



## The Case for Maintaining U.S. Birthright Citizenship

Zachary Elkins, The University of Texas at Austin

The German national election held in September of 2017 may have consolidated Angela Merkel's power, but a larger story was the success of Alternative for Germany, an anti-immigration party that won nearly 13 percent of the vote. A central plank in that party's platform promises to reverse the German nationality law that provides birthright citizenship for children of non-citizens. This kind of proposal is by no means limited to Alternative for Germany. In France, Marine Le Pen, a far-right leader of the National Front, ran a surprisingly successful campaign in 2017 by calling, in part, for French citizenship to be "inherited or merited" – not automatic. In the United States, similar ideas are popular among Republicans and even some Democrats; in fact, retired Senate Majority leader Harry Reid once introduced legislation to limit birthright citizenship.

What would be the effects of narrowing criteria for citizenship in the United States and elsewhere? Research I conducted with John Sides indicates that more restrictive citizenship policies could undermine national cohesiveness, making countries more prone to splinter.

### Comparing Citizenship Policies across Nations

Regulations about birthright citizenship vary considerably across countries. Among immigrant-receiving countries, U.S. law may well be the *most* generous. The United States is one of a dwindling number of countries that follow a place-of-birth approach to citizenship, often summarized as *jus soli* – that is, "the right of the soil" or the principle that birth on U.S. territory is sufficient to guarantee citizenship. In 1850, roughly 60% of countries enshrined a place-of-birth principle in their Constitutions, but today that percentage is closer to 40%. A contrasting approach called *jus sanguinis*, or "the right of blood," bases citizenship on inheritance, usually requiring that at least one parent to be a citizen for a child to gain citizenship by birth.

Even compared to other place-of-birth countries such as France, the United States is relatively generous. Most place-of-birth countries deny citizenship to the children of vacationers, students, the undocumented, and other temporary residents; and many place-of-birth countries admit a child without national parentage to citizenship only once he or she reaches the age of majority or has lived in the country for a substantial period. But because of Supreme Court rulings on the 14th amendment, anyone born on U.S. soil may attain citizenship immediately at birth. Still, certain U.S. judges have signaled willingness to interpret the 14th Amendment differently. If Congress were to enact legislation to tighten birthright citizenship, it is not at all clear how the Supreme Court would rule when faced with a challenge to the law's constitutionality.

### What Difference Does It Make?

Varying approaches to the children of non-citizens have consequences, some welcome and some less so. Critics of current U.S. laws decry so-called "birth tourism," where foreigners supposedly visit with the intention

of giving birth to U.S. citizens. A larger issue is that undocumented immigration may have fueled anti-immigrant attitudes and new ideas about citizenship.

Those considering changes to America's current place-of-birth approach should think carefully about how a simple and generous citizenship policy has shaped U.S. national identity. Whatever their differences in ethnicity and class, Americans live together relatively harmoniously and express the same high level of national attachment when asked survey questions like "How proud are you to be an American?" Whether White, Black, or Latino, roughly 70% of respondents answer "very proud." Such unity in response is remarkable, and very different from much more divided responses in countries like Israel and South Africa.

## Citizenship and National Unity

Does generous citizenship have something to do with America's unusual interethnic consensus about national pride? It is hard to tell, given that the United States has known only one policy throughout most of its history. But across countries with varying levels of inclusive citizenship an intriguing finding emerges. My co-author John Sides and I looked at 51 multiethnic countries with immigrant groups. Controlling for other relevant factors, we found that place-of-birth policies are associated with higher levels of national pride among immigrant citizens. Among citizen members of "recent immigrant" ethnic groups living in countries with citizenship by inheritance or blood, 48% are likely to say they are "very proud" of their country. By contrast 77% of the members of such groups living place-of-birth countries say they are very proud. Notably, we do not observe similar differences for members of non-immigrant minorities – and we would not expect citizenship policies to matter much to them. The fact that immigrant minorities, but not others, express more pride in countries with birthright citizenship lends credence to the idea that this form of citizenship can be a unifying force.

Although it is hard to establish that inclusive citizenship itself has fostered such remarkable unity, it makes sense. In any group, individuals can feel like outsiders, with dispiriting effects for them and the community. Granting automatic full membership to their children tells immigrant ethnic minorities that, whatever perceived and real discrimination they face, they are full-fledged Americans. This approach reinforces long-cherished national principles of inclusion and seems the most straightforward way to build community and avoid possible splintering.

Our evidence and reasoning suggest that the best answer to those who want imitate Alternative for Germany and Le Pen by backing off from birthright citizenship is a reminder that this move could bring long-term costs. Ironically, the kind of deep and widespread loyalty that ethno-nationalists admire might be severely eroded by a more restrictive U.S. citizenship policy. Americans should not take for granted the unifying effects of our modern citizenship law. In the notorious *Dred Scott* decision that helped to spark the U.S. Civil War, the Supreme Court famously decreed that the slave Scott was not entitled to rights because he was not a citizen. The 14th amendment rectified that unambiguously, elevating civic unity after the Civil War. Modern U.S. citizenship rules would seem to be a case of a Constitution doing what it is supposed to do – fostering the sort of inclusive community that inspires pride for most who within the nation's borders.