cleansing zones where if you walk past the wrong sign post, the invisible line, you're under the threat of death." But Gheen's conspiracy theories don't end there: he accused immigrants of "stealing train spikes," blamed the movie "Machete" for crime in Los Angeles; and told Religious Right leader David Barton that the Department of Homeland Security has an "agenda of replacing many core Americans and American values and our jobs and our schools and everything else." Gheen, who thinks the Census should be used to round up and deport immigrants, has demanded that California put former gubernatorial candidate Meg Whitman on trial for hiring an undocumented housekeeper.



### Kris Kobach

Currently the Kansas Secretary of State, Kris Kobach hit the big time in 2001, when he was hired by the Bush White House as an aide to Attorney General John Ashcroft. In the AG's office, he designed a program that "collapsed due to complaints of racial

profiling and discrimination” according to the Southern Poverty Law Center. He moved on to become the top lawyer at the Immigration Reform Legal Institute, where he was the driving force behind numerous anti-immigrant ordinances across the country that led many municipalities to financial ruin after civil liberties groups successfully challenged them in court. While his anti-immigrant ordinances were struck down as unconstitutional, Kobach collected millions of dollars by representing the financially-drained municipalities. He also coauthored Arizona’s SB-1070, a constitutionally dubious law that mandates racial profiling. Now, Kobach wants to help plan attacks on constitutional citizenship in not only Kansas in states around the country.

XVI for making warm remarks about immigrants—that even some Republican officials have chosen to distance themselves from him. He once described Miami as a “Third World country” and blamed the election of Obama, whom he calls a “committed socialist ideologue,” for the fact that the country no longer requires voter literacy tests, which were banned in the Voting Rights Act of 1965. Tancredo, who leads the rabidly anti-immigrant Team America PAC, has recently been making a comeback after his unsuccessful gubernatorial bid, where he won the endorsement of Sarah Palin and became a Tea Party sensation. According to *The Hill*, Tancredo told supporters that he intends to be “fully back in the fray” and announced that he is “working with State Senator Russell Pearce to get Arizona-like laws passed in the other states and to stop the practice of giving citizenship to the babies of illegal aliens.” ■



## Mark Krikorian

Mark Krikorian heads the Center for Immigration Studies, where he puts on a scholarly pretense to cover his extreme views. After the catastrophic earthquake in Haiti in 2010, Krikorian argued that “Haiti’s so screwed up because

it wasn’t colonized long enough” and “didn’t stick around long enough to benefit” from slavery. He also lamented that there “isn’t enough” pressure for “Anglo-conformity,” accused immigrant-rights advocates of “racial chauvinism,” and attacked Supreme Court Justice Sonia Sotomayor over the pronunciation of her last name. Krikorian has a penchant for making erroneous statements: he falsely claimed that undocumented immigrants would receive taxpayer-subsidized health insurance under the healthcare reform law, misleadingly charged then-Solicitor General Elena Kagan of trying to overturn the E-Verify system, and insinuated that Washington Mutual collapsed because of the bank’s attempts to recruit a diverse workforce and reach out to Hispanic customers.



## Tom Tancredo

Former Republican congressman Tom Tancredo, who recently ran for governor of Colorado as the candidate of the far-right American Constitution Party, has made anti-immigrant activism the center of his political work. When

in Congress, Tancredo founded the radical Immigration Reform Caucus. His anti-immigrant views are so extreme—he once went so far as to attack Pope Benedict

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