

The faces of the 14th Amendment

Birthright citizenship is worth preserving — grandchildren of illegal immigrants know it

BY JAMES ANAYA, GABRIEL J. CHIN AND PAUL FINKELMAN

Under the 14th Amendment, children born in the United States are citizens — even if their parents are not. But in today's charged immigration climate, Sen. John McCain and some other Republicans have proposed amending the Constitution to deny citizenship to the American-born children of undocumented parents.

Such a change isn't just wrong, it's bad public policy. As law professors, we oppose this change for historical and legal reasons. But we also oppose it on deeply personal grounds. We are the face of the children of illegal immigrants, people who aren't just abstractions, but are parts of the human mosaic of the American nation. All three of us are the grandchildren of individuals who entered the United States without authorization.

For centuries, James Anaya's family lived off land that became part of southern New Mexico. Some of them relocated to Mexico after the United States acquired the territory in 1853. His

grandfather, born in Mexico, returned to his ancestral homeland after statehood, and his wife-to-be — James' grandmother — followed.

Both of them entered the United States illegally. Theoretically, they could have immigrated legally, because there was no maximum quota on immigration from Mexico until 1965. But while penniless Europeans were admitted, impoverished Mexicans were routinely turned back. James' grandparents just moved, without any papers, and their children, born in the United States, became citizens at birth.

Gabriel J. Chin's grandfather immigrated as a young man from Guangxiao, China, in the period — 1882-1943 — when the Chinese Exclusion Act prohibited the immigration of racial Chinese. Like many other Chinese men admitted as "paper sons," he entered California on the false claim that he was the Chinese-born child of a U.S. citizen and thus a citizen himself.

Paul Finkelman's Polish-born grandfather feared being turned back at Ellis Island because of his poor eyesight. At the time, peo-

ple with glaucoma weren't allowed into the United States. His grandfather didn't have glaucoma, but he didn't understand the rules. Immigration inspectors carefully excluded people who they feared could not work, so he took no chances and entered by a clandestine trek through Canada, later regularizing his status. Paul's other grandfather lied about his age at Ellis Island — grounds for deportation — so that he could work when he landed. He was later drafted in World War I, even though he was actually underage.

What might the absence of birth citizenship have meant for our parents, or for us? What might it mean for others in the future? If the children of undocumented immigrants are not citizens, then their grandchildren and great-grandchildren likely wouldn't be, either. This raises the specter of multigenerational groups who are citizens of no nation, yet know no other land than the United States.

It would be a mistake to repudiate the long tradition of



Top left, Paul Finkelman; right, Gabriel J. Chin; left, James Anaya

birthright citizenship in the United States. This tradition predated the American Revolution.

The Declaration of Independence complained that King George III refused to allow for rapid naturalization of immigrants to the colonies.

In the Dred Scott case, in 1857, the Supreme Court held that blacks, even if free, could never be U.S. citizens. After the Civil War, the Republican leaders sponsored the 14th Amendment, which guaranteed citizenship for all children born in the United States, except those of visiting diplomats and soldiers in hos-

tile occupation. Like ending slavery and preserving the Union, the 14th Amendment is one of the great legacies of the early Republican Party — the Party of Lincoln. It's ironic and sad that some Republican leaders now want to betray their own history.

In the 1840s, Americans worried about Irish immigrants; in the 1880s, it was the Chinese; in 1900, it was the Japanese; in the 1920s, it was Jews, Italians, Armenians, Greeks and Poles.

America has always come to regret policies blocking immigration and denying citizenship to particular groups. The strength of America has been from our immigrants and their children, whether their parents came in 1610 or 2010. We must preserve that source of our national strength and be true to our national heritage.

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Baseball is also to blame in the Clemens case

The lords of the game let steroid use go on, and got richer by doing so

BY ANTHONY S. BARKOW

Roger Clemens pleaded not guilty on Monday to charges related to his testimony in a 2008 congressional hearing on steroid use. The final nail may well be ready to be driven into the coffin of his tarnished legacy. It's important to remember how we got here.

Major League Baseball, as part of a greedy effort to increase gate and TV revenue, turned a blind eye for a decade while the use of illegal steroids poisoned the game and its record books. Commissioner Bud Selig, team owners and the players union embraced power, however corruptly created: power to blast home runs by the dozen, power to hurl the ball faster and farther,

and power to play through the injuries and aging process that would have hobbled players of an earlier era.

Even though everyone surely knew that this power surge was built on false premises, baseball did nothing to stop it. The steroid-fueled excitement produced a rising tide of riches that raised all boats.

In the middle of all this were players who seemed to be among the game's greatest of all time: Newly crowned home-run champions, Barry Bonds and Mark McGwire; perhaps the most talented player ever — who will supplant Bonds but not cleanse the game — Alex Rodriguez; and Clemens, one of the best pitchers of his generation, if not in history. Admitted or al-

leged steroid users all, their greatness is now tainted.

When any industry, company or entity fails to police itself, it risks forfeiting control to outside authorities. Here, by abdicating this responsibility, baseball created a void that was filled first by Congress and now by criminal prosecutors. Though the hearing at which Clemens testified was focused on measuring the accuracy of the George J. Mitchell report (released at Selig's behest), that report was commissioned on the heels of a decade of baseball's inaction and pressure from Congress.

Since Clemens faced no discipline and no consequences from his employers or the game's overseers, it fell to publicity-seeking elected officials to get him to confess in the spotlight of public, media and re-election attention. He didn't.

His back against the wall, he

stiffened his resolve and denied it all. And now, a couple years later, he stands charged by authorities with lying when he made those denials. If convicted, he may ultimately go to prison.

But Clemens never should have set foot in Congress in the first place. Led by a stronger commissioner, the owners and players union should've banded together and investigated, banning performance-enhancing drugs before their plague infected the game. They should've agreed to testing, and banned players who tested positive. They should've done so without being forced by the circus of congressional and criminal investigations.

If Clemens actually lied to Congress, he disgraced himself, his reputation and his game, and he faced the prospect of criminal charges just like anyone else. No matter who a person is, lying under oath is a crime, and no matter how great a pitcher Clem-

ens was, he is not above the law.

The United States government decided not to turn a blind eye to alleged misconduct in its own backyard. But the government was only put into that situation because that's what Major League Baseball did.

We shouldn't have reached this point. It's not just Roger Clemens or particular players who should be indicted. All of Major League Baseball should be as well. Not in a criminal proceeding, but in the history books, and in our collective memory.



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