Introduction

A man can lead a reasonably full life without a family, a fixed local residence, or a religious affiliation, but if he is stateless he is nothing. He has no rights, no security, and little opportunity for a useful career. There is no salvation on earth outside the framework of an organized state.¹

The discriminatory nationality laws in some countries such as Syria, the lack of birthright citizenship in European countries, and the loss of documentation due to the Syrian conflict all combine to create a myriad of problems, not least of which is imposing statelessness on children.

born to Syrian refugees outside the country. Syrian law does not allow women alone to pass their Syrian nationality down to their children, and as no country in Europe currently provides for unconditional birthright citizenship, these children have a strong possibility of becoming an “invisible” generation.

Immigration and national security are the main drivers behind state citizenship policies and both are inextricably connected. Many citizenship laws are in essence a control on immigration, and changes to the concept of citizenship are often influenced by citizens’ reactions to immigrants. Although every country has its own laws regarding citizenship, there are generally two categories into which these laws fall. In the first category, jus sanguinis—the principle of blood—descent and heritage play a pivotal role in defining who is or can become a citizen. The second, known as jus soli or birthright citizenship, defines citizens as those born within the country’s borders, regardless of the citizenship of the parents. There is unconditional jus soli, where children are given the citizenship of the place of birth except in rare circumstances, such as child of a diplomat, and there are more restrictive variations of jus soli, where children born in the country to non-citizen parents are only citizens if they satisfy certain conditions.

Citizenship laws . . . . are among the most fundamental of political creations. They distribute power, assign status and define political purposes. They create the most recognized political identity of the individuals they embrace, one displayed on passports scrutinized at every contested border. They also assign negative identities to the ‘aliens’ they fence out.

---

2 IBRAHIM SIRKECI, BARBARA PUSCH TURKISH MIGRATION POLICY 126 (Transnational Press London 2016).
5 Black’s Law Dictionary 942 (9th ed. 2009).
Citizenship and national security are interconnected, as the “first priority of any Government is to ensure the security and safety of the nation and all members of the public.”9 Countries often restrict the attainment of citizenship in times of war or threat of war in order to protect the security of their citizens. Attaining citizenship in a different country varies significantly by region, and developments in citizenship policies have evolved throughout the twentieth century, including that in Europe.

One such issue today at the heart of both immigration and citizenship policies around the world is the emigration of Syrian refugees. Due to the conflict in Syria, many have left the country to find protection in nearby states, particularly Turkey and Europe. But this emigration has increased strains on those surrounding countries and intensified problems for Syrian refugees, most drastically for refugee children. Children of refugees from countries such as Syria can often be born stateless, as a child is born outside the parent’s country, and nationality laws do not allow the mother’s citizenship to be passed to the child.10 Additionally, many times the parents cannot bring documentation from Syria, making it difficult to register the birth of their child in another country, without which the child may never be registered and be denied access to basic services, including healthcare.11 While lacking documentation such as a birth certificate does not make a child stateless, without proof of birth or identity of parents, the child has a significantly higher risk of being stateless.12 So far, statelessness has affected over 10 million people worldwide,13 and continues to cause incredible problems, as those without a nationality suffer racism and discrimination but have little to no protection.

---

12 UNHCR & Asylum Aid, Mapping Statelessness in the United Kingdom UNHCR 23 (2011).
According to the United Nations Refugee Agency (UNHCR), a stateless child is born every ten minutes, and three million children are already stateless, 140,000 of them due to the Syrian crisis.\(^\text{14}\) Children born out of Syria to a Syrian parent may become part of a stateless generation due to a combined effect of lack of birthright citizenship laws in European countries, discriminatory Syrian nationality laws, and loss of registration paperwork in the Syrian conflict.\(^\text{15}\) While the Universal Declaration of Human Rights declares everyone has a right to a nationality\(^\text{16}\) and several international treaties require countries to enforce this right, many European governments do not have fully inclusive safeguards or have gaps in their protections for stateless children.\(^\text{17}\)

Many have called for European countries to do more in regards to protecting Syrian refugees. This crisis is on Europe’s “doorstep” and it could result in serious destabilization of the entire region.\(^\text{18}\) “Numerous governments and organizations have emphasized the need for European and other countries to provide more aid to the countries neighboring Syria and to offer resettlement or admission to more refugees from Syria.”\(^\text{19}\) One such protection needed is the provision of citizenship to stateless children born out of the Syrian conflict, but current citizenship policies in the majority of European countries still prevent the acquisition of citizenship by stateless persons.\(^\text{20}\) And “whether it is gaining access to the labour market or forging social connections,


\(^{19}\) Id.

citizenship is seen as an essential part of refugee integration,"21 and birthright citizenship can be a solution to many problems surrounding refugees, especially in preventing statelessness.22

Part I of this Note will discuss birthright citizenship policies and rationale, including the importance of birthright citizenship. Part II will compare the citizenship laws and policies in the U.K., Germany, Sweden, Canada, Turkey, and Syria, particularly focusing on each countries' protections for statelessness and how those have affected the current Syrian refugees. Part III will look at the states' policies surrounding the Syrian refugees and how birthright citizenship or loosening of citizenship policies can prevent statelessness.

I. Citizenship

Before analyzing the policies behind birthright citizenship, one must define "citizenship," which as one scholar notes, is "like trying to grab a fog bank."23 One view of citizenship is "the status of having the right to participate in and to be represented in politics."24 Others have used a similarly broad definition: "A citizen is a member of a political community who enjoys the rights and assumes the duties of membership."25 T.H. Marshall considered citizenship as "a status bestowed on those who are full members of a community. All who possess the status are equal with respect to the rights and duties with which the status is endowed."26 Likewise, the U.S. Supreme Court has defined citizenship as: "Citizenship is membership in a political society, and implies a

21 Emma Stewart & Gareth Mulvey, Seeking Safety beyond Refuge: The Impact of Immigration and Citizenship Policy upon Refugees in the UK, 40 J. OF ETHNIC AND MIGRATION STUDIES, 1023, 1026 (2014); Alice Bloch, The Migration and Settlement of Refugees in Britain 88 (Palgrave MacMillion 2002) ("Citizenship is important because anything less than full citizenship will impede settlement . . . . because members of the host society do not see the migrant as part of that society.").
22 See No Child Should be Stateless supra note 17, at 11.
duty of allegiance on the part of the member and a duty of protection on the part of the society.” 27
But whatever the exact, specific definition is, citizenship implies “full membership” in a political
community, and provides a group of civil, political, and social rights for the citizen.28

a. Citizenship and Statelessness

So why is citizenship so important? Citizenship is the threshold through which individuals
gain rights.29 Citizenship is necessary for the freedom of movement, participating in political
processes, and access to many of the basic economic and social rights.30 As described by Chief
Justice Warren, citizenship is the “right to have rights,”31 and without citizenship, one can be left
without any form of protection, essentially excluded. Citizens are protected by their state, while
non-citizens are generally given limited, if any, protections:

Failure to acquire status under the law creates significant human problems. These problems
can negatively impact many important elements of life, including the right to vote, to own
property, to have health care, to send one’s children to school, to work, and to travel to and
from one’s country of residence.32

If citizenship is the inclusion in a nation and protection by its government, statelessness is
the absence of citizenship: “Statelessness is a condition, caused by governments, that occurs when
no state recognizes a person as its citizen under the operations of its law.”33 An individual is
stateless if one is not considered as a national by any state under the operation of its law.34 Being
stateless is a most “severe and dramatic deprivation of the power of an individual,” because

27 Luria v. United States, 231 U.S. 9, 22 (1913).
28 Helen Elizabeth Hartnell, Belonging: Citizenship and Migration in the European Union and in Germany, 24
29 RHODA E. HOWARD-HASSMANN, THE HUMAN RIGHT TO CITIZENSHIP: A SLIPPERY CONCEPT 1 (2015 University of
Allison Bartlett, An Endless Quest for a Home: the Gap in Protection Between Stateless Persons and Refugees, 33
33 Lia G. Melikian, No Country for Some Men?: Statelessness in the United States and Lessons from the European
34 See Article 1, 1954 Convention relating to the Status of Stateless Persons; U.N. High Comm’r for Refugees
stateless people have no nationality, thereby lacking any protections provided by a government.\textsuperscript{35} There are two types of statelessness: de jure statelessness—when the laws of no State recognize the person as a citizen—and de facto statelessness—when the person is entitled to citizenship under a state’s nationality laws, but the law is applied in such a way that the person is not recognized as a citizen.\textsuperscript{36}

Not all refugees are stateless, just as not all stateless people are refugees, but there is significant overlap between the two groups. Article 1(A) of the Convention Relating to the Status of Refugees defines a refugee as any person “who holds the well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, . . . who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”\textsuperscript{37} While the line between stateless persons and refugees is blurry, refugees exhibit much of the same hallmarks as stateless people. Even though many stateless persons are not refugees, and refugees generally are citizens of a state and often have a national identity, neither stateless people nor refugees can rely on their own state to afford them the most basic protections.\textsuperscript{38} Often, refugees are stateless, as many refugees in the Syrian conflict are stateless,\textsuperscript{39} and without citizenship these stateless refugees have no legal protections and cannot return to the country they once called home due to conflict or war. Statelessness intensifies the problems refugees face, as they are already vulnerable to

exploitation in the countries in which they are now residing. Many even believe statelessness “is a form of punishment more primitive than torture.”

[O]nce they had left their homeland, they were homeless, once they had left their state, they became stateless; once they had been deprived of their human rights they were rightless, the scum of the earth.

b. Effects of No Jus Soli

Citizenship can be adopted in four ways: birth, marriage, adoption, and naturalization. Birthright citizenship, or jus soli, has generated much debate and controversy throughout the world, and there are a several different approaches to birthright citizenship. One category is the simplest form: “if a child is born to a citizen of a nation, that child is a citizen of that nation,” but the second approach, in addition to the territorial birth requirement, requires a residency and/or birth requirement. Some surveys have stated roughly thirty countries have maintained unconditional birthright citizenship today, and none in Europe. Ireland was the last remaining country in Europe to have unconditional birthright citizenship, which was repealed in the Irish Nationality and Citizenship Act 2004.

Many believe removing birthright citizenship would “create a self-perpetuating class that would be excluded from social membership for generations.” Researchers at Pennsylvania State University and the Migration Policy Institute (MPI) found that ending birthright citizenship in the U.S. for example, with two unauthorized immigrant parents would increase the existing unauthorized population by 4.7 million people by 2050, creating an “insurmountable barrier to

---

40 Pizzi, supra note 14.
intergenerational progress.”47 Germany, a country without birthright citizenship until recently, had this issue of creating a stateless class of people. As described below in section II, Germany invited hundreds of thousands of foreigners into the country as part of its guest worker program in the 1960s, including roughly 750,000 people from Turkey.48 While it was meant to be temporary, many stayed past the termination of the program, and today, around 2.5 million people in Germany have Turkish heritage.49 However, Germany’s strict citizenship laws created a large class of second- and third-generation Turkish immigrants, who still struggle today for equal rights and protection, specifically due to racism and discrimination.50 The lack of birthright citizenship left some deep-rooted problems: “second-generation students were more likely to go to worse schools, [ ] foreign-born workers have lower median incomes[, and] German Turks fear mounting racism and Islamophobia . . . .”51 There are millions of “invisible kids,”52 largely due to lack of *jus soli*, and there may be millions more if countries fail to provide citizenship to the children of Syrian refugees.

c. Registration Problems

Even when those Syrian refugees reach another country, it does not necessarily mean they have any protections similar to that of a citizen. Those children born outside of Syria can face a lifetime of statelessness, where no country will claim them as their own. There have been more than 30,000 Syrian children born in Lebanon and over 60,000 born in Turkey since 2011,53 and many of these children may become stateless due to Syrian law. As Syrian nationality law is gender-discriminatory, nationality can only be passed to a child through proving the nationality of the

47 Id.
father. In countries such as Syria, Lebanon, and Jordan, if the father is absent, the newborn may not be able to register, and may even become stateless. For example, in Jordan, roughly 85,000 Jordanian women are married to non-citizens, and these families include more than 338,000 children. For Syrian babies born outside the country, it is of paramount importance to acquire a birth certificate that records the father’s name. It is estimated, however, that 25% of Syrian refugee households are fatherless due to many fathers being dead, missing, or separated from their families. UNHCR urges host-countries to simplify registration procedures for Syrian refugees.

While registration does not have a direct bearing on the acquisition of citizenship, birth registration can be crucial to recognition of the child by the state of the person’s nationality. People without documentation, including the Syrian refugees who could not bring documentation when they left either because it was lost or destroyed, are reported to be exposed to harassment and exploitation and can lack access to basic services, such as healthcare. "If you look at the number of births that have happened . . . I think we can be talking about hundreds of thousands who are potentially not registered in the region as a whole," notes Daryl Grisgraber, senior advocate for the Middle East at Refugees International. UNHCR Director of International Protection Volker Türk also said that many Syrian refugee children had not been able to acquire

---

55 Angelina Theodorou, "27 countries limit a woman’s ability to pass citizenship to her child or spouse," PEW RESEARCH CENTER (Aug. 5, 2014) http://www.pewresearch.org/fact-tank/2014/08/05/27-countries-limit-a-woman-s-ability-to-pass-citizenship-to-her-child-or-spouse/.
56 No Child Should be Stateless supra note 17, at 10-12.
60 Id. at 23; No Child Should be Stateless supra note 17, at 10-11.
documentation which proved they were Syrian nationals, and “[u]nless this can be resolved at a later date, these children may be left stateless.”

A 2013 survey in Iraq found around 10 per cent of Syrian Kurdish refugees are stateless, as many were forced to flee Syria before they could apply for nationality or were not eligible because they had never been registered by the Syrian authorities. Furthermore, Syrian refugees have trouble crossing international borders to return to Syria, or any other country, if they do not have their identity documents, and some even believe ISIL is destroying Syrian documents and passports. Chris Nash, director of the European Network on Statelessness, noted:

The sheer volume of exodus of Syrian refugees, coupled with obstacles to birth registration as well as destroyed civil registries and gender discriminatory nationality laws, constitute a toxic mix and a ticking time bomb in terms of the risk of childhood statelessness. Furthermore, Syrian children may not be recorded on the government birth rolls if born in territories outside the regime controlled area. And the children born outside the country often cannot be registered, which leads to registration problems for the child, precluding the child from becoming a citizen of another country. Additionally, Syria is not a party to either the Convention Relating to the Status of Stateless Persons or the Convention on the Reduction of Statelessness.

II. Comparing Citizenship in the U.K., Germany, Canada, Turkey, and Syria

---


66 Id.

67 Id.
Current citizenship policies primarily are the product of a country’s legal origins, evolving history, and recent immigration sentiments, particularly regarding national security. Western European countries are generally considered countries of immigration, where foreign immigrant populations have permanently settled and the majority of the population is considered to have existed for centuries and not descended from immigrants. But even a general trend does not cover all countries, as “a nation’s citizenship laws are so bound up with its self-identity, alterations to those laws can only be fully understood through a rich historicizing of each new permutation.” Even though many countries have some similarities, there are various citizenship policies in both Europe and the Middle East.

The U.K., Germany, Sweden, Canada, Turkey, and Syria all have different citizenship laws, including their provisions on preventing statelessness, and a comparison of these nationality laws can show the current difficulties many Syrian refugees face. I chose to compare these specific countries as these have been the regions where the majority of Syrian refugees have attempted asylum, significantly affecting the receiving state’s citizenship and immigration policies. Furthermore, Syrian nationality law prevents the passing of citizenship to a person’s children in certain circumstances, and the effects of the Syrian conflict affects these countries’ citizenship and immigration policies.

a. United Kingdom

Before 1981, “territorial underpinnings were the basis for over 375 years of birthright citizenship within the United Kingdom.” This common-law policy has been grounded in centuries

---

69 CITIZENSHIP TODAY: GLOBAL PERSPECTIVES AND PRACTICES, supra note 4, at 21.
of English history, where the territory was the basis of the feudal system, and the boundaries of the countries were considered under the protection of the king. This connection is best described as:

Every one born within the dominions of the King of England, whether here or in his colonies or dependencies, being under the protection of—therefore, according to our common law, owes allegiance to—the King and is subject to all the duties and entitled to enjoy all the rights and liberties of an Englishman.

Under the common law of England, a person became a British subject when born within the “allegiance of the Crown,” and this allegiance came from the territory being owned by the Crown. This included Commonwealth territories, as subjects born under British rule, whether in the U.K. or its empire, were British citizens. But as the twentieth century wore on, and travel became easier, British citizenship laws evolved, and anti-immigrant sentiment rose. After World War II, anti-immigrant sentiment in Britain increased dramatically as people became alarmed about cultural influx, decreasing jobs, and a straining economy, and unlike Germany, this post-war migration into the U.K. was generally unwanted. We continue to see a similar trend in this hostility towards immigrants today, being a major driver behind England leaving the European Union.

The United Kingdom no longer provides for unconditional birthright citizenship. Those children born in the U.K. are British citizens if their birth father or mother is a British citizen or settled in the U.K. If the child was born to non-citizen parents, that child may register as a British citizen.

---

80 “Settled” requires the person reside in the U.K., without being subject under British immigration laws to any restriction on the period for which the person may remain. See British Nationality Act, ch. 61, § 50(2).
citizen if, while the child is a minor, either parent becomes a British citizen,\textsuperscript{81} if a parent is, or becomes, a member of the British armed forces,\textsuperscript{82} or if the child lives in the U.K. for the first ten years of his life with very limited leave outside the U.K.\textsuperscript{83} However, children born stateless in the U.K. can obtain U.K. citizenship through a registration process, provided (1) the child is born in the U.K., (2) is now and was always stateless, and (3) lived within the U.K. for the preceding five years before registration and not absent for more than 450 days.\textsuperscript{84} Another exception to the general law—that children born in the U.K. to non-citizen parents are not citizens—is if the child is found abandoned, then the child is deemed a British citizen, as part of the country’s effort to reduce the statelessness of children by the presumption their parents were citizens.\textsuperscript{85} However, the “settled rule” under the British Nationality Act is that children “born of illegal immigrants are not British citizens.”\textsuperscript{86}

Between 1993 and 2014, the foreign-born population in the U.K. more than doubled from 3.8 million to around 8.3 million, and the number of foreign citizens increased dramatically.\textsuperscript{87} Like Germany around 2000, British officials finally acknowledged that Britain had long been a nation of migrants. This acknowledgment and desire to manage migration were officially instituted in the U.K. White Paper by the Home Secretary at the time, David Blunkett, providing:

“Migration is an inevitable reality of the modern world and it brings substantial benefits. But to ensure that we sustain the positive benefits of migration to our social well-being and economic prosperity, we need to manage it properly. . . . If managed properly, migration can bring considerable benefits to the U.K.”\textsuperscript{88}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{81} Id. \textsuperscript{§} 3.
\item \textsuperscript{82} Id. \textsuperscript{§} 3A(a).
\item \textsuperscript{83} Id. \textsuperscript{§} 4.
\item \textsuperscript{84} Id. \textsuperscript{schedule 2 \textsuperscript{§} 3(1)-(2).}
\item \textsuperscript{85} Id. \textsuperscript{\textsuperscript{§} 1A(2).}
\item \textsuperscript{86} Id. \textsuperscript{\textsuperscript{§} 50(5); Michael Robert W. Houston, Birthright Citizenship in the United Kingdom and the United States: A Comparative Analysis of the Common Law Basis for Granting Citizenship to Children Born of Illegal Immigrants, 33 Vand. J. Transnat’l L. 693, 716 (2000).}
\item \textsuperscript{87} Dr. Cinzia Rienzo & Dr. Carlos Vargas-Silva, Migrants in the UK: An Overview, MIGRANT OBSERVATORY AT THE UNIVERSITY OF OXFORD (Jan. 28, 2016) http://www.migrationobservatory.ox.ac.uk/wp-content/uploads/2016/04/Briefing-Migrants_UK_Overview.pdf
\item \textsuperscript{88} GOVERNING INTERNATIONAL LABOUR MIGRATION: CURRENT ISSUES, CHALLENGES AND DILEMMAS 17 (Routledge 2008 eds. Christina Gabriel, Hélène Pellerin).
\end{itemize}
\end{footnotesize}
But in the wake of 9/11, the debate regarding citizenship flared once again. In 2002, the U.K. passed the Nationality, Asylum and Immigration Act which required non-citizens applying for citizenship to pass an English language test, and instituted a citizenship ceremony, including a swearing an oath of allegiance to England.\textsuperscript{89} In 2009, the Borders, Citizenship and Immigration Act introduced an idea of probationary citizenship along with tying the length of residency to an “active citizenry,” and implemented a good character requirement for applicants.\textsuperscript{90} These changes especially affected refugees in the U.K.,\textsuperscript{91} and some believed the “new citizenship agenda ‘panders to xenophobic sentiments’, reinforcing ‘ideological assumptions about the essential homogeneity of existing citizens and the alien otherness of newcomers.”\textsuperscript{92}

b. Germany

Unlike the U.K., Germany has exhibited a different trend over the past century, moving from more restrictive citizenship policies to less restrictive, promoting the integration of immigrants into Germany society.\textsuperscript{93} The original idea of \textit{jus sanguinis} in Germany developed, not as an idea based on political values, but as an “organic cultural, linguistic, or racial community . . . . [making] nationhood [ ] an ethnocultural, not a political fact.”\textsuperscript{94} Throughout the second half of the twentieth century, Germany became a country of immigrants like the U.K., even if its leaders were at first reluctant to admit.\textsuperscript{95} Migration was the driving factor in changing citizenship policies in Germany, and after 1989, “the collapsing bi-polar postwar order and new wars—both inside Europe and beyond its

\textsuperscript{89} Nationality, Immigration and Asylum Act 2002, ch. 41 § 1 (Germany).
\textsuperscript{93} Kay Hailbronner, \textit{Germany}, in \textit{ACQUISITION AND LOSS OF NATIONALITY: COUNTRY ANALYSES} 213, 213-14, 219-20, 243 (Rainer Bauböck et al. eds., 2006).
\textsuperscript{94} ROGERS BRUBAKER, \textit{CITIZENSHIP AND NATIONHOOD IN FRANCE AND GERMANY} 1 (Harvard University Press 1992).
\textsuperscript{95} Anne Marie Seibel, \textit{Deutschland Ist Doch Ein Einwanderungsland Geworden: Proposals to Address Germany’s Status as a “Land of Immigration,”} 30 VAND. J. TRANSNAT’L L. 905, 920 (1997) (German political leaders have long maintained that Germany is ‘kein Einwanderungsland’--not a land of immigration.”).
borders—set even more migrants into motion.”96 But in the decades following WWII, guest-worker recruitment including those from Turkey, subsequent family reunification, and an economically-driven, mass movement into the country created an unwanted immigrant trend,97 resulting in Germany having one of the largest foreign resident populations by the end of the twentieth century.98 Around 7.3 million of the 84 million people living in Germany were foreigners, with more than half living in Germany for over a decade.99 With this mass immigration of people claiming to be German descendants, the country imposed measures designed to restrict the flow of immigrants.100

Before 1999, many criticized Germany for having an “outdated and restrictive policy” on citizenship, and prior to the country’s reform, automatic citizens given to immigrants was “unthinkable” in Germany.101 But in 1998, the Social Democrats and Greens won the national election, and pressure for citizenship reform dramatically increased from the political left.102 Additionally, an economic factor in attempting to attract highly skilled workers to Germany required a change in citizenship policies, as the country’s selective immigration policies restricted its ability to compete in the international labour market.103

Germany finally liberalized its approach towards birthright citizenship in 2000,104 bestowing citizenship by birth in two scenarios: (1) child born to a German parent, or (2) child born to aliens if one parent has had his or her habitual domicile in Germany for at least eight years and

---

97 Dr. Kay Hailbronner, Fifty Years of the Basic Law-Migration, Citizenship, and Asylum, 53 SMU L. REV. 519, 522 (2000).
98 Hailbronner, supra note 97, at 519.
100 Id. at 43-44.
101 Marc Morjé Howard, Germany’s Citizenship Policy in Comparative Perspective, 101:30 German Politics and Society, 39, 43 (2012).
103 Howard, supra note 101, at 44.
either has a permanent German residence permit or is a national of Switzerland or has a residence permit that entitles him or her to reside in Germany. While this change did not affect the basic rule that German citizenship is passed by descent or lineage, it created an additional avenue to attain citizenship for a child born to non-citizens residing permanently in the country. Practically, however, it ruled out many foreigners because these permits are difficult to obtain. But this inclusion of a conditional version of *jus soli* represented a major change from over a century of policy, particularly considering how, for most European countries, language, culture, and traditional values are the main drivers in shaping a national identity, compared to countries comprised of immigrants like the United States. Additionally, while German nationality law provides that a child born to a German parent who was born abroad and continues to live abroad would not be a German citizenship, the child would be German if otherwise would be stateless. However, unlike the U.K., Germany does not have a specific provision for providing citizenship to stateless children born in the country other than the country’s general citizenship provisions.

In regards to dual citizenship, children born to non-German parents could have two nationalities, but would have to choose one nationality by the time they turn twenty-three. This significantly affected Turkish nationals living in Germany, specifically as Turkish inheritance laws were primarily based on citizenship, and many were reluctant to surrender their Turkish

---

109 See *id.* § 4.
110 *Id.* § 4(1).
passports.\textsuperscript{111} However, Germany has recently allowed dual nationality with certain conditions, including a child of foreign parents must have lived in Germany for eight years by their twenty-first birthday.\textsuperscript{112} Furthermore, the law lessened the residency requirement for naturalization from fifteen years to eight years preceding the application and satisfaction of all other statutory requirements.\textsuperscript{113} For those immigrants who are not fluent in German but want to become citizens, they must attend 600 hours of German language classes.\textsuperscript{114}

German Chancellor Angela Merkel and the SPD stated: "Germany is a cosmopolitan country. We view immigration as an opportunity, without overlooking the challenges associated with it."\textsuperscript{115} This is a major turnaround from the insistence that Germany was "not a country of immigration" just two decades prior.\textsuperscript{116} And Germany truly is a country of immigrants, with over 21\% of the population having an immigrant background.\textsuperscript{117} In 2015, the United Nations' International Migration Report recognized Germany hosted the second highest number of migrants,\textsuperscript{118} and the “new Immigration Act (including its amendments to the Citizenship Act) aims to balance the needs

\begin{footnotes}
\item Michael Minenberg, The Politics of Citizenship in the New Republic, in Germany: Beyond the Stable State 220 (eds Herbert Kitschelt & Wolfgang Streeck. 2004) ("[S]ince 1977 successive German governments have proclaimed that, contrary to the facts, Germany was not an immigration country.").
\end{footnotes}
of Germany’s labor market against its security needs, by making it easier for the authorities to deport people who are suspected of supporting political violence.”

c. Sweden

Sweden has been described as having the most liberal citizenship laws in Europe, but the new Swedish Nationality Act in 2001 still marked a change in Swedish nationality law, with the purpose of updating the law to more modern standards. Since the prior Act enacted in 1950, there have been several developments in Sweden: domicile gained greater importance than citizenship alone, society in Sweden became more internationalized, and Sweden joined the E.U. in 1997, resulting in increased immigration from other E.U. states. While the primary basis for the country’s nationality laws has been jus sanguinis since the first Citizenship Act in 1894—a child born to a Swedish parent acquires the parent’s Swedish nationality—the Act in 2001 put the principle importance on domicile rather than solely on lineage. Furthermore, the Act accepted dual citizenship for the first time.

Sweden also has significantly more paths to citizenship for stateless people than most other countries. Since 2001, the state provides for birthright citizenship in the case where a child born in Sweden is stateless at birth. Even if the child is not born in the country, Sweden has protections for stateless children, providing that the child acquires Swedish citizenship if (1) the guardian has a permanent resident card, and (2) has been domiciled in Sweden for five years, but if the child is

119 Hartnell, supra note 96, at 389.
122 Swedish Citizenship Act, § 1.
124 Bernitz & Bernitz, supra note 123, at 526.
125 Id. § 6.
stateless, three years.\textsuperscript{126} Even if the child is between the ages of eighteen and twenty, the person can become a Swedish citizen if the person (1) holds a permanent Swedish residence permit, and (2) has been domiciled in Sweden since reaching the age of thirteen or, if the child is stateless, fifteen.\textsuperscript{127} Similarly, the naturalization process lowered the residency requirement for stateless persons and refugees from five years to four years domiciled in Sweden.\textsuperscript{128} If an alien becomes a Swedish citizen, then that person’s unmarried children under eighteen years old and domiciled in Sweden also become Swedish citizens if the alien has sole custody or joint custody with another Swedish citizen.\textsuperscript{129} Furthermore, there are no categories of citizenship, as every person with Swedish citizenship has the same rights and legal duties,\textsuperscript{130} and unlike Germany, Sweden does not have a language requirement.\textsuperscript{131}

Sweden has long received a large number of asylum seekers—over 160,000 asylum applications in 2015\textsuperscript{132}—and is third in receiving asylum applications behind Germany and Hungary, respectively.\textsuperscript{133} Unlike most countries including the U.S. and the U.K., citizenship and immigration have not been a major political issue in Sweden.\textsuperscript{134} In 2013, Sweden became the first country to offer permanent residency to all Syrian refugees in the country,\textsuperscript{135} putting them on the path to acquiring Swedish citizenship, and to a large extent both citizens and foreigners, including

\begin{itemize}
\item \textsuperscript{126} Id., § 7.
\item \textsuperscript{127} Id. § 8.
\item \textsuperscript{128} Id. § 11(4).
\item \textsuperscript{129} Id. § 10.
\item \textsuperscript{130} Bernitz & Bernitz, supra note 123, at 518.
\item \textsuperscript{131} See generally Swedish Citizenship Act, § 1 et seq.
\item \textsuperscript{132} Applications for Asylum Received, 2015, MIGRATIONSVERKET (Jan. 1, 2016), http://www.migrationsverket.se/download/18.7c00d8e6143101d166d1aab/1448974429957/Inkomna+ans%C3%B6kningar+om+asyl%3b+om+asyl+2015++Applications+for+asylum+received+2015.pdf.
\item \textsuperscript{133} Phillip Conner, Number of Refugees to Europe Surges to Record 1.3 Million in 2015, PEW RESEARCH CENTER: GLOBAL ATTITUDES AND TRENDS (Aug. 2, 2016), http://www.pewglobal.org/2016/08/02/number-of-refugees-to-europe-surges-to-record-1-3-million-in-2015/.
\item \textsuperscript{135} Chris Morris, Sweden’s asylum offer to refugees from Syria, BBC NEWS (Oct. 23, 2013) http://www.bbc.com/news/world-europe-24635791.
\end{itemize}
permanent residents and refugees, generally have the same rights, except that of voting. However, due to the steep increase of asylum seekers going to Sweden, the government implemented temporary border restrictions in late 2015, as the number of refugees have strained the Swedish economy. Spending on refugees has increased dramatically in the past several years, causing tension between the citizens of Sweden and the rising number of refugees. The welcoming policy of the Swedish government may be turning around as many asylum applications are being denied and refugees having to leave the country.

d. Canada

It is useful to compare European nationality laws to Canada’s laws due to the general difference in policies. Countries in the Western Hemisphere, particularly the United States and Canada, can generally be viewed as countries of immigrants, where the majority of the population either immigrated or descended from immigrants. “Changes in the institution of citizenship were much more dramatic in Western Europe than in North America . . . , simply because European regimes were much less geared to the reality of mass immigration.” To demonstrate this, over the past several years, Canada has been integral in accepting refugees from Syria, and continues to take in refugees when many other countries refuse to do so.

Before 1946, Canada generally followed the common-law nationality policies defining British citizenship. But at the start of the twentieth century, as Canada began working towards

---

136 Bernitz & Bernitz, supra note 123, at 545.
138 Id.
139 Keith Moore, Sweden’s open-arm stance on refugees challenged by more than 160,000 asylum claims in 12 months, INT’L BUS. TIMES (June 22, 2016) http://www.ibtimes.co.uk/swedens-open-arm-stance-refugees-challenged-by-more-160000-asylum-claims-12-months-1566880.
140 CITIZENSHIP TODAY: GLOBAL PERSPECTIVES AND PRACTICES, supra note 4, at 21.
141 CHRISTIAN JOPPKE, CITIZENSHIP AND IMMIGRATION vii (Polity Press 2010).
independence, the country began creating its own definition of Canadian citizens, establishing this in the Immigration Act of 1910 and the Canadian Nationals Act of 1921. But Canada only first provided for Canadian citizenship in the 1947 Act, “officially creat[ing] the concept of a ‘Canadian,’ ultimately creating a distinct sort of membership within the world.” In 1977, Canada passed its second major citizenship reform, removing the more favorable treatment of British citizens and treating all immigrants equally, lowering the age of majority to eighteen, and permitting dual citizenship.

Now under the Canadian Citizenship Act, if the child was born in Canada (after February 14, 1977), then the child is a Canadian citizen. So if a child of a Syrian refugee is born in Canada, even if would otherwise be stateless, the child would be Canadian due to the state’s birthright citizenship laws. Additionally through *jus sanguinis*, if the child is born outside of Canada, the child is a citizen if one of the parents is a Canadian citizen. The 1947 Canadian Citizenship Act “operated on the principle that the granting of citizenship was a privilege. . . . [but t]he 1977 Act made citizenship a right which could be enjoyed by anyone once the requirements . . . were met.”

However, this view of citizenship as a right seems to have reversed in the recent years. Unlike the U.S., Canada has little precedent on the right to citizenship, and has only reformed its citizenship law a few times. Little legislation was passed to change citizenship requirements in Canada until 2009, in which restored or gave Canadian citizenship to many living in Canada who

---

144 Id.
147 Citizenship Act (R.S.C., 1985, c. C-29) § 3(1) (providing “a person is a citizen if the person was born in Canada after February 14, 1977”).
148 Id. § 3(1)(a).
149 Id. § 3(1)(b).
had never had Canadian citizenship or who had lost it due to previous legislation, and limited Canadian citizenship by descent to the first generation born outside Canada.\footnote{Changes to citizenship rules, GOV’T OF CANADA (June 11, 2015) http://www.cic.gc.ca/english/citizenship/rules_2009.asp.}

The first major comprehensive citizenship reform came in 2014 under the \textit{Strengthening Canadian Citizenship Act}.\footnote{Strengthening Canadian Citizenship Act (R.S.C., 1985, c. C-29) § 3(1).} This bill changed much of the Citizenship Act, including expanding the age group of applicants who were required to demonstrate language and knowledge skills and increased the residency requirement before application.\footnote{Id.} The bill also eliminated the use of time spent in Canada as a non-permanent resident towards the residency requirement, required an intent to reside in Canada after obtaining citizenship, expanded the criminal prohibitions to bar applicants, and significantly expanded the authority to revoke citizenship of dual citizens.\footnote{Strengthening Canadian Citizenship Act: A before and after view of the key changes to the Citizenship Act, GOVT. OF CANADA, (June 5, 2015) http://news.gc.ca/web/article-en.do?nid=985219 [https://perma.cc/UBY6-Y2YT].} Some hailed the Act as necessary, including Chris Alexander, the Minister of Citizenship and Immigration at the time, who stated “Canadian citizenship is more than a passport of convenience. It’s a pledge of mutual responsibility, a shared commitment to values rooted in our history.”\footnote{Speaking notes for Chris Alexander, Minister of Citizenship and Immigration, Maple Leaf Cinema, CN Tower Toronto, Ontario (October 21, 2013) http://www.cic.gc.ca/english/department/media/speeches/2013/2013-10-21a.asp.} The Citizenship and Immigration Minister prior to Alexander, Jason Kenney, similarly urged “Canadian citizenship is predicated on loyalty to this country.”\footnote{Stewart Bell, \textit{Jason Kenney suggests new legislation needed to strip citizenship of dual nationals involved in terrorism}, NATIONAL POST (Feb. 6, 2013) http://news.nationalpost.com/news/canada/canadian-politics/jason-kenney-suggests-new-legislation-needed-to-strip-citizenship-of-dual-nationals-involved-in-terrorism.}

However, this Act has often been described as restricting the path to citizenship, and even as “anti-Canadian.”\footnote{Debra Black, \textit{Court challenge slams new Citizenship Act as ‘anti-Canadian’}, TORONTO STAR (Aug, 20, 2015) https://www.thestar.com/news/immigration/2015/08/20/court-challenge-slams-new-citizenship-act-as-anti-canadian.html.} Many of the 2014 amendments were met with public distaste, and in the
campaign leading to the 2015 elections, the Liberal Party in Canada promised to reverse these changes.\textsuperscript{159} After winning the election, the party initiated a bill designed to revoke many of the Conservative amendments, and it has passed both the Canadian House and Senate, expected to take effect in 2017.\textsuperscript{160} The Act would remove the grounds for the revocation of Canadian citizenship when it relates to national security, remove the requirement that an applicant intended to continue to reside in Canada after becoming a citizen, and reduce the physical presence in Canada requirement before applying for citizenship.\textsuperscript{161}

e. Turkey

To explain why nationality law in Europe is vital to the Syrian refugees, we must also analyze the citizenship laws in Syria and the surrounding countries, particularly Turkey. Roughly twenty-seven countries either preclude or limit a woman’s ability to pass her citizenship to her children,\textsuperscript{162} including Qatar, Iran, and Syria.\textsuperscript{163} While some countries such as Turkey, Kenya, and Morocco have taken steps to change this, Syria still significantly restricts a Syrian woman from giving her children citizenship to her children.\textsuperscript{164}

Recently, Turkey has experienced an increase in immigration, particularly due to its booming economy and the Syrian refugee migration.\textsuperscript{165} Turkey revised its citizenship laws in 2009

\begin{thebibliography}{99}
\bibitem{note57} Theoerou, supra note 55.
\bibitem{note162} Theoerou, supra note 162.
\end{thebibliography}
to deal with this increase in migration, including in regards to Syrian refugees in the country.\footnote{166} Like most countries, Turkey generally provides citizenship through \textit{jus sanguinis} if the child is born to a Turkish parent.\footnote{167} However, the country also provides protection for stateless children, where a child born in Turkey, but unable to acquire citizenship from the mother or father, acquires Turkish citizenship at birth.\footnote{168} Foreigners can also naturalize, by either residing five years uninterrupted in Turkey in addition to satisfying several other requirements,\footnote{169} or by marriage, which the foreign spouse can apply for citizenship after three years of marriage.\footnote{170} Marriage has become one of the most used avenues of attaining citizenship for Syrian refugees,\footnote{171} but this may be quickly eclipsed after 2016, as many refugees are nearing five years of residency, as refugees starting coming to Turkey around 2011.\footnote{172} Many Syrians have been in Turkey for so long they no longer can be considered guests.\footnote{173}

Turkey’s first law to address asylum and its first comprehensive immigration act was adopted in 2014: the Law on Foreigners and International Protection (Law No. 6458).\footnote{174} The law divides qualifying foreigners into three key categories: (1) refugees, (2) conditional refugees, and (3) individuals under subsidiary protection.\footnote{175} Furthermore, the law specifically institutes protections

\footnote{166} Turkish Citizenship Law, No. 5901, art. 7(1) \url{http://www.refworld.org/pdfid/4a9d204d2.pdf}. There is some discriminatory law against women, requiring that if a child is born to a Turkish father and an alien mother out of wedlock, the child is Turkish only “if the principles and procedures regarding the determination of descent are met.” \textit{Id.} art. 7(3).

\footnote{167} \textit{Id.} art. 8(1) \url{http://www.refworld.org/pdfid/4a9d204d2.pdf}.

\footnote{168} \textit{Id.} art. 11 \url{http://www.refworld.org/pdfid/4a9d204d2.pdf}.

\footnote{169} \textit{Id.} art. 16(1) \url{http://www.refworld.org/pdfid/4a9d204d2.pdf}.

\footnote{170} Soner Cagaptay, \textit{The Impact of Syrian Refugees on Southern Turkey}, WASH. INST. FOR NEAR EAST POLICY (July 2014) \url{http://www.washingtoninstitute.org/uploads/Documents/pubs/PolicyFocus130_Cagaptay_Revised3s.pdf}.

\footnote{171} \textit{Id.} at 9.


\footnote{173} Kilberg, \textit{supra} note 165.

\footnote{174} Lara Pham, \textit{Filling in the Gaps: Migration Reform in Turkey}, WORLD POLICY BLOG (August 18, 2014) \url{http://www.worldpolicy.org/blog/2014/08/18/filling-gaps-migration-reform-turkey}. 

25
for stateless persons,\textsuperscript{176} even allowing stateless persons to apply for residence permits under this law,\textsuperscript{177} and further listing six types of residence permits: short-term, long-term, family, student, humanitarian, and for victims of human trafficking.\textsuperscript{178} Additionally, the law created a specialized institution—the Directorate General of Migration Management, under the Ministry of Interior—to implement related immigration laws.\textsuperscript{179} Later in 2014, Turkey passed additional legislation, the Regulation on Temporary Protection, applying specifically to Syrian refugees, making clear this was temporary protection, not permanent residency.\textsuperscript{180} The High Commissioner for Refugees proclaimed this law “as a reflection of Turkey’s strong commitment to humanitarian values and principles.”\textsuperscript{181}

However, while Turkey provides some protections for Syrian refugees, because the status of “subsidiary protection” is only temporary and refugees are generally not treated the same as foreign nationals, refugees are often subject to exploitation. Unlike many European countries, Turkey has not recognized key parts of the U.N. Conventions pertaining to refugees, so Turkey does not provide Syrians refugee-status protection.\textsuperscript{182} As a result, “Syrians have already become an exploited underground labor force, as evidenced by rapidly falling wages for workers in industries such as construction, textile manufacturing, heavy industry, and agriculture.”\textsuperscript{183} Thousands of

\begin{flushright}
\textsuperscript{177} Id. art. 51(1)(a).
\textsuperscript{178} Id. art. 22(1).
\textsuperscript{180} Meltem Ineli-Ciger, Implications of the New Turkish Law on Foreigners and International Protection and Regulation no. 29153 on Temporary Protection for Syrians Seeking Protection in Turkey, 4:2 OX. MONITOR OF FORCED MIGRATION 28, 29 (2014).
\textsuperscript{181} Melissa Fleming, UNHCR welcomes Turkey’s new law on asylum, UNHCR (April 12, 2013) http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&skip=9&docid=5167e7d09&query=turkey.
\end{flushright}
children are being used as illegal child labour in several industries, and some women and children refugees have been subjected to sexual exploitation. Furthermore, because many countries’ laws do not allow Syrian refugees to work, refugee children are even more at risk of exploitation. While the Turkish government announced many Syrian refugees in the country could become Turkish citizens, there has been significant political backlash in Turkey and this continues to be controversial.

f. Syria

At the heart of this citizenship problem is the Syrian conflict. The French left Syria in 1946, making Syria an independent country, and rapid changes due to the Depression and World War II altered the fundamental structure of the country. Modern political organizations, including the Muslim Brotherhood and the Ba’ath Party, began to compete for control, and starting in 1949, dictators lasting no more than a few years dominated the Syrian political regime. But the Arab Socialist Ba’ath Party came to power in a military coup in 1963, and Bashar al-Assad and his father prior to him have ruled Syria since 1970. The Syrian conflict commenced in 2011 with the Arab Spring when protesters opposing the autocratic rule of President Bashar al-Assad took a stand,


187 Laura Pitel, *Turkey plans to offer citizenship to Syrian refugees*, FIN. TIMES (July 2, 2016) https://www.ft.com/content/01766166-409d-11e6-b22f-79eb4891c97d.

188 Id. at 1393.


190 Id.

191 Id.

and the conflict escalated to a civil war in early 2012.\textsuperscript{193} In November 2011, Bashar Assad appointed a committee to draft a new constitution which was approved on February 27, 2012,\textsuperscript{194} and while it introduced several changes, in reality, the new constitutional framework is designed to keep Assad in power indefinitely.\textsuperscript{195}

Syrian nationality laws are strict, particularly in practice, and generally make it difficult for many children to acquire the nationality of their mother. Syrian citizenship law is generally acquired through paternal \textit{jus sanguinis}, passing Syrian citizenship to the child if the father is Syrian, even if the child is born outside the country.\textsuperscript{196} Under Syrian citizenship law, a Syrian father can pass his citizenship to his child regardless of where his child is born.\textsuperscript{197} A Syrian mother can only pass on her citizenship under limited circumstances: (1) if her child is born in Syria illegitimately,\textsuperscript{198} (2) if her child is born in Syria and the child would not be eligible to acquire another nationality,\textsuperscript{199} and (3) if she is Syrian and her child has not acquired another nationality and has not applied for Syrian nationality within the deadline.\textsuperscript{200} However, while Syria has this third provision to prevent stateless children by allowing the mother to pass on her citizenship, Syria does not implement the provision in practice, providing no protection to children who would otherwise be born stateless, the clearest example of de facto statelessness.\textsuperscript{201} While the U.N. has adopted a multilateral Convention Relating to the Status of Refugees and a Protocol Relating to the Status of Refugees, Syria is not a signatory to either.\textsuperscript{202} Furthermore, women head roughly 40% of the refugee families from Syria, primarily due to husband death, divorce, or simple

\textsuperscript{194} \textit{Id.}
\textsuperscript{195} \textit{Id.}
\textsuperscript{197} Legislative Decree No. 276 of 1969, art. 3(A) (Syria).
\textsuperscript{198} \textit{Id.} art. 3(B).
\textsuperscript{199} \textit{Id.} art. 3(D).
\textsuperscript{200} \textit{Id.} art. 3(E).
\textsuperscript{201} ENGIN F. ISIN & PETER NYERS, ROUTLEDGE HANDBOOK OF GLOBAL CITIZENSHIP STUDIES 208 (Routledge 2014).
abandonment, so these women would not be able to pass their citizenship to their children should they be born without their father.

Syria also provides for naturalization, and the requirements are similar to many other countries: five year legal residency requirement before application, have full legal capacity, be free of diseases, have good character, have specialization/expertise or legitimate means to earn a living, and read and write Arabic. However, like the provision for protection from statelessness described above, this provision proves exceptionally difficult to satisfy in practice. The five-year residency requirement has proven problematic for many, as stateless people in Syria—often known as maktoumeen, meaning “hidden” in Arabic—have been unable to obtain legal residency, thus unable to apply for citizenship. This has significantly affected stateless Kurds living in Syria.206

While the Syrian constitution provides that citizens have equal rights before the law and the women have all the opportunities provided to men, the actual individual laws in Syria create a great discrepancy in nationality laws between men and women. For example, “fewer than 3,500 [Palestinians] have acquired Syrian citizenship, largely because Syria will only grant its citizenship to Palestinian women married to Syrian men, but not Palestinian men married to Syrian women.” Similarly, Syrian women cannot pass their Syrian citizenship to their children if the woman marries a foreigner, the rationale being a “Syrian Arab national’s marriage to a foreigner is likely to weaken the national inclination in children, because foreign mothers do not feel that tendency.”

The Convention on the Elimination of All Forms of Discrimination against Women (hereinafter CEDAW) provides that all women shall have equal rights with men regarding

---

204 Legislative Decree No. 276 of 1969, art. 4(A)-(F) (Syria).
205 Albarazi, supra note 196, at 11.
206 Sen, supra, note 63.
208 WOMEN’S RIGHTS IN THE MIDDLE EAST AND NORTH AFRICA: PROGRESS AMID RESISTANCE 465 (Freedom House, eds. Sanja Kelly & Julia Breslin 2010).
210 Legislative Decree No. 272 of 1969, Rationale(1)(A) (Syria).
transferring nationality to their children, and Syria is a signatory to this Convention.\textsuperscript{211} Yet the country’s nationality laws do not grant women equal rights with men in passing their citizenship to their children which constitutes a great concern for many, as these laws can produce stateless children and expound the problems they face as refugees.\textsuperscript{212} Gender inequality, like in Syria, can create statelessness in children when these children cannot gain the citizenship of their fathers, combined with the lack of \textit{jus soli} in European states can lead to many children without the protections of a state.\textsuperscript{213}

\textsuperscript{211} UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, 1249 U.N.T.S 13, art. 9(1)(2).
\textsuperscript{213} Isin & Nyers, \textit{supra} note 201, at 208.
g. Comparison of these Countries’ Statelessness Laws

<table>
<thead>
<tr>
<th>Country</th>
<th>Article</th>
<th>Summary of Statelessness Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>United Kingdom</td>
<td>British Nationality Act 1981, c. 61, schedule 2, § 3(2)</td>
<td>Born in the U.K., and registered under this subsection and is entitled to British citizenship if, in five year period following registration resided in the U.K. for more days than outside the country</td>
</tr>
<tr>
<td>Germany</td>
<td>Art. 4(3)</td>
<td>Parents are aliens, and, one parent has to have legally resided in Germany for 8 years and have permanent residence permit</td>
</tr>
<tr>
<td>Sweden</td>
<td>Art. 6</td>
<td>A child that was born in Sweden and has been stateless since birth acquires Swedish citizenship on notification by the guardian of the child if the child holds a permanent residence permit and is domiciled in Sweden</td>
</tr>
<tr>
<td></td>
<td>Art. 7</td>
<td>Guardian has a permanent resident card, and has been domiciled in Sweden for five years, but if the child is stateless, three years</td>
</tr>
<tr>
<td>Canada</td>
<td>§ 3(1)(a)</td>
<td>Child is born in Canada, then child is Canadian citizen</td>
</tr>
<tr>
<td>Turkey</td>
<td>Art. 8(1)</td>
<td>A child born in Turkey, but unable to acquire citizenship from mother or father acquires Turkish citizenship at birth</td>
</tr>
<tr>
<td>Syria</td>
<td>Art. 3(D)</td>
<td>If mother’s child is born in Syria and the child would not be eligible to acquire another nationality, then child is a Syrian citizen</td>
</tr>
<tr>
<td>United Nations</td>
<td>U.N. Convention on the Reduction of Statelessness art. 1</td>
<td>A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless</td>
</tr>
</tbody>
</table>

These countries, with the exception of Canada, principally rely on *jus sanguinis* as the basis for their citizenship laws, like the majority of the world. Turkey and Sweden have both recently

---

214 But this provision is not enforced. *See Ishin & Neyers, supra* note 201.
implemented *jus soli* principles in efforts to prevent children in their country from being born stateless. As mentioned above, Syria has a provision to prevent statelessness in children, but it is not enforced and the country’s laws can allow for many children of refugees to lose the protection of having any citizenship at all.

III. U.N. and European States’ Responses to Statelessness and Syrian Refugees

Syrians now constitute the largest population of refugees in the world.\(^{215}\) In July 2013, U.N. High Commissioner for Refugees António Guterres stated the world has “not seen a refugee outflow escalate at such a frightening rate since the Rwandan genocide almost 20 years ago . . . .”\(^{216}\) Almost all of the Syrian refugees remain in neighboring countries, compared with the 123,600 refugees in Europe as of 2014.\(^{217}\) Egypt, Iraq, Jordan, Lebanon, and Turkey have more than 4.8 million Syrian refugees, and an estimated 68-80% of refugees have not registered, leading to concerns of increased statelessness.\(^{218}\)

The U.N. has repeatedly called on states to take in refugees, asserting: “We cannot respond to refugee crises by closing doors and building fences. The world must show solidarity and share this responsibility.”\(^{219}\) But most European countries are still unwilling to accept Syrian refugees,\(^{220}\) and Europe has generally tried to contain the refugee crisis within countries bordering Syria, while providing some support for refugees in those countries, and to further secure European borders.\(^{221}\)

---


\(^{216}\) Leo R Dobbs, *UNHCR chief urges states to maintain open access for fleeing Syrians*, UNHCR (July 16, 2013) http://www.unhcr.org/51e55cf96.html.


\(^{220}\) Sirkeci & Pusch, *supra* note 2, at 128.

\(^{221}\) Orchard & Miller, *supra* note 18, at 34.
Recently, the U.K. instituted the Syrian Vulnerable Person Resettlement Programme in 2014 to allow certain refugees to remain in the U.K., and further extended this program to bring over 20,000 refugees to the U.K. over five years. But in July 2016, roughly a third of councils in the U.K. refused to take Syrian refugees, claiming financial pressure and housing shortage, and as of March 2016, only 1,602 refugees have been resettled in the U.K. But there are many calling for the U.K. to do more, including the over 300 lawyers and judges advocating significant expansion of the refugee program. Similarly, in 2015, more than half of the states in the U.S. opposed taking in Syrian refugees, even while the president will attempt to bring in over 10,000 Syrian refugees in 2016.

Germany has continued its trend opposite the rest of Europe toward a less restrictive immigration and citizenship policy, continuing to accept refugees, and even criticizing other European countries refusing to do so. Similarly, Canada has accepted over 31,000 Syrian refugees and Syrian refugee children are now even going to school in Canada. Canadian Minister of Citizenship and Immigration John McCallum claims this is consistent with Canada’s history, and acceptance, of multiculturalism.

---

224 Gower & Politowski, supra note 222, at 3.
230 Ragobeer, supra note 229.
The United Nations has affirmed this view on refugees and immigration: “Refugees and migrants are not to be seen as a burden; they offer great potential, if only we unlock it.”231 However, many have security concerns, especially regarding recent terrorist attacks by ISIS and the influx of new refugees from Syria, which has affected some national party’s re-elections, including in Germany.232 Many in the United States similarly have concerns relating to potential terrorists masking as refugees.233

a. How Surrounding Countries’ are Responding to the Influx of Syrian Refugees

As compared above, citizenship laws vary greatly between countries and affect Syrian refugees in a number of ways. Some of the countries surrounding Syria have considered extending their citizenship to Syrian refugees, most prominently in Turkey.234 While many in Turkey oppose taking in Syrian refugees because it has produced a great strain on their economy, Turkish President Recep Tayyip Erdogan stated:

We are going to help our Syrian friends in offering them the chance, if they want it, to acquire Turkish nationality. We regard you as our brothers and sisters. You are not far from your homeland, but only from your homes and your land. . . . Turkey is also your homeland.235

The United Nations Convention on the Reduction of Statelessness requires that a “Contracting State shall grant its nationality to a person born in its territory who would otherwise

---

235 Id.
be stateless."\textsuperscript{236} However, while the 1954 Convention is the main human rights treaty dealing with the protections of stateless persons, “the majority of European States that have ratified it have not adopted specific statelessness determination procedures and do not recognize stateless status as a specific protection ground.”\textsuperscript{237} The Convention provides a minimum standards of treatment—stateless persons have the same rights as citizens with respect to freedom of religion and education of their children. And other rights, the same as other non-nationals."\textsuperscript{238}

Many countries, including Turkey, have implemented a provision into their nationality laws to prevent statelessness of children such as those fleeing from Syria.\textsuperscript{239} The U.K. likewise implemented this policy,\textsuperscript{240} but it was not until 2013 that the U.K. created a statelessness procedure to allow stateless people remain in the country.\textsuperscript{241} To be eligible, the person must be in the U.K. and unable to return to another country because they are stateless, and if this "leave to remain" application is granted, the stateless person may remain in the U.K. for up to two years and six months.\textsuperscript{242} But only thirty-nine applications have been granted before April 2016, there have been significant delays in decisions by the government, and a lack of legal aid for the stateless applicants.\textsuperscript{243}

\textsuperscript{239} Turkish citizenship law article 8(1) provides: “A child born in Turkey, but acquiring no citizenship of any state by birth through his/her alien mother or father is a Turkish citizen from the moment of birth.” Turkish Citizenship Law No: 5901, art. 8(1), adopted May 29, 2009, http://eudocitizenship.eu/NationalDB/docs/TUR%20Turkish%20citizenship%20law%202009%20(English).pdf.
\textsuperscript{240} British Nationality Act, c. 61 part I § 3(2).
\textsuperscript{242} Apply to stay in the UK as a stateless person, Gov. of U.K. (last updated: Sept. 26, 2016) https://www.gov.uk/stay-in-uk-stateless.
\textsuperscript{243} Orchard, supra note 241.
However, Germany has not implemented a nationality law to prevent statelessness of children born in Germany.\textsuperscript{244} Despite the international treaties Germany has signed, “Germany has no specific statelessness determination procedures and does not recognize statelessness as a protection ground in itself.”\textsuperscript{245} Furthermore, the only real advantage a stateless person has in naturalization is under Germany’s discretionary naturalization process, which may allow for naturalization after six years rather than eight, subject to the discretion of the naturalization authorities.\textsuperscript{246} However, Germany generally treats stateless persons from Syria as being equal to Syrian nationals when applying for international protection in Germany.\textsuperscript{247}

Like the Convention on the Reduction of Statelessness, the Arab Charter on Human Rights provides that everyone has a right to a nationality, and states shall take measures, in accordance with their domestic laws, to allow a child to acquire the mother’s nationality.\textsuperscript{248} A few countries in the Middle East provide legal exceptions to allow children with stateless fathers to obtain citizenship from their mothers, including Jordan, Libya, Saudi Arabia and the United Arab Emirates, but some countries including Qatar and Brunei do not.\textsuperscript{249} Many countries in the Middle East are also not signatories to the Geneva Convention on Refugees, thereby often not having refugee or asylum procedures, including Turkey.\textsuperscript{250} Furthermore, as described above, while Syrian citizenship law provides that if a child is born in Syria but would not acquire a citizenship through the child’s parentage, “in reality this [provision] is never seen to be executed. This is particularly illustrated by

\begin{itemize}
\item \textsuperscript{244} Citizenship Act, Staatsangehörigkeitsgesetz, July 22, 1913, Reichsgesetzblatt 583, as amended, § 4, http://www.gesetze-im-internet.de/rustag/BJNR005830913.html.
\item \textsuperscript{245} Bianchini, \textit{supra} note 237, at 38.
\item \textsuperscript{246} Die Ermesseneinbürgerung, Beauftragte für Migration, Flüchtlinge und Integration https://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/IB/Einbuergerung/ee-ermesseneinbuergerung.html.
\item \textsuperscript{249} Theodorou, \textit{supra} note 162.
\item \textsuperscript{250} \textit{Migration, Mobilities and the Arab Spring: Spaces of Refugee Flight in the Eastern Mediterranean} 160-61 (eds. Natalia Ribas-Mateos 2016).
\end{itemize}
the fact that stateless individuals in Syria, predominantly from the Kurdish and Palestinian communities, are passing on their stateless status to their children.”

b. Birthright Citizenship Can be the Solution

The automatic granting of citizenship at birth to children who would otherwise be stateless, is probably the best tool to eradicate statelessness at birth and prevent its transmission from generation to generation.

The policies for and against birthright citizenship have long been debated, and is beyond the scope of this Article. This Article simply provides that *jus soli* can be a solution to prevent statelessness to children such as the Syrian refugees. Article 15(1) of the Universal Declaration on Human Rights provides that everyone has the right to at least one citizenship. In fact, the U.N. has created a plan to end statelessness by 2024, which includes a requirement that if a child born within the territory who will be stateless, the state must grant the child its nationality, a conditional version of *jus soli*.

Birthright citizenship is "the most important safeguard that any country can have against statelessness," says Sarnata Reynolds, senior advisor on human rights at Refugees International, because it means statelessness will always be eliminated within one generation. Furthermore, failing to provide for birthright citizenship actually can increase statelessness, as shown by the

---

251 Albarazi, supra note 196, at 7.
255 UN High Commissioner for Refugees (UNHCR), Global Action Plan to End Statelessness, (Nov. 4, 2014) http://www.refworld.org/docid/545b47d64.html [accessed 30 September 2016].
Syrian refugees. But under a policy of *jus soli*, "statelessness at least is limited to one generation," because under birthright citizenship, children of even stateless people become citizens. Birthright citizenship ensures everyone has at least one citizenship, embodying the purpose of the U.N. Declaration of Human Rights. Conversely, the use of *jus sanguinis* can lead to many generations of stateless peoples, particularly when there are strict naturalization laws or residency requirements. Furthermore, in their recent empirical testing, several economists concluded that in Germany, a country where they recently introduced *jus soli* for the first time, the “introduction of the jus soli system results in a significant increase in the integration of adults.”

IV. Conclusion

This article has described the citizenship laws in surrounding countries have affected Syrian refugees, particularly their children. Syrian refugees have fled into surrounding countries, including Turkey and Europe, but many countries have been unwilling to accept these refugees under national security concerns. Even if these countries do accept these Syrian refugees, many children can be born without the protections of a government. Due to the combination of the lack of birthright citizenship laws in Europe, discriminatory nationality laws in Syria, and loss of registration documents for newborn children, many children born to Syrian refugees face the prospect of becoming stateless. No European country allows unconditional *jus soli* anymore, but some countries, including the U.K. and Sweden grant birthright citizenship to stateless children born in the country, but other countries, including Germany, do not. Canada is one of the few countries—such as the U.S.—left that provides for unconditional birthright citizenship, so stateless

---

children born in Canada will have the protection of a nationality. Germany, Sweden and Turkey have been leaders in accepting Syrian refugees, and these countries have exhibited a trend in expansive citizenship and immigration laws. But children need a nationality and a government for protection, and more countries need to provide their citizenship in the event a child born to a refugee would become stateless, regardless if their parents are citizens or Syrian refugees escaping from conflict.