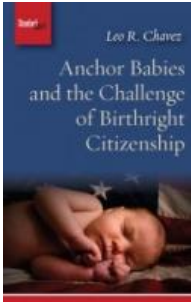


Anchoring an Argument

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Scott McLemee considers Leo R. Chavez's Anchor Babies and The Challenge of Birthright Citizenship, which makes clear how little has been added to the stock of anti-immigrant rhetoric over the past century.

Reports of the forcible separation of parents and children at the border by U.S. immigration authorities tell only part of the story of the violence now being directed against hard-won norms of civil society.

To continue doing harm to children once the risk of long-term damage has been spelled out requires something worse than callous indifference. It verges on the deliberate use of cruelty as a deterrent. But suppose you manage to take as sincere the expressions of concern dragged out of Jeff Sessions by an interviewer earlier this week. It is important nonetheless to consider everything the U.S. attorney general says and does concerning immigration in light of the Johnson-Reed Act of 1924, which he has called "good for America."

The act established quotas favoring immigrants of Northern European origin while sharply restricting everyone else (or in the case of Asians, excluding them entirely). It was created in response to what Clarence Darrow called, in sarcastic but accurate terms, American "cries in the night of 'race suicide,' 'the rising tide of color,' 'the race is dying out at the top,' and 'torrents of degenerate and defective protoplasm.'"

The United Nations is free to call the detention of children separately from their parents as a violation of human rights. The administration doesn't care, and the AG only wants what's in the best interests of the protoplasm.

Though not the main emphasis by any means, Leo R. Chavez's *Anchor Babies and the Challenge of Birthright Citizenship* (Stanford University Press) makes very clear how little has been added to the stock of anti-immigrant rhetoric over the past 100 years. The eugenicist sentiments are expressed less openly now, but multiculturalism as a refusal to assimilate makes up the difference. "Although born among us," one nativist complains about immigrant communities, "our general instinctive feeling testifies that they are not wholly of us. So separate has been their social life, due alike to their clannishness and our reserve; so strong have been the ties of race and blood and religion with them; so acute has been the jealousy of their spiritual teachers to our institutions — that we think of them, and speak of them, as foreigners."

The diction probably gives away that this point was made in another era — the author was Francis A. Walker, superintendent of the United States Census of 1870 and 1880 — but the sentiment is as contemporary as hysteria over the impending arrival of sharia law or the specter of "a taco truck on

every corner." The alarms raised about alien fertility, criminality and disloyalty haven't really changed in content, even if you don't hear it much about those of Irish or Japanese descent now. A steep decline of birth rates among Latinas over the past decade or so ("both immigrant and native born," Chavez notes) ought to curtail demographic fearmongering, though it hasn't so far.

It is against this backdrop of seemingly perennial nativist obsessions that Chavez depicts the fairly recent emergence of the "anchor baby" trope, added to the *American Heritage Dictionary* in 2011 with the definition "a child born to a noncitizen mother in a country that grants automatic citizenship to children born on its soil, especially such a child born to parents seeking to secure eventual citizenship for themselves and often other members of their family." This definition was later tweaked to indicate that the expression is derogatory. Among its earlier uses, in the mid-'00s, was to warn that terrorists were coming to America to create sleeper cells disguised as families. (That claim has long since receded back into the fever swamps, along with all those Spanish-Arabic dictionaries supposedly found in roundups of undocumented workers.)

More recently, the term serves as the basis for efforts to revise or repeal the opening sentence of the 14th Amendment: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." It sounds categorical enough. Born in the U.S.A. equals citizen of the U.S.A. The immediate purpose when the amendment following the Civil War was adopted was to establish the citizenship and rights of former slaves, but Chavez shows that it had roots in English common law. Anyone born in the kingdom was automatically a subject of the king, with the exceptions of children of ambassadors, diplomats and alien enemies, who were all under the same jurisdiction as their parents.

"The child of an alien, if born in the country," an article in the *American Law Register* in 1854 stated, "is as much a citizen as the natural born child of a citizen." In 1898, the U.S. Supreme Court made the continuity explicit by grounding the amendment in "the ancient and fundamental rule of citizenship by birth within the territory, in the allegiance and under the protection of the country." A few additions to the aforementioned common-law exceptions were made, including "children of members of the Indian tribes owing direct allegiance to their several tribes" — a cunning instance of denying citizenship by pretending to respect another's sovereignty.

Recent efforts to get around the amendment's codification of birthright citizenship stress the reference to claimants being "subject to the jurisdiction" of the United States, on the grounds that the parents, as noncitizens, are not so subject. No more than a few seconds of thought are needed to see that this interpretation of the phrase, if valid, would negate the whole force of the amendment — something it really does seem would have been noticed while it was being ratified, or at least when it came up in Supreme Court deliberations for the first time. A foreign national residing on U.S. soil is "subject to the jurisdiction thereof," in the words of the amendment, which goes on to specify that no state can "deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction equal protection of the laws." Note the words "any person," used twice — not "any citizen."

"The life of the nation should be a life examined," writes Chavez, and the attempt to delegitimize or whittle away at the principle of birthright citizenship merits the scrutiny of both its logic and its implications.

The effect of the "anchor baby" slur is to define a sector of the population Chavez calls "suspect citizens." Identified as unworthy of the rights enumerated in the U.S. Constitution, they are characterized as "a threat to the nation," making them plausible if not inevitable scapegoats due to an accident of birth — at the hands of "deserving citizens" who have earned their place by virtue of having selected the right parents.

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