



**Written Statement of Asian Americans Advancing Justice | AAJC and
Asian Americans Advancing Justice | Los Angeles**

**House Committee on the Judiciary
Subcommittee on Immigration and Border Security**

Hearing on: “Birthright Citizenship: Is It the Right Policy for America?”

April 29, 2015

Founded in 1991, Advancing Justice | AAJC is a national non-profit, non-partisan organization that works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education, and litigation. Founded in 1983, Asian Americans Advancing Justice | Los Angeles is the nation’s largest Asian American legal and civil rights organization and serves more than 15,000 individuals and organizations every year. We are leading experts on civil rights issues of importance to the Asian American and Pacific Islander (AAPI) community including: immigration and immigrants’ rights, affirmative action, anti-Asian violence prevention/race relations, census, language access, television diversity and voting rights. We appreciate this opportunity to submit a statement for the April 29, 2015 hearing concerning constitutional citizenship.

The Fourteenth Amendment’s guarantee of birthright citizenship has been profoundly beneficial for our nation. It has served as a cornerstone of the movement to secure civil rights for all Americans, including the right to vote. And it has played an important role in unifying America’s great cultural diversity, which serves as a role model for the rest of the world. Repealing or restricting constitutional citizenship subverts the intent of our nation’s founding fathers. The guarantee of constitutional citizenship was intended to put U.S. citizenship above the preferences and prejudices of any politician or era.

The Citizenship Clause and its benefits have particular resonance for the Asian American community. It was in 1898 when the meaning of the Citizenship Clause in the Constitution was conclusively determined in *U.S. v. Wong Kim Ark* (169 U.S. 649 (1898)). In *Wong Kim Ark*, the United States Supreme Court rejected arguments that the son of a Chinese national – who was forbidden under the Chinese Exclusion Act from ever becoming U.S. citizens – should be deprived of citizenship because of his parents’ status. For Asian American immigrants who were denied the right to naturalize for decades, the decision in *Wong Kim Ark* at least guaranteed that their children born in America could enjoy the rights and responsibilities of citizenship. Through birthright citizenship, Asian American communities were able to begin growing and establishing deep ties to the U.S. despite race-based restrictions on immigration and naturalization, and sometimes property rights, that were not lifted until many years later.

Restricting or repealing constitutional citizenship would impose a significant burden on *all* Americans, including AAPIs, who would no longer have an easy and inexpensive way to prove their citizenship. Currently, simply being born in the U.S. and having a U.S. birth certificate is proof enough of U.S. citizenship. The law serves as a simple and efficient way to ensure equal rights and protections to all children born in the U.S. Other than a birth certificate, most Americans do not have documents that establish their citizenship. A 2006 Brennan Center survey found that more than 13 million American adults cannot easily produce such documentation.

Establishing U.S. citizenship other than by birth is complex, and potentially time-consuming and costly. Americans would have to prove that their children derive U.S. citizenship through one or both of their parents—a difficult process for even experienced immigration attorneys. Some of the many considerations include: 1) whether one's parents were married at the time of one's birth, 2) the gender of the U.S. citizen parent, 3) whether or not a child was born abroad, and 4) what year the child was born. Assessing citizenship is an arduous and expensive process. The U.S. State Department and the Department of Homeland Security charge a substantial fee (currently \$460) to make derivative citizenship assessments. Depending on the case, the process can take weeks or even years, and can require the production of numerous documents, including old historical records.

Many Americans could easily be denied citizenship due to a mistake or misunderstanding of the law. The implications of erroneously being denied citizenship would be huge. Big government “solutions” would be expensive. The U.S. government would have to create a large new bureaucracy responsible for determining the citizenship of all children born in the U.S., and would have to create a national registry of citizens and some sort of identification document to be used as proof of citizenship. This would be expensive.

Moreover, eliminating or restricting constitutional citizenship would not solve the problem of unauthorized immigration. Rather, depending on how the law was changed, the undocumented population could dramatically increase. For example, if citizenship were denied to every child with at least one undocumented parent, the undocumented population in the U.S. would reach 24 million by 2050. Since roughly 1 in 10 undocumented individuals is currently AAPI, a significant portion of this unauthorized population would be AAPI.

U.S. citizen children do not protect their parents from deportation – and there is no evidence that undocumented immigrants come to the U.S. just to give birth. Every year, the U.S. deports thousands of parents of U.S. citizens. U.S.-born children cannot petition for legal status for their parents until they turn 21 years old. Even if a petition is granted, parents must still leave the U.S. in most cases, from which they will be barred from re-entering the U.S. for at least 10 years. That's a total of 31 years. And re-admission is not guaranteed. Undocumented immigrants do not come to the U.S. to give birth as part of a 31-year plan to achieve legal status.

In America, every child is born with the same rights as every other U.S. citizen. This principle has remained settled law of the land for more than a century, and has helped to integrate new generations of immigrants into American society. The alternative is fundamentally unjust and un-American: to create a permanent sub-caste and undermine the promise engraved on the front of the United States Supreme Court Building – “equal justice under law.” We urge the Subcommittee to focus on legislative solutions that unite Americans and promote prosperity for all.