

Birthright citizenship distracts us from the real issues



Every campaign, as GOP presidential hopeful Carly Fiorina points out, has “[some bright, shiny object](#)” that draws eyes from the often duller details of public policy. This season, it’s birthright citizenship and whether it should apply to the children of immigrants who didn’t arrive here legally. As long as candidates and talking heads remain focused on that intractable issue, debates about real issues will remain few.

Donald Trump, the most vocal candidate in the Republican field, flatly declares the Constitution doesn’t extend automatic citizenship to children born on U.S. soil unless their parents are legal residents. “They’re illegal,” [he says](#). “You either have a country or not.” He wants

those children — and an estimated 11 million unauthorized immigrants now in America — sent away.

The meaning of birthright citizenship has been [studied](#) and debated numerous times over the decades. At issue is how to interpret the 14th Amendment, which 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.”

The amendment and the accompanying Civil Rights Act of 1866, championed by Republicans of that era, were intended to clarify that former slaves were citizens. By 1898, the courts also had ruled the amendment guaranteed citizenship to children born to legal immigrants from China and other countries.

Left unanswered — and largely irrelevant until recent decades — was the citizenship of babies born to immigrants who arrive here illegally. An estimated 300,000 children, primarily from Mexico and Latin America, gain citizenship this way each year. (Contrary to some Internet claims, their parents do not become eligible for Medicaid and other programs as a result.)

Most [scholars agree](#) the 14th Amendment covers children of illegal immigrants. Some scholars contend, however, that it only allows but doesn't guarantee citizenship to those children, therefore enabling Congress to pass a law further restricting citizenship as some nations, including the United Kingdom, have.

There's room for reasonable debate, but settling the dispute wouldn't be quick or easy. A constitutional amendment would require the votes of two-thirds of both houses of Congress and three-fourths of state legislatures — never simple and all the more difficult in our divisive times. Restricting citizenship by congressional action would be no easier because it would inevitably set off a lengthy court battle.

Even if the law or the Constitution did change, much heartburn would remain for states and the federal government. They would have to figure out the logistics of determining the citizenship of parents before

issuing a birth certificate or whatever new document serves as proof at the department of motor vehicles and passport office.

Meanwhile, the focus on birthright citizenship overshadows the economic consequences of illegal immigration, including depressed wages and the failures of systems in place to screen out undocumented workers, not to mention all the other substantive issues drowned out by the noise.

Serious policy proposals rarely make for snappy sound bites that draw applause and attention in a crowded primary election.