

Sarah Adams, the author of this Backgrounder published by the Center for Immigration Studies in Washington, D.C., is a former intern at CIS.

The Basic Right of Citizenship

A Comparative Study

By Sarah A. Adams

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.

— United States Constitution
Amendment 14, section 1

This seemingly simple sentence in the United States Constitution has recently been the cause of much debate among politicians and the public alike. The Fourteenth Amendment guarantees the automatic right of citizenship to anyone born in the United States (while subject to its jurisdiction). This has generally been interpreted to mean that the residence status of the parents makes no difference. The parents could be here illegally or simply passing through on a tourist visa; in either case their child born here would automatically be a citizen of the United States. Although, at first glance, this may seem to affect only a very small number of people, in actuality, births to illegal aliens account for a large percentage of the total hospital births in certain areas of the country. For example, Michael Antonovich of the Los Angeles County Board of Supervisors states that two-thirds of the births in Los Angeles county hospitals are to illegal aliens. Additionally, Mr. Antonovich notes that these children now account for 30 percent of all AFDC (Aid to Families with Dependent Children) cases in Los Angeles County.

As the issue of immigration has increasingly become a topic of public discussion, an assortment of bills has been proposed in both the House and the Senate in an attempt to tighten the application of current immigration laws in the United States. The bills have included, among other things, various proposals dealing with reform of the asylum system, improved border security and increased penalties for alien smuggling. Proposals have also addressed the difficult question of what to do about the automatic citizenship right granted by the Fourteenth Amendment. This question has sparked much concern and discussion from all sides of the immigration issue.

In Congress, there are presently several proposals for changing the policy of birthright citizenship. Congressmen Anthony Beilenson (D-CA) and Elton Gallegly (R-CA) both have proposed Joint Resolutions (H.J.R. 117 and H.J.R. 129 respectively) calling for a Constitutional Amendment to change the citizenship

clause of the Fourteenth Amendment so that only children of citizens and legal residents would be granted automatic citizenship. Congressman Gallegly's Amendment would limit this right to only those whose mothers are citizens or legal residents, whereas Congressman Beilenson's grants the child citizenship if either parent is a citizen or legal resident.

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In February of 1994 Rep. Bob Stump (R-AZ), with 53 cosponsors from both parties, introduced H.R. 3862 to establish a moratorium on immigration while cutting down on abuse of the system. Among other provisions to cut off welfare payments to illegal aliens, streamline decisions on asylum applications, and beef up the Border Patrol to 9,900, the bill calls for withholding citizenship from U.S.-born children of non-legal residents. Sen. Harry Reid (D-NV) had a provision to remove automatic citizenship in a 1993 bill which is not now part of S. 1351, the Immigration Stabilization Act.

Opponents of these proposals argue that they go against the fundamental traditions of the United States. The citizenship clause was originally written to guarantee citizenship to all freed slaves, thereby establishing a tradition of inclusiveness. On the other hand, those in favor of the proposals believe birth-right citizenship to be an attraction to illegal immigration. Under current law, simply because a child is born on U.S. soil, he or she is entitled to all the benefits that U.S. citizenship entails, including federal welfare benefits and the right to vote. Additionally, when that child turns 21, he or she will be able to sponsor his or her parents, and other family members, to the United States under the family reunification provisions of the Immigration and Nationality Act.

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Due to the rising importance of this issue, the Center for Immigration Studies has undertaken to examine the citizenship laws of other countries to determine how their practices compare with U.S. policy on this issue.

Generally, citizenship can be acquired in any one of four ways (or any combination of the four). The specifics of each method vary depending on how each individual country chooses to implement them; however, the general principles remain the same. The four ways are by descent (*jus sanguinis*), by naturalization, by registration and by birth (*jus soli*).

The most common method of acquiring citizenship is by descent. Normally this means that citizenship passes down through one or both parents without regard to where the child is actually born. Almost all countries also allow a foreigner to gain citizenship through some process of naturalization. However, the requirements for naturalization vary considerably depending on the country. Often, these requirements include a specific period of residence in the country, basic knowledge of the language and governmental structure, good moral standing, and often an oath of allegiance which may or may not require that the person renounce any former citizenship. Citizenship by registration is a less common method and tends to apply only to nationals of one specific country desiring to become citizens. For example, in India, citizens of certain Commonwealth countries such as the United Kingdom and New Zealand can become citizens by registration.

The final category is citizenship by birth. The legal term for this type of citizenship is *jus soli* which refers to countries that grant citizenship to persons born on their "soil" regardless of the nationality of the parents. Of the 38 countries surveyed for this study, 12 grant automatic citizenship to those born on their soil while 26 do not, as we show in the chart on the following pages. For the purposes of this chart, "birth" refers only to whether a person is guaranteed citizenship simply by being born in that country, regardless of the status of the parents. However, "birth" does not include children of diplomats or other persons performing official duties abroad, as most countries, including the United States, do not give

citizenship to the children of foreign nationals in a country on official business of their home government.

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(See chart on following pages)

Which Countries Grant Birthright Citizenship?

COUNTRY	BIRTH*	NOTES
Algeria	No	Father must be Algerian or stateless
Argentina	Yes	
Australia	No	Children of legal immigrants born in Australia are citizens
Belgium	No	One parent must be a citizen of Belgium
Brazil	Yes	
Cameroon	Yes	
Canada	Yes	Children born to foreign parents after Feb. 1977 are citizens at birth
Colombia	No	One parent must be a legal resident
Czech Repub.	No	One parent must be a citizen of Czech Republic
Egypt	No	Father must be an Egyptian citizen
France	No	Child of foreign-born parents must apply, be approved for citizenship
Germany	No	Those born in Germany acquire the citizenship status of their mother
India	Yes	
Israel	No	If Jewish, a child is automatically a citizen; otherwise, must be the child of an Israeli National to be a citizen
Italy	No	One parent must be Italian
Jamaica	Yes	
Japan	No	One parent must be a citizen of Japan
Kenya	No	One parent must be a citizen of Kenya
Kuwait	No	Father must be a citizen of Kuwait
Mexico	Yes	
New Zealand	Yes	
Nigeria	No	One parent must be a Nigerian citizen
Norway	No	One parent must be Norwegian
Pakistan	Yes	
Philippines	No	One parent must be a citizen of the Philippines
Poland	No	One parent must be Polish
Rep. of Korea	No	One parent must be a citizen of Korea
Saudi Arabia	No	Father must be a citizen (child is added on the father's passport)
Spain	Yes	However, the child needs one year of residence to become a citizen if the parents are foreigners
Sweden	No	If mother is Swedish, the child acquires citizenship at birth; if parents are resident aliens, children acquire the citizenship of their parents

COUNTRY	BIRTH*	NOTES
Switzerland	No	If child was born before June 1, 1985, the father must be Swiss for the child to be a Swiss citizen; if the child is born after June 1, 1985, the child will be a Swiss citizen if either parent is Swiss
Syria	No	One parent must be a citizen of Syria
Taiwan	No	One parent must be a citizen of Taiwan
Turkey	No	One parent must be a citizen of Turkey
United Kingdom	No	One parent must be a citizen or a legal resident of the UK for the child to be a citizen
United States	Yes	
Venezuela	Yes	
Zaire	No	Mother must be a citizen of Zaire

*"Birth" refers only to whether or not a person is guaranteed citizenship simply by being born in that country. However, excluded from consideration are the children of diplomats, or other persons on official government business in a foreign country.