

# Indian parents face uncertainty over US citizenship for newborns

## Synopsis

Indian nationals on temporary US visas face increased uncertainty regarding birthright citizenship for their children due to a challenge to a Presidential executive order awaiting a Supreme Court decision. This has led to anxiety and increased inquiries to immigration lawyers, with some considering relocation to states less affected by the order.

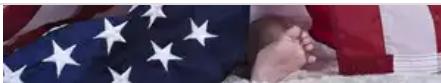


The wait for temporary US visas for soon-to-be-born babies of expectant Indian moms has just gotten longer, [immigration lawyers](#) told ET.

The challenge to the Presidential executive order on [birthright citizenship](#) is still

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Trump's executive order puts the US citizenship of unborn children of foreign nationals including Indians on temporary visa in limbo. This has caused much anxiety among the expecting Indian parents as they throng immigration attorney offices to seek further counsel. While some are even considering shifting to those states that do not recognize the Trump order as of now, an attorney, who did not wish to be identified, told ET.

"The scenario for Indian nationals on temporary visas expecting children in the US is quite uncertain. Depending on the jurisdiction, children born in the US may or may not automatically acquire citizenship," said Sukanya Raman, country

head, Davies and Associates. "This is complicating decisions around childbirth and long-term residency planning."

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According to experts, about 1.5 lakh newborns annually could be denied US citizenship if the order comes into effect.

Many foreign nationals have in the past used the US' birthright citizenship path to gain legal entry for their offsprings. This has given way to "birth tourism" which refers to the practice where foreign nationals travel to the United States on visitor visas with the primary intention of giving birth. This ensures their children automatically acquire US citizenship under the 14th Amendment.

This trend has been particularly common among women from countries like Russia, China, and Nigeria, said experts. "Recently, a growing number of Indian nationals have also pursued this route," said an attorney.

The SCOTUS deliberations, which started on May 15, primarily focused on the scope of nationwide injunctions rather than the constitutionality of executive order itself, said experts.

Despite being a smaller share, Indian families could be deeply impacted by changes to birthright citizenship laws, given the large number of Indian nationals on temporary visas, say experts.

"Our firm has been receiving a continuous flow of inquiries from Indian nationals ever since [Executive Order 14160](#) was announced," said attorney Prachi Shah who runs her eponymous firm.

Expecting parents on H-1B, H-4, F-1 and OPT visas are queueing up at the immigration lawyers' offices. There is widespread anxiety in the Indian diaspora, said lawyers.

"The executive order is quite egregious," said Rajiv Khanna, managing attorney, Immigration.com.

"For some parents, it's devastating because to have a child in the US after decades of living here and not have them be a US citizen is ridiculous," he said.

It usually takes 10-15 years for people to get a green card in the US for people who are here legally.

"The outcome of the hearing is not clear as to what is going to happen," said Khanna.

"The US Census doesn't collect statistics on the legal status of parents, but roughly 21-25% of babies have at least one foreign citizen parent," said Jath Shao, principal attorney, Shao Law Firm.

"The Trump administration's strategy seems to be arguing technicalities and wanting to impose their changes and make all the individual states and plaintiffs fight it," said Shao.

Lawyers are also seeing a sharp increase in inquiries related to faster and more secure immigration pathways, such as the EB-5 Immigrant Investor Visa, EB-1, and National Interest Waiver (NIW) categories.

Meanwhile immigration lawyers are hoping that the current birthright citizenship status may not change at all offering a respite to foreign nationals on temporary visas in the US.

According to Raman, following the executive order, US consular officers have even started denying visas or entry to pregnant women suspected of intending to give birth in the US for the purpose of obtaining citizenship for their children