



Caught in the Middle

American Citizens Denied Birth Certificates in Texas

BY JEANIE DONOVAN, M.P.A., M.P.H.



Photo by
Rev. Patrick Delahanty.

Birthright citizenship, referred to in legal doctrine as *jus soli*, is a well-established constitutional right in the United States. It has, however, come under scrutiny in reaction to the recent influx of immigrants from Mexico and Central America. Conservative presidential candidates, elected officials, and pundits have commented on the need to restrict birthright citizenship to stem the flow of immigrants.¹ Although it is a constitutional right that would require federal action to change, states have taken calculated steps to restrict the clearly defined right to citizenship established by the Fourteenth Amendment.

In Texas, officials have implemented a policy that denies access to birth certificates to children born in Texas to undocumented parents. The policy prompted a federal lawsuit, and a judge will soon determine the constitutionality and legality of Texas' actions. In the meantime, perhaps Texas officials should give consideration to Pope Francis' teachings on injustice.

In his recent address to Congress, Pope Francis addressed the divisiveness of such discriminatory behavior toward immigrants and urged leaders to redirect their efforts. He said: "Even in the developed world, the effects of unjust structures and actions are all too apparent. Our efforts must aim at restoring hope, righting wrongs, maintaining commitments, and thus promoting the well-being of individuals and of peoples."²

The pontiff went on to remark about the immigrants who are

journeying to the U.S. seeking safety and economic opportunity for themselves and their families. He then asked listeners a poignant question: "On this continent, too, thousands of persons are led to travel north in search of a better life for themselves and for their loved ones, in search of greater opportunities. Is this not what we want for our own children?"³

At the heart of Pope Francis' message is the concept of solidarity—a core principle of Catholic social teaching that requires us to ignore arbitrary political or geographic borders when it comes to ensuring the well-being of the vulnerable and promoting the common good. Hateful rhetoric and policies not only are harmful to immigrants and their families but also detract from the social cohesiveness and economic success of our country.

In Texas, for example, the actions taken by state officials aim to marginalize a vulnerable group of people who contribute greatly to the state's

economic and social fabric. Nearly 3 million non-citizen immigrants live in Texas, composing 11 percent of the state's total population.⁴ Another 1.5 million foreign-born Texans are legal, naturalized citizens.⁵ Most relevant to the current legal battle in Texas are the 2 million U.S.-born Texas children who are part of mixed-status families, in which one or both of their parents have no legal authorization.⁶ These children and the future children of non-citizen immigrants in Texas are at great risk under the state's current policy. Although the issuance of a birth certificate does not establish or negate one's citizenship, it is needed to enjoy the rights and privileges associated with citizenship.

A New Policy

At the root of the battle in Texas is a debate over what forms of identification may be used by non-citizen parents to obtain birth certificates for their Texas-born children. Recent internal policy changes made by the state's Department of State Health Services (DSHS) have disallowed the use of Mexican passports to obtain birth certificates unless the passport holder has a current U.S. visa. DSHS officials also unilaterally banned, without a change in state statute or rule, the use of the *matrícula consular*, a photo ID issued by Mexican consulates to Mexican citizens living in the United States, to obtain a child's birth certificate. Now parents who easily obtained birth certificates for their older Texas-born children with identification issued by the Mexican government cannot get a birth certificate for their younger children.

The Impact

The inability to obtain a birth certificate presents myriad challenges to immigrants and their children. Not having the document creates a barrier to having newborns baptized, enrolling children in daycare and school, and enrolling in Medicaid coverage or other government services for their families. These challenges leave children's well-being hanging in the balance as their parents and attorneys wage a legal battle against state officials who refuse to acknowledge the problematic nature of the policy.⁷ It is impossible to prove the true motivation for the shift in policy, but advocates like Ann Williams Cass, executive director of Proyecto Azteca in McAllen, believe that it is a politically driven policy that will have harmful impacts. Cass notes that Texas has a legal obligation to provide a free education to all children in the state. It makes economic sense then, she argues, for the state to ensure that Texas-born children can enjoy the benefits of citizenship, including the ability to obtain children's health insurance. Otherwise, it creates a humanitarian problem that also could lead to serious public health issues.

Additionally, the marginalization of the immigrant community in Texas via discriminatory policies ignores the reality that they contribute greatly to the state's economy. Immigrants make up one-fifth of the Texas population that is working age, and immigrants aged 16 and older are more likely than their white counterparts to be participating in the workforce.⁸ Through small business entrepreneurship and their contributions to the workforce, immigrants provide a significant portion of the state's tax revenue. Estimates by the Institute for Taxation and Economic Policy found that in 2012, unauthorized immigrants in Texas paid an estimated \$1.5 billion in state and local taxes.⁹ Projections indicate that immigrants and descendants of immigrants will continue to grow as a proportion of the total population in Texas.¹⁰ Creating barriers to their social and economic security will only hamper the state's prosperity.

Demanding Justice

The actions of Texas officials have symbolic and personal impacts that obstruct constitutional rights afforded citizens and put young persons born in the state at risk. The citizens of Texas, their elected officials, faith-based leaders, and community leaders should not tolerate this affront to immigrants and their children. It is vital that those in positions of power act and spur others to act to advocate for the innocent children in their communities who are caught in the middle of an ideological battle. After all, isn't that what one would do for his or her own child?

ENDNOTES

- ¹ Amy Davidson, "The Anchor-Baby Question at the G.O.P. Debate," *The New Yorker Magazine*, September 15, 2015.
- ² Pope Francis, *Address of the Holy Father; Visit to the Joint Session of the United States Congress*, (September 24, 2015) available online at https://w2.vatican.va/content/francesco/en/speeches/2015/september/documents/papa-francesco_20150924_usa-us-congress.html
- ³ Ibid.
- ⁴ See Migration Policy Institute, *State Immigration Data Profiles: Texas, 2013* at <http://www.migrationpolicy.org/data/state-profiles/state/demographics/TX> (Accessed October 9, 2015)
- ⁵ Ibid.
- ⁶ Ibid.
- ⁷ Texas Attorney General Ken Paxton, *Statement on DSHS Birth Certificate Policy* (October 2, 2015) available online at <https://www.texasattorneygeneral.gov/news/releases/attorney-general-paxton-statement-on-dshs-birth-certificate-policy>
- ⁸ Ann Beeson, Leslie Helmcamp, and Alejandra Cerna. *Immigrants Drive the Texas Economy*. Center for Public Policy Priorities, September 17, 2014.
- ⁹ Institute on Taxation and Economic Policy, *Undocumented Immigrants' State and Local Tax Contributions* (2012) available at http://itep.org/itep_reports/2015/04/undocumented-immigrants-state-local-tax-contributions.php#Vhf04BNViko
- ¹⁰ Office of the State Demographer, *Changing Hispanic Demographics of Texas: Composition, Characteristics and Distribution*, August 4, 2015, available online at http://osd.texas.gov/Resources/Presentations/OSD/2015/2015_08_04_Univision.pdf