

Opportunists discover America's birthright citizenship

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Body

The events of Sept. 11 have caused many of us to reflect on who we are as Americans. But a small group of immigration lawyers is using the opportunity to ask: Who are Americans?

In a case involving an American-born man picked up on the battlefields of Afghanistan, allegedly fighting for the Taliban, the Omaha-based Friends of Immigration Law Enforcement (FILE) is asking a federal court to review our presumptions about **citizenship**.

The group says Yaser Esam Hamdi, who was raised in Saudi Arabia to Saudi parents but was born in Louisiana where his father was working on temporary assignment as a chemical engineer, should not be considered a citizen simply by dint of his birth on American soil. Hamdi was transferred from Guantanamo to a floating Naval brig in Virginia when his **citizenship** was **discovered**. He is now asking a federal court in a habeas corpus action whether, as an American, he can be held as an enemy combatant without access to counsel or other due process. FILE is asking to intervene in the case in order to posit its theory that Hamdi is legally a Saudi citizen and should not be considered American.

It is easy to dismiss FILE's claims as xenophobic hogwash until you look more closely at what the group is proposing.

The Constitution's **citizenship** clause in the 14th Amendment states: "(A)ll Persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States." The group says, despite popular belief, the history of this amendment makes clear it does not confer "**birthright citizenship**."

The intention of the 14th Amendment was to make sure Southern states didn't deny **citizenship** to the newly freed slaves and their offspring. After its passage in 1868 **citizenship** was not automatic at birth for everyone. The limiting clause, that a citizen must be "subject to the jurisdiction" of this country, kept children of foreign diplomats from obtaining American **citizenship**, and for decades it precluded the **citizenship** of Native Americans born on reservations. American Indians may have been subject to many of this nation's laws but their primary allegiance was determined to be to a tribal government. Only later, through an act of Congress in 1922 did Indians gain **birthright citizenship**. The children of foreign nationals may be said to be in a similar stance.

FILE says our nation is doing itself a grave disservice by automatically granting **citizenship** to the children of tourists, illegal aliens and temporary workers. It says we are encouraging the abuse of our laws, borders and hospitality.

Now, before there is any misunderstanding regarding my views on immigration, count me as an American who doesn't want to close the door behind me. My family's history in the United States dates back far enough that I'm

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not sure where my forbearers came from or why they came, although I think for some the Czar's uncomfortable attentions had something to do with it. But whatever it was that prompted them to come, I'm very glad they did, and I want to share that good-fortune with newcomers. Our nation has been built by waves of people coming from around the globe sharing nothing but an idea of freedom. We should keep Emma Lazarus' golden door open at a sustainable level.

What we should not do is allow legal loopholes to undermine a fair process of entry. Those who jump the line shouldn't be rewarded for doing so. Yet, this is precisely the system we've created. According to the 2000 census data there are an estimated 8.7-million undocumented aliens living here. Part of the allure is undoubtedly **birthright citizenship**. Not only will their children automatically be American but through our system of giving immigration preference to the immediate family of citizens, those children can later sponsor their parents and other relatives for **citizenship**.

The British dumped this back in 1981 when abuses became rampant. Now, before a child is deemed a British citizen at least one parent must be either a citizen or a legal resident.

That may be why the Korean-language Web site <http://www.birthinusa.com> isn't flying pregnant South Koreans to England. No, those planes are coming straight to LAX. Where, after a short stay and a few labor pains, the women leave with their very own American. The service advertised on the Web site will even help the mothers get their baby a Social Security number and a passport. And it's all perfectly legal.

Yaser Esam Hamdi was born in this country and is American. It is inexcusable that he is being denied the protection of our Constitution. But FILE is raising a valid debate. Who becomes American is a question too important to be left to smugglers of human cargo and exploitive travel companies.

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