



## Naturalised United States Citizens and Presidency – Why Naturalised Citizens Should Be Allowed to Run for President

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<p>2021 Research Leap/Inovatus Services Ltd. All rights reserved.</p> <p><b>DOI:</b> <a href="https://doi.org/10.18775/jibrm.1849-8558.2015.62.3003">10.18775/jibrm.1849-8558.2015.62.3003</a> <b>URL:</b> <a href="http://dx.doi.org/10.18775/jibrm.1849-8558.2015.62.3003">http://dx.doi.org/10.18775/jibrm.1849-8558.2015.62.3003</a></p>	<p style="text-align: center;"><b>ABSTRACT</b></p> <p>The United States of America is currently undeniably the world’s greatest economic and military superpower. This position allows US political leaders to fundamentally and decisively influence affairs the world over, as well as on the national level – because of the United States’ presidential system, the person chosen for the position is responsible, by their leadership abilities, personality and determination, for the fates of millions of their compatriots. However, the Constitution allows the office of the President to be held by a given person for a maximum of two 4-year terms – and only by a so-called natural-born citizen. This bar a large portion of citizens access from this highest of offices, most notably first generation naturalized immigrants. The American people are intimately attached to the principles of democracy, which is considered one of the defining pillars of the American nation. For this reason, the viability of that particular constitutional record has been debated for many years, as it fundamentally limits the rights of some Americans.</p>
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### 1. Introduction

The United States constitution ensures the tripartite division of power. According to the founding document, the legislative branch is represented by the Congress, the executive – by the President, and the judicial – by the Supreme Court. However, the President is given the most power individually-in the remaining two branches power is more divided between people. Elected in the democratic process, the President appoints the members of his cabinet, the Vice President and secretaries. The latter control their respective departments, and by extension sub-departments, delegators and various offices, which all constitute the federal administration. That federal administration is responsible, among others, for the economic and defense policies of the country – with the President at the helm. The President is also the Commander-in-Chief and a representative of the people equivalent to the Congress. He or she is also the leader and the initiator of foreign policies. Compared to the same office in the parliamentary system of most European countries, the President of the United States plays a larger and significantly more important role, which is why the American political system is also called the presidential system. As evidenced by the U.S. history, much depends on who currently resides in the Washington White House. One person’s negotiating skills, general charisma, political acuity, decisiveness and involvement

influence the fates of multiple generations of U.S. citizens. Importantly, America is a nation extremely attached to democracy, to the point when even an accidental or very minor violation of its rules is treated as a serious offence or indeed an outright crime. For these reasons, the issue of Article Two of the Constitution – which states that only a natural-born citizen may become the President of the United States – has long been raised in political discussions. This particular record in the founding document, as currently interpreted, denies this right to naturalized citizens, i.e. in most cases first generation immigrants, and has for many years prompted the discussion over whether or not it is outdated and in conflict with the spirit of democracy.

### 2. Land of Immigrants

America is literally the land of immigrants. Most citizens, except Native Americans, are descendants of people who came here from various countries across the globe. Immigration has been and continues to be a major source of population growth. The society of the United States is multicultural, and many people take pride in diversity that exists here. Undoubtedly, it was these various waves of immigration that shaped the country into what it is today and thousands of people are still choosing America as their new home and becoming citizens through the process of

naturalization. By this, they become eligible to vote as well as to run for public offices or to apply for various government jobs – with the one notable exception. Article Two of the Constitution lists the requirements for eligibility to become the President of the United States – among them, being a natural-born citizen. The so-called natural-born-citizen clause makes it impossible for many skilled and loyal Americans to ever become president. This law was established back during the Constitutional Convention (which took place from May 25 to September 17, 1787) and does not reflect the needs of American society any more. It makes one group of citizens more privileged than others, merely on the basis of their place of birth. As Robert Post states in *What is the Constitution's worst provision?*, ‘Under our Constitution, a naturalized citizen stands on an equal footing with the native citizen in all respects, save that of eligibility to the Presidency.’ (Post R., 1995) This one difference can influence the overall situation of and attitude towards naturalized citizens, by putting emphasis on where they were born instead on what they do. The natural-born-citizen clause is outdated and should be changed to allow naturalized citizens to become president, as it would promote justice and equality for all.

### **3. The Reason for Article Two**

To understand why there was the need to include such requirement at the time when the Constitution was adapted, it is important to take into account the circumstances. It was not long after the American Revolutionary War (1775–1783). Americans desired to ensure their independence from Great Britain and all other European countries. At the time, democracy was not a concept as widespread across the globe as it is now; in Europe, for example, the most popular system of government was still monarchy. The Framers – the fifty-five representatives from the various states who took part in the drafting of the Constitution – intended to ensure that no wealthy foreign noble or royalty would buy his way into presidency, especially since the president is also Commander-in-Chief. By only allowing natural-born citizens to assume this office, the Framers made certain that the Head of State would be loyal to the United States alone. Nowadays, however, the prospect of a foreign prince buying his way into presidency is hardly a viable threat; conversely, a person who is a natural-born citizen might also be disloyal. Ultimately, it is the responsibility of the American voters to prevent disloyal candidates from attaining presidency, and the entire system would operate equally well if naturalised citizens were allowed to be candidates.

### **4. The Selection of Presidential Candidates**

Naturally, changing this law would not automatically cause a random naturalised citizen to immediately become president. First of all, not every immigrant becomes a citizen; the road to American citizenship is not easy, and the further stage to indeed become president would be still more difficult. In order to be elected, a candidate must complete several steps. With the way the elections are conducted in America, with its bipartisan

system and the Electoral College, they would first have to be chosen as a candidate from one of the two major parties, the Republicans or the Democrats, in preliminary elections, since historically the probability of winning the presidential race as an independent or third-party candidate has been close to zero. Further, the candidate must win in popular elections and obtain enough electoral votes. The electors casting their votes is usually little more than a formality, but this step was also established as an additional safety policy to ensure that a proper candidate attains position, as well as to grant each individual state a voice, especially considering the less populous ones, which might not have gathered enough individual votes from the citizens themselves. Generally, members of minorities stand little chance of being elected, and an immigrant is still less likely to win. History proves this, with every president so far having been white and Protestant – with two recent exceptions: Barack Obama, an African American, and John F. Kennedy, who was Catholic. If a foreign-born person intended to become the president, he or she would have to dedicate their entire life to it, and put tremendous amount of efforts into this endeavor, and therefore, the power that comes with presidency would most likely be appreciated and used wisely. It is also important to note that every new citizen pledges allegiance to America at the end of the process of naturalization.

### **5. Natural-Born Citizen – An Unclear Term**

Another problem arises when one tries to determine who in fact counts as a natural-born citizen. It is relatively clear what a naturalised citizen is – in short, a person who obtained citizenship at a certain point in their life. Natural-born citizen, on the other hand, while it is a term used in the Constitution, it is never defined there. Most people interpret it as ‘a person who was a citizen at the time of birth’, meaning anyone born to at least one American parent or on U.S. soil, including American foreign territories, the latter being less popular as a standalone criterion. This approach means that a person born to American parents but abroad would not count as natural-born citizen and therefore would not be eligible to become the President of the United States. Debate over this arose several times, most recently in the 2016 elections, when an American politician, Ted Cruz (born December 22, 1970, to American parents in Canada), attempted to become the Republican candidate for president. A different, yet somewhat similar situation arose in 2008, before Barack Obama was selected. Again, it was the place of birth that was at the heart of the discussion instead of factors on which Obama could have had any real influence. While considering candidates, it is reasonable to assume that the focus ought to be on their behaviour, skills and qualifications instead of on their birthplace and on whether or not they fit the already ambiguous definition of a natural-born citizen. Importantly, naturalised citizens are allowed to take on many responsible positions in every branch of government, from Supreme Court justices, through state governors, to the Speaker of the House. Being from another country is by no means a disadvantage; indeed, it could lend an individual an even broader view, a deeper insight or a

tendency to devise more innovative solutions, all skills which are not necessarily available to a limited view of an 'insider'.

### 6. Immigrant Children

There is also a different type of immigrant – a person who came to the United States at a very young age and has only ever known America. Those might be children who immigrated with their parents or who were adopted from a foreign country. In such cases, they may not even remember their country of origin, nor speak its language, they may not even know their biological parents if they were adopted. They are Americans in everything but birth – and as such, denying them the chance at presidency seems baseless. Let us consider another hypothetical situation: a married couple moves to America with their baby son to work for a major company. Eventually, they attain the status of permanent residents and even become naturalised citizens. Then, at some point, they have a second child, a daughter. Later on, the company delegates them to work as representatives in the country of their origin, so they move back there. At that point, their third child is born – another son, abroad, but to American parents, as they both attained American citizenship several of years before. In this hypothetical, all three of their children are raised together by the same family, and yet should it come to the matter of presidency, each of them is arbitrarily put in a different situation. The oldest son, as a naturalised citizen, may never be president, the second oldest – the daughter – is a natural-born citizen, so she does qualify. As for the youngest son, he may or may not qualify depending on the interpretation of the term 'natural-born citizen'. It seems to defy logic to disqualify one sibling while allowing his sister to run for the office. While this is merely a hypothetical situation, 'thousands of children born abroad and subsequently adopted by American citizens are barred from the presidency, despite their "automatic" citizenship by virtue of the Child Citizenship Act of 2000. Nor can naturalised citizens – like Henry Kissinger, Madeleine Albright, Arnold Schwarzenegger, and Jennifer Granholm – become President. There is even some question about whether the biological children of American citizens, born abroad, can become President and whether American Indians, born on U.S. soil, qualify as natural-born citizens' (Seymore, 2005).

### 7. The Speaker of the House Twist

The office of the Speaker of the House makes the situation all the more interesting. If the President of the United States of America passes away or is otherwise unable to carry out his or her duties, the authority is carried over to the Vice President. Should, however, a similar situation also befall the Vice President, the power is supposed to rest in the hands of the Speaker of the House. However, as mentioned before, this particular position can be held by a naturalised citizen. In such an event, if the Speaker were a naturalised citizen, the presidential power would belong to a non-natural-born citizen. While there has been no such precedent, it could well happen, and it is not clear how it would be handled; perhaps the Supreme Court would have to make a statement, or the Speaker would

carry out the presidential duties until the following election, where he or she would not be allowed properly run for the office. There would be no such complication if the natural-born-citizen clause were not in force.

### 8. An Exception in The Constitution

The Framers themselves created an exception to their own rule, where a naturalised citizen born abroad could become president. It can be found in Article Two, Section 1, where it is stated, as quoted by Post, that 'No person except a natural-born Citizen, or Citizen of the United States at the time of the Adoption of this Constitution, shall be eligible to the Office of President (...)'. This means that if someone was a citizen when the Constitution was being adapted, he could become president whether he was a naturalised or a natural-born citizen (Yinger J., Spalding M., 2005). Naturally, this exception no longer applies, but this statement in the constitution shows that even the Founding Fathers saw that under specific circumstances a naturalised citizen might make a good president, and deemed that fact worth mentioning in their statement. They also could also not have predicted the circumstances of today, so they allowed for the possibility of amending the Constitution to accustom it to the needs of the times.

### 9. Attempts to Change the Natural-Born-Clause

There have been several unsuccessful attempts to remove the natural-born-citizen clause. Two of the better-known ones were supposed to allow Henry Kissinger and Arnold Schwarzenegger to be presidential candidates. In an issue of Time Magazine from the 1970s one can read that '(...) it was no surprise when the most recent Gallup poll asking Americans to name the man in the world they most admired came out with Kissinger in first place, beating out President Nixon, who had topped the list for the previous four years. But admiration can never be translated to elective eminence for Kissinger' (President Kissinger 2004) because he was born in Germany. If he was so widely admired, his supporters would have no reason to mind the fact he was born in Europe and vote for him if given the chance. There have also been attempts at proving that the Equal Protection Clause of the Fourteenth Amendment – which states that every citizen, naturalised or natural-born, is equally protected by the law – supersedes the natural-born citizen clause, as not allowing some citizens to become the president is a form of discrimination on the basis of national origin. Many who oppose allowing naturalised citizens the chance at presidency argue that it is disallowed in the Constitution – this is, of course, true, and amending the Constitution should never be taken lightly, as 'changing the natural-born requirement of Article II for inclusive reasons could be used by others, with less enlightened goals' (Miller D., 2018). While it is true that the law could be misapplied, amendments are allowed to change the law should such a need arise, and it has happened in the past – it required an amendment, to name but one example, to allow women and African Americans the vote (Ratcliffe D., 2013). With millions of naturalised citizens currently residing in America, the need to

make them truly equal certainly exists, and an amendment could make this a reality. This issue could easily get overshadowed by the discussion over immigration, both legal and illegal, as naturalization is inevitably tied to immigration. However, this matter is not so much about immigration itself, but rather about equal opportunity among citizens. Immigrants and their stories are as diverse as all the countries from which they come, but once they legally become citizens of the United States, they all become tied together by the same motherland. Even the current First Lady and wife of President Donald Trump, who is known for his strict views on immigration, was born in Slovenia.

## 10. Conclusion

The natural-born citizen clause should be amended for many reasons. It restrains certain citizens by not granting them equal opportunity if they choose to pursue a career in politics. It also promotes a view of an inferior naturalised citizen, by the sole fact that they will never be 'good enough' to take on the responsibility of being the Head of State, no matter what their actions and accomplishments. Amending the Constitution always requires consideration, but it is important to change the laws to accommodate the times. Citizens should be judged by their actions, not by their country of origin; no person can decide where they are born, but they certainly can decide where their home is and where their loyalties lie. When it comes to the United States of America, it is the latter that ought to determine the eligibility to run for president.

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