



New Barriers to Naturalization

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Naturalization of immigrants in the U.S. is as old as the republic itself and reflects some of the country's positive and negative history. The Declaration of Independence accused the British Crown of "obstructing the laws for naturalization of foreigners." It is the seventh articulated abuse (out of twenty-eight), reflecting the seriousness of the charge. With ratification of the U.S. Constitution, responsibility for naturalization was given to the Congress, rather than the states (which had responsibility previously) or the Executive and Judicial branches of government (Article I, Section 8). As such, Congress has the power to establish a "uniform rule of naturalization". In 1790, Congress passed its first naturalization law, granting citizenship to "any Alien being a free white person", who shall have resided in the country for two years. The law was amended several times in the next few years. For example, one bill required applicants to wait 14 years before naturalization. A law adopted in 1802 lifted some of the more restrictive provisions, establishing a five-year waiting period, which continues to this day.

After the Civil War, Congress adopted several additional laws that affected naturalization. The 14th amendment was key in recognizing citizenship for all of those born in the United States. The Naturalization Act of 1870 followed by granting naturalization rights "to aliens of African nativity and to persons of African descent." At the same time, the legislature denied citizenship to most Asians. This continued until 1952. In the early 20th century, the Naturalization Act of 1906 required immigrants to learn English to become citizens. It also established the Bureau of Immigration and Naturalization, which was to develop uniform processes for naturalization. U.S. Citizenship and Immigration Services (USCIS) plays that role now.

Congress still has the principal responsibility for establishing a uniform rule of naturalization. The current administration, however, has attempted to use its executive powers to make it more difficult for eligible immigrants to naturalize. On Inaugural Day, President Trump issued an executive order that would end birthright citizenship for the children of undocumented immigrants and those with temporary work permits. This would require hundreds of thousands of persons born in the United States to naturalize, if they had a track to permanent residence, remain

in the country with diminished rights, or move to a country they never knew. All federal courts that have ruled on this issue as of today have determined that the President does not have the authority to make such a glaring change in the 14th amendment, which extended citizenship to all born in the U.S.

The administration is also trying to restrict people from naturalizing through other actions. USCIS has changed the civics and history tests administered to applicants for naturalization to make them significantly more difficult. Applicants must answer double the number of questions asked previously and respond correctly to 12 out of 20 questions drawn from 128 possibilities. These are not multiple-choice questions. The tests are conducted orally in a setting where most applicants are already nervous. I have a PhD in American Studies and found myself questioning my civics and historical knowledge since many of the questions have multiple correct answers, some of which are not on the list of answers given to applicants to study. Even before the new tests were introduced, the percent of denials of naturalization had plummeted, with a 23.7 percent increase in denials when compared with the last six months of the Biden administration.

The current administration has also made it more difficult for those granted naturalization to register to vote. New guidance prevents nonpartisan, non-governmental organizations, such as the League of Women Voters (LWV), from offering voter registration services at naturalization ceremonies organized by USCIS. Members of the LWV of Washington reported that voter registration applications have been removed from the package of information provided to new citizens.

The U.S. has had a spotty record on naturalization, often based on racial discrimination. During the past century, however, there has been great improvement. If the Trump administration policies prevail, however, the U.S. will fall far behind in welcoming newcomers. That will be a tragedy not only for immigrants but also for our democracy.