Integration Policy: Determinants and Consequences of Citizenship and Legalization

Increasing immigration numbers in many parts of the world make it crucial for policy makers to think about effective integration policies. In this volume of the CESifo Forum we shed light on important mechanisms of immigrant integration: Access to citizenship and legal status in the destination country. Today's citizenship laws are historically shaped by the legal traditions of each country. Birthright citizenship, as one of those traditions, early access to citizenship and legal status in a country play a major role in the context of successful integration strategies. Our contributors show that liberalizing citizenship laws and easing legalization foster the educational, economic and social integration of immigrants. Gender-specific effects can be observed and should be considered in policy measures.

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Citizenship at Birth in the World

The mounting pressure of international migration has placed citizenship policy center stage on the policy agenda. Each country in the world has developed an independent and often complex system of rules that govern the attribution of citizenship and interferes not only with immigration policy at large but also with labor regulation, welfare programs and demographic dynamics.

Citizenship is the legal institution that designates full membership in a state along with the associated rights (such as the voting franchise, favorable employment opportunities, and forms of legal protection and duties that may include mandatory voting, the military draft, and renunciation of one's original citizenship). There are three main modes for acquiring citizenship: at birth, by naturalization, and by marriage. This article focuses on the attribution of citizenship at birth, assesses its origins and diffusion, and suggests which factors may be behind its evolution.

Regulating citizenship at birth—which is particularly relevant for immigration countries and ends up affecting second-generation immigrants—is rooted in a country's legal origin. Common law is associated with the jus soli principle, according to which citizenship is attributed by birthplace: this implies that the child of an immigrant is a citizen of the destination country as long as she is born in that country. Civil law is instead associated with the jus sanguinis principle, that is, citizenship by blood: accordingly, a child inherits citizenship from her parents, independent of her birthplace, so that the child of an immigrant is not going to be a citizen herself (unless the parent is naturalized). This key distinction is that jus soli implies an inclusive attitude with respect to immigrants' children, whereas jus sanguinis implies an exclusive one.

ORIGINS

In eighteenth-century Europe, jus soli was the predominant criterion, following the feudal tradition of serfdom that assigned the human beings born on the lord's land to that lord. The French Revolution broke with this heritage and, with the Napoleonic Civic Code of 1804, reintroduced the ancient Roman custom of jus sanguinis. During the nineteenth century, jus sanguinis spread to the rest of continental Europe and was eventually transplanted to its colonies. Britain instead preserved the jus soli

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tradition and transmitted it to the Empire, including the North American colonies that later formed the United States. By the end of the nineteenth century, most countries throughout the world had established provisions regarding citizenship acquisition, with jus soli being the norm in common-law countries and jus sanguinis regulating citizenship law in most civil-law countries.

Despite being rooted in these legal traditions, the attribution of citizenship at birth has gone through a process of continuous adaptation that accelerated after World War II, in conjunction with key events such as the decolonization process, the collapse of the socialist system, and the intensification of international migration flows. In several countries, adaptation implied convergence to mixed regimes that involved elements of both jus soli and jus sanguinis.

The analysis of the experience of individual countries and regions—drawing from Joppke (1998), Aleinikoff and Klusmeyer (2000, 2001), Brubaker (1992) and Bertocchi and Strozzi (2010)—is instructive. Within Europe, we observe a variety of trends. Britain, that up to World War II had adhered to a particularly inclusive attitude toward all subjects of the Empire, progressively restricted its legislation as a reaction to intense post-war migration flows from former colonies. The British Nationality Act of 1984 heavily delimited jus soli by stipulating that a child born in the United Kingdom was a citizen only if a parent was a resident of the United Kingdom. France, after the aforementioned adoption of jus sanguinis in 1804, reintroduced elements of jus soli for military purposes. In 1889, it recognized the principle of double jus soli, by granting citizenship to children born in France of foreign parents who were in turn born in France. The case of Germany was deeply affected by the fall of the Berlin Wall such that, by allowing national borders to stabilize, it was instrumental in triggering a process of reform of the Wilhelminian legislation of 1913 that in 1999 led to the introduction of a milder form of jus soli conditional to the requirement of a foreign parent having been a resident for at least eight years.

The observed trends are equally varied in the rest of the world. The United States codified the jus soli principle in the Constitution in 1868 through an amendment aimed at protecting the birth rights of slaves of African origin and has maintained this principle to the present day, consistent with its history of immigration and despite occasional attacks on it. In several Latin America countries, jus soli was adopted in the eighteenth century at the time they won their independence, in open contrast to the colonial powers that otherwise could have claimed their jurisdiction on the new born overseas. In the case of Africa, jus sanguinis provisions widely spread with the decolonization phase starting in the 1960s, in an effort to build a national identity.

Table 1

The Evolution of Birthright Citizenship Laws Across the World Between 1948 and 2001

	Citizenship laws in 2001			
Citizenship laws in 1948	Jus sanguinis	Mixed	Jus soli	*Total*
Jus sanguinis	46	20	1	*67*
Mixed	11	6	2	*19*
Jus soli	31	9	36	*76*
Total	*88*	*35*	*39*	*162*

Source: Bertocchi and Strozzi (2009).

DATA

The Citizenship Laws Dataset (Bertocchi and Strozzi 2009) allows us to reconstruct the post-war comparative history of citizenship legislation. The dataset collects information on citizenship at birth, as well as naturalization provisions, in 162 countries with reference to the years 1948, 1975, and 2001, in such a way that two stretches of approximately 25 years can be covered. The main sources for the data are the United States Office of Personnel Management (2001), the United Nations High Commissioner for Refugees (2003), and Weil (2001). With reference to citizenship at birth, countries are assigned to three groups: jus soli regimes, jus sanguinis regimes and mixed regimes. The third group includes those countries where elements of jus soli are recognized, albeit in a restrictive form, and coexist with varying degrees of jus sanguinis. For example, a frequent provision is double jus soli, another is jus soli for the child born in a given country from immigrants who are long-term residents. The first provision is more effective in countries with a relatively long history of immigration, whereas the second makes a difference for countries of more recent immigration.

Table 1 shows that by 1948 jus soli is adopted in 76 countries (47 percent of the total), jus sanguinis in 67 (41 percent), and a mixed regime in the remaining 19 (12 percent). In 1948, examples of jus soli are the United States, Canada, Australia, the United Kingdom and most Latin America countries, whereas jus sanguinis predominates in continental Europe, with the exception of France, which applies a mixed (double jus soli) regime. By 2001, jus sanguinis has become the most prevalent regime with 88 countries (54 percent), followed by jus soli with 39 (24 percent), and mixed regimes with 35 (22 percent). The increase in the share of jus sanguinis countries mostly manifests itself during the first sub-period through 1975, as is explained by adoption of this principle in several former African colonies. The expansion of mixed regimes is more recent and particularly marked in Europe, where they have been embraced both by formerly jus soli countries, such as the United Kingdom, and formerly jus sanguinis ones, such as Germany.

To summarize, the data reveal three patterns of transitional dynamics:

- Stability: some countries stick to their tradition, either a jus soli (e.g., the United States) or a jus sanguinis one (e.g., Switzerland).
- Inversion: some countries switch and this mainly occurs from jus soli to jus sanguinis (e.g., Sierra Leone).
- Convergence: some countries evolve toward a mixed system, either from a jus soli regime that they choose to restrict (e.g., the United Kingdom), or from a jus sanguinis regime that they mitigate with jus soli provisions (e.g., Germany).

Zooming in on Europe, by the end of the period, 20 of the 34 countries included in the dataset applied a mixed regime and 14 a jus sanguinis one, whereas jus soli was no longer adopted. In the past two decades, other reforms have been implemented. Ireland, which was still applying an almost pure version of jus soli (implying a potential for "citizenship tourism"), moved to a mixed regime in 2004. In 2006, Portugal introduced both double jus soli and jus soli for children of foreign residents. This combination had previously been enacted only by Belgium, whereas mixed regimes typically opt for either one. Double jus soli is adopted, for instance, in France, Luxembourg, and Spain, whereas jus soli for children of foreign residents appears in Germany, Ireland, and the United Kingdom. Greece went through a troubled period involving two reforms. A 2010 law encompassing both double jus soli and jus soli for children of foreign residents was enacted but never applied until a new 2015 law retained only the second provision.

The Citizenship Laws Dataset still represents the broadest attempt so far to capture the evolution of laws across the largest number of countries and over the longest time frame. In more recent years, a growing body of research has put forward additional classifications of the laws that regulate access to citizenship, often including finer degrees of differentiation, combining them with closely related measures of integration policies toward migrants. However, they only focus on the current legislation and keep track only of contemporary reforms. The main sources of current data are the following:

- The United States Law Library of Congress (2018) has compiled a list of 94 countries that grant citizenship by birth, with or without added conditions, as of 2018.
- The Global Citizenship Observatory (GLOBALCIT 2019) provides the Global Birthright Indicators database, with information on jus sanguinis and jus soli provisions for 177 countries as of 2016. GLOBALCIT is the successor of EUDO CITIZENSHIP, which provided the Citizenship Law Indicators (CITLAWS) for 42 European countries for 2011 and 2016 (EUDO CITIZENSHIP Observatory 2016; see also Bauböck and Vink 2013).
- The current edition of the Migrant Integration Policy Index (MIPEX), first published in 2004 by the British Council, in addition to access to nationality, covers indicators concerning seven other policy areas directed at the integration of migrants, namely labor market mobility, family reunion, education, political participation, permanent residence, anti-discrimination and health (see Huddleston et al. 2011).

WHAT DRIVES CHANGE

Within the socio-political sciences, several theories have aimed at explaining the dynamics of citizenship laws. The legal tradition of a country is considered a fundamental determinant of current laws, given the strong persistence of this type of institution. Immigration is also a potential primary cause of change. The effect of this factor is however a priori ambiguous. In fact, if on the one hand immigration can foster a more inclusive legislation toward newcomers through the adoption of jus soli elements, it can also induce restrictions in countries that start with an inclusive legislation. According to Weil (2001), the combination of these two opposing forces should induce convergence toward a mixed regime, whereas Bauböck et al. (2006) point to the de facto persistence of divergent trends and Goodman and Howard (2013) emphasize evidence of the surge of a restrictive backlash. Among other potential determinants, a role for the welfare state has also been recognized. Since citizenship can affect the ability to obtain benefits, in countries where the welfare state is more generous there may be a resistance to openness to foreigners (Joppke, 1998). However, in countries with low population growth, this consideration could be countered by the assessment of the potentially positive effect on the public finances of a relatively young immigrant workforce. Political factors can also come into play, since the presence of a consolidated democratic regime should favor the equal treatment of immigrants, and therefore the adoption of jus soli with the implied voting franchise. The stabilization of national borders should reduce the tendency to use jus sanguinis as a tool for defining a national identity, while a threat to their stability can produce opposite effects. As previously mentioned, such geo-political considerations turned out to be crucial in the face of two historical events that led to profound redefinitions of national borders: the period of decolonization that followed World War II and the collapse of the socialist system after the fall of the Berlin Wall. Cultural factors and a different view of the role of the state in establishing a national identity have also been proposed by Brubaker (1992) as an explanation for the different paths followed by France and Germany.

An empirical analysis of the role of the aforementioned factors is made possible by the Citizenship Laws Dataset, which covers the laws adopted by

Table 2

The Main Correlates of the Evolution of Citizenship Laws at Birth in the World in 1948–2001

Correlates	Effects on citizenship laws evolution		
	Exclusive	Inclusive	None
Legal tradition	√ (in jus sanguinis countries)	√ (in jus soli countries)	
Immigration	√ (in jus soli countries)	√ (in jus sanguinis countries)	
Degree of democracy		√	
Demographic stagnation		√	
Ethnic and religious conflicts	√		
Political borders instability	√		
Size of welfare state			√
Cultural diversity			√

Source: Elaboration on Bertocchi and Strozzi (2010).

the countries in the sample over a sufficiently long time frame (Bertocchi and Strozzi, 2010). As for the legacy of the previous legal tradition regarding citizenship, its persistent influence on current norms is confirmed by data. The potentially ambiguous impact of immigration reveals the prevalence of a restrictive impulse, since the data show that more immigration pushes countries toward jus sanguinis, rather than jus soli. However, the effect of immigration interacts in a complex way with that of the legal tradition. In other words, the impact of immigration depends on whether a country comes from a jus soli or sanguinis tradition. While jus soli countries react to immigration by integrating elements of jus sanguinis, jus sanguinis countries tend to do the opposite, even though the latter effect is milder so that the former prevails. Thus, the hypothesis of convergence toward a mixed regime as a result of immigration is hardly confirmed over the entire sample, and the evidence shows instead that the net effect of immigration is an impulse toward exclusion. Similar conclusions are suggested by Strozzi (2016) using the MIPEX index of access to nationality.

It should be emphasized that the above pattern regarding the effect of immigration may not hold true for the European case, in which a trend toward a broad convergence to mixed regimes is apparent in recent years, and possibly sustained by the concomitance of high degrees of democracy and geo-political stability. Indeed, the latter two factors are correlated with a more inclusive legislation. As for the other relevant factors, the size of the welfare state does not represent an obstacle to the greater inclusion of immigrants through the granting of citizenship through jus soli, possibly because many of the countries with expensive welfare systems experience a simultaneous demographic stagnation. Cultural diversity, measured with religious affiliations and ethno-linguistic fragmentation, does not exert a significant residual effect.

The main correlates of the observed evolution of citizenship laws and the direction of their effects are summarized in Table 2.

In conclusion, evidence documents that citizenship laws have responded endogenously and systematically to historical, economic and institutional factors. Innovative legal provisions have even been envisioned as a result. In recent years, a new conditional form of jus soli—known as jus culturae—has been contemplated, and sometimes adopted, in a few countries. This provision grants citizenship at a relatively early age to a child born in the destination country of an immigrant parent, provided that the child has attended (or completed) school in the destination county itself. While jus culturae actually represents a path to early naturalization through socialization, it can be likened to jus soli in terms of its effects. Examples of adoption of jus culturae, in varying combinations with more conventional legal provisions, are France, Latvia and Portugal, whereas Italy has been debating whether to mitigate its strongly jus sanguinis-oriented regime by adopting jus culturae. While a delay in the access to citizenship for children, in their formative years, may make a difference when compared to the effects of access at birth, jus culturae may represent a viable alternative to the latter in cases where a particularly restrictive legislation is combined with strong opposition to its relaxation.

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