

Donald Trump's Comeback Worries Immigrants Over Birthright Citizenship; How It Will Impact Indians | Explained

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Explainer

US Birthright Citizenship: At present, children not born in the US and whose parents are waiting to get a green card have to self-deport on turning 21 or apply for another type of US visa, including an international student visa. The 14th Amendment provides couples from different countries with a surety that their children (born in America) won't be suffering on the immigration front.



Donald Trump's victory remains a cause of worry for migrant couples, especially for the Indians because of a possible end to automatic citizenship for children. (Reuters Images)

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US Election Results: Billionaire Republican nominee Donald Trump on Wednesday (IST) made what he called the greatest comeback ever in US history to recapture the White House with a sweeping victory over Democrat nominee Kamala Harris. Trump's

victory reflected the disenchantment among Americans with the policies of the Biden administration related to the economy, border security and illegal immigrants. Americans looked past the criminal convictions and divisive rhetorics of Trump to vote for him in large numbers leading to his sweeping victory in 27 states taking his tally to 295 electoral votes against Harris' 226. Trump is also headed for a comfortable win in two more battleground states - Arizona (11 Electoral Colleges) and Nevada (6 Electoral Colleges) - where votes are still being tallied. Republicans also won control of the US Senate from Democrats and stood a chance of adding to their narrow majority in the US House of Representatives.

With Trump's comeback to the White House, the worries of migrant couples also return. Trump in his campaign has promised that if elected president again, he would seek to end automatic citizenship for children born in the United States to immigrants in the country illegally. Trump on his official campaign site, has vowed to sign an executive on day 1 itself instructing federal agencies to stop what is known as birthright citizenship. The plan, posted on Trump-Vance's official campaign site, further reads, "It will direct federal agencies to require that at least one parent be a US citizen or lawful permanent resident for their future children to become automatic US citizens."

#AGENDA47: President Trump's plan to discourage illegal immigration by
ENDING automatic citizenship for the children of illegal aliens.
pic.twitter.com/3iytgg45st

— Trump War Room (@TrumpWarRoom) May 30, 2023

What Is Birthright Citizenship Granted To Children?

Birthright citizenship arises from the Constitution's 14th Amendment, which was ratified in 1868, three years after the conclusion of the American Civil War that ended the practice of enslaving Black people in Southern states and overturned a Supreme Court ruling that had held that slaves and free African Americans were not entitled to US citizenship. The amendment granted citizenship to all persons "born or naturalized in the United States," including formerly enslaved people, and has been interpreted to apply whether or not parents were in the country legally.

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The 14th Amendment of the US Constitution states: "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."

What The Order Would Mean For Married Indians In America?

The proposal, if signed whether on day 1 or day 50, will be a major setback for Indians, living their life in America and planning to have children. The automatic citizenship rule provides a breather to the children born to Indian couples or couples from any other country, who are waiting in queue to get a green card (permanent citizenship).

At present, those children not born in the US and whose parents are waiting to get a green card have to self-deport on turning 21 or have to apply for another type of US visa, including an international student visa. The 14th Amendment provides couples from different countries a surety that their children (born in America) won't be suffering on the immigration front.

"As an Indian living and working in the US, I have hopes for my child to be a US citizen by birth, as this would provide them with a stable future here. The proposed change to end automatic citizenship for children born on US soil could be challenging for families like mine. While the policy could face legal hurdles and might not take effect immediately, it does bring some uncertainty," Inder Singh, a skilled worker from India in the US told Jagran English.



(Reuters Image)

"I believe that all families working and contributing to the country (as a taxpayer) deserve a clear and supportive path to ensure stability for their children. For now, I am keeping updated and prepared for different possibilities as we await the final decisions," Inder Singh added, raising apprehensions about the proposed draft.

Indian professionals working in the United States on H-1B visas face significant challenges in obtaining green cards due to long-standing systemic limitations. One major hurdle is the decades-long backlog in the employment-based green card category, where the total allotment is capped at 140,000 annually. This quota can increase slightly if unused family-sponsored green cards are rolled over, but the overall cap remains fixed.

ALSO READ: 'Mass Deportations' To 'Alien Enemies Act': Here's What Donald Trump's Second Term Would Look Like

A key constraint further complicating the process is the per-country limit, which restricts any single nation from receiving more than seven per cent of available green cards in both employment-based and family-sponsored categories. This cap disproportionately affects Indian nationals, who make up a significant portion of H-1B visa holders and seek permanent residency. As a result, many Indian workers face extended waiting times, sometimes spanning several decades, to secure a green card in the United States.

'Will Attract Legal Challenges,' Say Experts

Immigration experts, meanwhile, have raised apprehensions over Trump's proposed plan and said that if passed, it will be challenged in courts, as it is in contravention to the 14th Amendment of the US Constitution. An immigration attorney, Greg Siskind said, "This will certainly be litigated as it violates the 14th Amendment. We will have to see if they go so far as to exclude children of people legally in the US."

Rajiv S Khanna, an immigration attorney, as quoted by Times of India, said, "The Trump plan suggests no automatic citizenship for children born in the US. This is almost certainly a contravention of the 14th Amendment of the US Constitution. A Supreme Court judgement is available to counter Trump's misinterpretation."



(US Supreme Court: Reuters Image)

Another immigration attorney Ashwin Sharma, as quoted by Times of India, said, "For the thousands of Indian nationals on H-1B visas already enduring the green card backlogs, Trump's proposal is illogical and staggeringly cruel. These skilled professionals often dedicate their prime years building lives and careers—to advance America's economy."

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"One of the few consolations they have had during this ordeal is that their US-born children would have the security of US citizenship, sparing them from the relentless cycle of immigration issues. Trump's proposed executive order threatens to snatch away even this small solace from everyone who has played by the rules," he added.