Global Campus Europe

University of Deusto

**European Master's Programme in Human Rights and Democratisation**
**A.Y. 2023/2024**

# On the Search for a Nationality

A Feminist and Postcolonial Perspective on the Ramifications of Statelessness for Children Born to Syrian Mothers in Germany

Author: Chiara Mongiello
Supervisor: David Fernandez Rojo

Word Count Declaration: 24.773

## Abstract

This thesis assesses the statelessness of children born to Syrian mothers in Germany through a feminist and postcolonial lens. By focusing on the German and Syrian Nationality Acts, and their historical creation, a holistic picture of colonial legacies is laid out. Employing desk research and theoretical analysis, the author identifies the insufficient research and attention as well as gaps in the field of statelessness.

The analysis reveals that French colonialism has shaped Syria's Nationality Act to be gender-discriminatory, preventing women from transferring their nationality outside of Syria, thus effectively leaving children born to Syrian mothers without a legally recognized father stateless. In addition to this, the German Nationality Act relies on jus sanguinis and limited jus soli, restricting children of foreign parents from gaining a German nationality, unless a parent has legally and permanently resided in Germany for a period of five years.

The findings portray the intersection of colonial legacies and nationality legislation. Furthermore, they showcase the failure of national and international law to support and protect the human rights of stateless children. Germany and Syria both fail to create awareness, administrative structures and recognition of statelessness. The findings further highlight the gender inequality that denies Syrian children their nationality. Finally, the thesis calls for sustainable development of support structures and amendments to the Nationality Acts to combat statelessness based on gender-discrimination.

## Abbreviations

| | |
|---|---|
| CEDAW | – Convention on the Elimination of Discrimination Against Women |
| CRC | – Convention on the Rights of the Child |
| GC | – General Comment |
| HRC | – Human Rights Committee |
| MENA | – Middle East and North Africa |
| Statelessness Conventions | – 1954 Convention on the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness |
| UN | – United Nations |
| UNHCR | – United Nations High Commissioner of Refugees |

**Table of Contents**

*1 Introduction* ..... *5*

*2 Feminism, Postcolonialism and Their Role in Statelessness Research* ..... *9*

**2.1 Is Nationality the Key to Accessing Human Rights?** ..... **12**

**2.2 Historical Implications of Nationality: Development over Time** ..... **17**

*3 Legal Landscape: The Creation of Statelessness* ..... *24*

**3.1 The Legal Gap between Nationality and Statelessness in Germany** ..... **25**

**3.2 The Legal Dimensions of Statelessness and Nationality in Syria** ..... **31**

**3.3 International Conventions: Tools to Fight Statelessness?** ..... **36**

3.3.1 The Rights of the Child: The Needs of Stateless Children ..... 38

3.3.2 The Intersection of Gender-Discrimination and Statelessness as Addressed by CEDAW ..... 40

3.3.3 The 1954 and 1961 Statelessness Conventions: Still Relevant? ..... 42

*4 Awareness and Action: Steps to Combat Statelessness* ..... *45*

**4.1 The Way Forward: Recommendations for Addressing Statelessness in Germany** ..... **47**

**4.2 Fighting Discrimination: Recommendations for Stateless Syrians in Exile** ..... **53**

*5 Conclusion* ..... *57*

*Bibliography* ..... *62*

# 1 Introduction

Migration has profoundly shaped the development of humankind and societies over centuries. It has taken different forms from forced migration through occupation, enhanced movement of skilled workers after the Second World War, or migration in form of seeking refuge from consequences of the climate crisis. As people are searching for a new place to reside in temporarily or call home more permanently European politics is being shaped and right-wing politicians have utilized the migration after the Arab Spring 2011 to spread anti-migrant sentiments (Nick Robinson, 2023). This contrasts with, Angela Merkel's "Wir schaffen das" (we can do it (Schlott, 2020)), in reference to accepting and welcoming thousands of refugees.

This has strongly shaped the welcoming of refugees in Germany around 2015. After the first months of young men dominating the refugee movement, the gender balance changed to a combination of men, women, some of them pregnant[1], and even children. In 2015, the number of women arriving in Europe had increased by 30% (Sturkenboom & Van Waas, 2016). The change in dynamics brought to light the role of gender-based violence, human trafficking, sexualisation and sexism in sending countries, along the route and in receiving countries like Germany (Bahous, 2022). This makes migration a feminist issue. but migration is also highly political and a major part of foreign politics affects migration flows and developments, making this topic relevant for feminist foreign policy, a strategy announced in countries like Germany in the past year (German Federal Foreign Office, 2023).

The Syrian Arab Republic has been shaped extensively by internal conflict and the colonial legacies from the French colonization in the 19th and 20th century. During this process, borders were arbitrarily set up and remain largely unchanged to this day. One could argue that migration and the political enhancement of migration are inherently rooted in former colonialisation and patriarchal structures within the Middle East and North Africa (MENA) region and to this day remains shaped by these, particularly their legal framework (Zantout, 2008). For this reason, the

[1] The author acknowledges that not only women but people who do not identify as women, can become pregnant. For the facility of the argument, the gender binary will be used in this thesis. In addition, the law and legal framework only recognizes the gender binary and does not consider queer identities and other gender forms outside of the binary. In the following chapters, the terms women and men will be used as recognized by German law, although this can be seen as not inclusive enough and to be updated to a more modern version of inclusive living that recognizes gender outside of the binary and within a queer space.

author considers it important to look at nationality and migration through a postcolonial[2] lens that allows for a closer look at the origin of national developments, migration and the influence of colonization.

Every nation has varying concepts of transferring nationality to new-borns. Two main concepts of nationality can be identified globally: jus soli, the right of the soil one is born on, and *jus sanguinis*, right of blood which can be understood as family lineage. Syria's legal framework allows the passing of nationality through paternal *jus sanguinis*, nationality by blood lineage of the father, a legacy of French colonization (Nationality Act [Syrian Arab Republic], 1969). Germany makes use of *jus sanguinis* as well, without differentiating between parents. In reference to migration and seeking refuge in exile, it is essential to understand that the nationality transfer can fall through, leaving the individual without a nationality (Nationality Act of 22 July 1913 (Reich Law Gazette I p. 583 - Federal Law Gazette III 102-1), as Last Amended by Article 1 of the Act of 12 August 2021 (Federal Law Gazette I p. 3538), 2021). Statelessness remains disregarded in the making of legislations and migration discourse. Furthermore, the mere existence of people without an effective nationality remains unclear, simply because no state feels responsible and numbers of affected people are unprecise or estimates (Vlieks, 2022). In reference to statelessness, states rely on the definition of UN Convention Relating to the Status of Stateless Persons from 1954 which defines a stateless person 'as a person who is not considered as a national by any state under the operation of its law' (UN Convention Relating to the Status of Stateless Persons, 1954, Article 1). In Germany, around 90.000 people can be considered *de facto* stateless, technically having a nationality but practically without any bond to a nation and thus *as if stateless* (Farinha, 2022). 60.000 people are *de jure* stateless, without a state responsible for the realisation of the individual's rights and lacking a bond to international law (see Chapter 2.1). The issue of statelessness is increased through Syrian children being born in Germany without their father and without being able to inherit their mother's nationality. This occurrence leaves the children stateless. Having to rely on estimates of international organisations, instead of nationally accounted numbers, shows the urgency of action for stateless persons.

Already in 1962, Paul Weis (2016), of the UN High Commissioner of Refugees, spoke about the long aim of overcoming statelessness. In recent decades, the United Nations has been

[2] It is important to acknowledge that the term postcolonial does not deny new or modern forms of colonization that have since spread around the globe.

acting on the issue of statelessness, having set the goal of a 'legal identity for all' in the Sustainable Development Goals Target 16.9 of providing everyone with a form of ID until 2030 (Mrkić & United Nations Legal Identity Expert Group, 2019). The #IBelong Campaign aimed at ending statelessness and achieving gender equality in all nationality laws until 2024 (UN High Commissioner for Refugees (UNHCR), 2022, p. 5) and the Council of Europe addressed statelessness in its action plan on protecting refugee and migrant children in Europe from 2017 to 2019 (Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe (2017-2019), 2017). Germany has only recently recognized the issue of statelessness, also due to advocacy work of Statefree e.V., and annotated the nationality law to enable naturalisation, the access to the nationality, after a legal permanent residence period of five instead of eight years.

Having received 560.000 Syrian refugees, Germany is one of the major receiving countries, besides Syria's neighbouring countries (UN High Commissioner for Refugees (UNHCR), 2021), Germany is hosting many refugees affected by gender discriminatory nationality laws from their home country (UN High Commissioner for Refugees (UNHCR), 2022; Van Waas & Albarazi, 2016). The author of this thesis grew up in Germany and gained first-hand experience with incoming refugees that lead her to further engagement with migration, human rights and national policies.

This thesis is addressing the situation of stateless children born to Syrian refugee mothers in Germany and investigated laws and colonial legacies as political reasons for statelessness. The hypothesis is raised how colonial legacies and laws are further creating the statelessness of these children in exile. This will lead to addressing the questions what actions Germany has taken so far. Hereby, two main objectives will be focussed on: firstly, the identification of legal foundations on which these children are becoming stateless. In this context, the author will analyse the German and Syrian nationality laws that enable and restrict the passing of nationality. This is especially relevant as the fifth amendment to the German nationality law of 1913 was realized in June 2024, thus questioning the prioritization of statelessness by the German government. Secondly, the historical and colonial context these nationality laws were created in are explored with the goal of providing a thorough understanding of the intersection between law and history. This includes looking into the colonization of the MENA region and the role of the Global North.

The author's contribution aims at highlighting the intersectionality and interconnectedness of historical developments and present phenomena that are affecting a vulnerable group that is

often overlooked. This is to create a wide and holistic picture that connects historical responsibility for colonialism with the need for awareness of the discrimination colonial legacies have left. Furthermore, the author aims to highlight the status of stateless people as a highly relevant and widely ignored topic in the discourse of migration and as a topic in itself. Raising the topic of statelessness as a focus point for action in the near future of policy developments is crucial for the human rights of more than 150.000 officially and not-officially recognized stateless persons in Germany alone (Farinha, 2022). The overall situation of having to rely on estimates of international organisations, instead of nationally accounted numbers, shows the urgency of action for stateless persons on a national and international level. Fundamentally, this thesis asks the reader to rethink stereotypes and consider a wider as well as feminist and postcolonial perspective.

The paper is structures as follows:

1. Introduction to the thematic framework of nationality and historical developments in Germany and Syria
2. The analysis of the legal framework and national legislations in Germany and Syria with an additional look on the role of international law and its conventions
3. An examination of the intersection of the historical and legal aspects that shape the livelihood of stateless children
4. Recommendations for both countries to address statelessness and its underlying roots

This thesis is built on the foundation of previous research done in the field of statelessness and will employ the method of desk research to navigate the topics of statelessness, nationhood and (discriminatory) nationality transfer. Throughout, a postcolonial and feminist lens will be employed to highlight the intersectionality of the issue of statelessness as well as the accumulation of vulnerabilities of the people affected.

The data collection for this thesis is done through literature research including academic and non-academic primary and secondary literature that provide a deeper look into the field and are deemed essential for the understanding of the topic of nationality, colonial impacts and, overall, the topic of stateless children born to Syrian refugee mothers in Germany. Here, sources will have varying approaches to the interdisciplinary field of nationality and migration and will be used in accordance to this.

Throughout the thesis, the individual topics will be explained in detail and analysed, bearing in mind the intersectionality and mutual dependency of the topics of child statelessness, nationality and colonial legacies. The previous research shows a strong focus on nationality within Europe in the last decades, specifically after the world wars and through the changes of borders based on state succession (Bertocchi & Strozzi, 2010). A lack of focus remains in the intersecting field of feminist and postcolonial approaches to statelessness. The results of century long foreign policy dominated by men highlight the exclusionary approaches that leave out women and children. Further gaps can be identified in the general discourse on statelessness, as it is dealt with as a matter of migration instead of an individual topic that can exist outside of migration contexts. Putting migration at the centre of the discourse would be inherently faulty and limiting, ignoring persons born into statelessness without movement.

Although aimed at a wide coverage of the field, the author has to recognize their limitations which can be considered the potential bias of selecting and implementing resources themselves, as well as the choice and interpretation previously made by other scholars. Furthermore, the availability and accessibility of sources can be a limitation for this thesis and its arguments, especially as the field of statelessness remains small. Nevertheless, the author aims at combatting this through research, critical thinking and usage of a wide variety of authors form opposing schools of thought and geographic origin. Additionally, the choice of sources will be examined through a gender-sensitive lens and an attempt will be made to include diverse scholars from non-European countries to widen the discourse and prevent a Eurocentric perspective or bias.

## 2 Feminism, Postcolonialism and Their Role in Statelessness Research

Research and publications on the topic of statelessness are usually implemented and viewed as part of the field of migration and refuge-seeking. Authors like Van Waas and Edwards (2014) have stood up for the topic of statelessness and its independence from other categories, based on its inclusion of many diverse aspects, like nationality, colonial consequences and discrimination, that need to be viewed separately from migration. The separation from migration is most notable in the occurrence of statelessness without migration experiences or any movement of the affected person previously to being stateless. Statelessness is addressed by three categories of actors: political

actors that influence legislations, international organizations that act as advocators or enablers of international law, and researchers. Outside of these spheres, statelessness is often overlooked, ignored or deemed invisible. And even within the political region, statelessness keeps being left out of relevant conversations.

This chapter attempts to provide a thematical framework on the topics of nationality, the creation of statelessness and the historical formation of these concepts. Hereby, the history sometimes connects the countries of what is nowadays called Germany and the Syrian Arab Republic. In times when the history is separated, the individual history will be looked upon, to provide a holistic picture and see in which ways the shared and individual history of the countries has influenced each other.

Statelessness first gained attention in the middle of the 20th century through the arbitrary removal of nationality from Jews, Roma, homosexual people and other groups by the Nazis. This was aimed at the exclusion of these 'unwanted groups' from Germany and to 'clean' the German nationality (Goris et al., 2018). Hannah Arendt emerged as one of the most powerful voices and laid out how nationality is not only something that is a right or can be granted but a political power and a state of belonging that goes further than just having a form of identification (Arendt, 1958). Developments after World War two, like the migration of guest workers, the division of Germany into FRG and DDR as well as the collapse of Yugoslavia and the USSR impacted the community of stateless persons. In fact, specifically the movement of borders created a rise in stateless persons. Bertocchi and Strozzi (2010) strongly highlight how these developments within Europe and colonization around the world have actively developed statelessness, pointing to historical developments as vital for understanding nationality regulations.

Since the early 2010s and the increase of refugees in Europe, the topic of statelessness has taken up more space. Laura Van Waas is known to not only be one of the most relevant researchers in the field of child statelessness, but together with De Chickera, she is also the Co-founder of the Statelessness and Inclusion Institute, which contributes essential research to the global field of statelessness. In her own research she showcases how international law shapes statelessness (Edwards & Van Waas, 2014) through international conventions and the, sometimes faulty, implementation thereof. In cooperation with Sturkenboom, Van Waas (2016) addresses the question if there is a risk of a stateless generation through movement and the little attention that is given to combatting the issue. The authors agree that the risk for a stateless generation is rather limited,

though numbers are rising which raises the question of when one could speak about a stateless generation. It further leaves out of sight if we could speak about a stateless generation of new-born Syrian refugee children in Germany, as statelessness for children born to Syrian refugee mothers is a reoccurring phenomenon, although statistics are difficult to provide. Together with Albarazi, Van Waas (2016) addresses the development of statelessness in the MENA region, specifically in which ways gender is an important aspect to regard in national legislations, to which this thesis specifically connects. Zantout (2008) follows the criticism of gender-discriminating nationality laws, providing a thorough outlook on how historical developments like the colonization of the MENA region have created a strongly gendered and inequal approach, which is nowadays partially enabling statelessness. Discriminatory provisions bear the legacies of European colonisation and its attempt to educate the Global South highlights Benslama-Dabdoub (2021). Through the decades of occupation and colonization, the culture, education, stereotypes were all strongly influenced and shaped with European ideas, which are not as established in Europe anymore but keep impacting the previously colonized regions. Here, it is important to keep a balance in mind between finding the roots of colonialism as striking the overall development, as well as the political climate in Syria to be continuing of the discrimination.

The discrimination, specifically gender discrimination, is raised by Brennan (2019) as a topic that lacks attention. Furthermore, the topic remains compartmentalized in conventions like CEDAW, instead of being mainstreamed throughout international law and legislations. Edwards and Van Waas (2014) underline this sentiment by stating that the topic of statelessness is inherently feminist. Brennan (2020) argues for a feminist perspective as well with gender equality at the heart of combatting statelessness. Furthermore, she warns that the compartmentalization of women and children's rights might lead to an infantilized perspective on women, demanding a separation of the fight against child statelessness and the fight for women's rights (Brennan, 2020), although inherently connected and potentially difficult to fully treat separately, for example in the case of the right to pass on your nationality to your child.

Besides researchers, several international organizations have taken upon themselves the work of researching statelessness of children. The most prevalent one being the United Nations High Commissioner of Refugees (UNHCR) which has implemented several campaigns, the most recent being the #IBelong campaign for stateless children, attempting to highlight the issue and advocate for the children on national and international level. Through blogposts and reports the

European Network on Statelessness is another vital source as it not only covers recent developments but gives simple access to the topic with focus being set on individual countries and their developments. Here, Germany is thoroughly addressed as not doing enough to combat statelessness. More specifically focused on Syria, the Independent Commission on the Inquiry of the Syrian Arab Republic (2023) has published reports highlighting the state of gendered violence and the impact of the conflict on women and girls through a gender sensitive lens, which includes the issue of statelessness. Finally, the Human Rights Council's Universal Periodic Reviews have addressed the status of stateless children and given recommendations on the matter not only for Germany and Syria, but widely in the European and MENA region.

## 2.1 Is Nationality the Key to Accessing Human Rights?

In order to thoroughly define statelessness and the lack of a nationality, it is helpful to recognize what nationality is and how it impacts a person's standing not only on a local but international level before the state, society and international law. This subchapter aims at providing the theoretical framework for the concept of nationality and the consequences one suffers without a nationality.

Nationality can be considered a man-made[3] concept that determines the legal status of or the bond between an individual and a state (Brennan, 2019). As Weis (2016) puts it, the different scholars in international law vary in their opinion between the meaning of nationality, but in most definitions, nationality determines the standing of an individual before international law and the state, thus has an influence on the legal status as it creates a legal personality for the individual. Furthermore, nationality is seen as a legal institution that enables membership (Brubaker, 1992) and 'the associated rights and duties' (Bertocchi & Strozzi, 2010, p. 96). This thesis defines nationality as the bond between individual and state that enables a legal status and standing within international and national law as well as the membership within a society and the relevant rights and duties aligned with it.

[3] The author specifically chooses the term 'man-made' instead of the gender-neutral term 'human-made' as the political decisions impacting nationality did not involve women or any other gender besides men at that time.

Some scholars differentiate between the terms citizenship and nationality, but as this is not done within legal fields and not considered by international law, the potential differences are irrelevant (Weis, 2016) and this thesis will use the terms interchangeably.

The purpose of nationalities and the bond that comes with it are multilevel. For states, nationality clearly signals who falls into the jurisdiction of the state and needs to be recognized. Furthermore, the state can use nationality as a tool to control the flow and development of its population through strict or relaxed nationality laws. This bears a risk of misuse and discrimination as actions of past governments have shown that, for example, expelled former citizen after border changes (Goris et al., 2018). For the citizen, the purpose of a nationality is protection, the realization of rights and being able to address the state as an actor as well as make use of their own right, for example voting in a democratic state. The established bond between state and individual then brings with it obligations for the state to realize, and duties for the individuals to fulfil. Article 15 of the Universal Declaration of Human Rights does provide the right to a nationality very simply, and further specifies that 'no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality'(Universal Declaration of Human Rights, 1948, p. 4), this does not lay out obligations or action steps for the state. Obligations for the state can include, but are not limited to, the realisation for the individual's rights and protection and are laid out in international law and the binding conventions and treaties a state has ratified and joined. For this reason, nationality enables access to rights as well as international law which acts as the foundation for the realisation of further rights with its according mechanism (De Schutter, 2019).

Nationality as a concept is not only influential on the bond a person has but scholars like Hannah Arendt (1958) have considered it the right to have rights and the basis for further rights and their realization. On the topic of realisation of rights, it is important to note that there are negative and positive rights, meaning that some rights are based on the mere humanity of individuals and merely need an abstaining of any actor to be fulfilled, whilst other rights need an active engagement and work of actors to be realized. For the negative right that relies on the lack of interference, non-discrimination could be a fitting example. There are varying theories on the granting and receiving of human rights. The natural rights theory underlines that rights are and should be accessible on the most natural state of an individual (Somers, 2010) which would grant everyone any right based on their existence. Somers (2010) on the other hand lays out how rights are granted and enabled through recognition by an actor like the state, through which a connection

and attachment are formed. Hannah Arendt (1958) relies on the idea that there are two sets of rights in which the primary one needs to be enabled for the secondary one to come into play. This concept of categorization and in a sense, classification has earned criticism by other scholars, thinking that rights should not be ranked but equal. Although an academic discussion, the practice of human rights delivers additional aspects, as the CEDAW Committee stating that 'nationality is critical to full participation in society' (UN Committee on the Elimination of Discrimination Against Women (CEDAW), 1994), feeding into the discourse of some rights being based on others. Edwards and Van Waas (2014) name a similar argument as they highlight how specific rights can only be provided through the bond that nationality and citizenship form, thus further rights being based on the right to a nationality. Based on the distinction of national and non-national, the general assembly of the UN (*General Assembly Declaration on the Rights of People Who Are Not Nationals of the Country in Which They Live*, 1985) has declared that a state can generally treat individuals differently. Furthermore, with nationality, a person can be granted further privileges that are not fundamental parts of nationality itself but access through it, for example running for president in the United States is enabled through nationality by birth (Edwards & Van Waas, 2014).

Duties for the individual are identified and laid out by the state, thus they vary vastly and can change over time with the needs and wants of the state. They can take different shape and form depending on the age and ability of a person, but mostly include the paying of taxes, or for younger citizens, the visiting of an education facility. In the case of Germany, until 2011, military training for more than six months was a required duty for male citizen that had finished school or reached majority. A concept that is currently debated to be reintroduced (Bundestag, 2011). Other states like Finland still have a compulsory military training (Kauranen, 2023). The fulfilment of one's duties is necessary for the maintaining of citizenship, although exemptions can be made on an individual basis. Fulfilling another state's duties, like participating in military training for a different state, can result in revoking one's citizenship and nationality (Edwards & Van Waas, 2014). For this reason, one could say that the duties for a citizen are the rules of participation for the game of having a recognized identity and protected rights as well as the bond with the state (De Schutter, 2019).

After having defined what a person with a nationality is and how nationality shapes life, it is important to regard what the lack of a nationality entails. Someone who is not officially recognized by any state as its citizen is officially called stateless. The most commonly used definition is

the one of the 1954 Convention on the Status of Stateless Persons. It defines someone without a nationality as "a person who is not considered as a national by any state under the operation of its law" (UN Convention Relating to the Status of Stateless Persons, 1954). This definition since has acquired customary status and is widely recognized (International Law Commission, 2006, p. 49). De Schutter (2019, p. 706) describes a person without a nationality as a someone of 'harmed human dignity' and highlights the case of the Girls Yean and Bosico v Dominican Republic (September 2005) in which the Inter-American Court of Human Rights rules that 'a stateless person, *ex definitio*, does not have recognized juridical personality, because he has not established a juridical and political connection with any State'. Weis describes a person without a nationality as living in an 'international law vacuum' (2016, p. 4 translated by author).

It can be differentiated between *de facto* and *de jure* statelessness. The first describes the state of experiencing consequences of statelessness whilst having a nationality. It is the state of being without an effective and working nationality that would protect and grant an individual rights, whilst not being stateless on paper (Edwards & Van Waas, 2014). *De jure* statelessness defines the actual lack of a nationality as a whole and the effect that results from this (Farinha, 2022). The thesis will focus on *de jure* statelessness as other forms are not specified within national or international law, thus harder to label and address.

The question can be raised how a person reaches the point of not being recognized by any state as its citizen. This can have a plethora of reasons that, in many cases, can be caused or be in themselves compounding effects of discrimination and vulnerabilities. Movement and migration are the most common cause for statelessness but have to be combined with either discriminatory laws, lack of identifying documents or lack of access to result in statelessness. Another cause is state succession which Weis (2016) considers to be one of the main producers of statelessness as it creates large amounts of stateless people at once and can create generational effects of statelessness. The most recent changes of borders within Europe that produced long-lasting statelessness, even to this day, were the collapse of the USSR, Czechoslovakia and Yugoslavia. Eastern countries like Estonia and Latvia still have major stateless populations because the new governments did not recognize former citizens as their own, oftentimes on the basis of ethnicity or religion, thus discriminatory. This creation of statelessness does not involve any movement, just a change in national legislations and government. It is important to note that statelessness is different from the field of migration based on its creation without movement. Becoming stateless without any active

action by the individual, be it movement, registration, denouncing of a nationality, is the crucial point of this thematic. Further causes for statelessness can include barriers to birth registration, general lack of access or the generational inheritance of statelessness (Edwards & Van Waas, 2014; Sturkenboom & Van Waas, 2016). These causes can be influenced by a plethora of individual changes, vulnerabilities or discrimination.

The previous paragraphs have described how nationality and citizenship are shaping lives of individuals, actions of the state, and bonds between both parties. In the next paragraphs, the way nationality is transferred will be discussed to specifically show where issues can arise in the transferral process. Two main forms of nationality transferring can be identified internationally with a possibility of combining the two in provisional or limited ways to enhance the access and lower the potential gaps that could increase statelessness. A highly used concept outside of Europe is the *jus soli* principle, commonly called the law of the soil, in which the nationality is transferred based on the soil on is born on. The territorial aspect here is very clear and leading for the transfer, the nationality of parents or family members is obsolete. (Edwards & Van Waas, 2014) Latin America is renowned for widely using this concept and has been listed as one of the areas of the world that is close to eradicating statelessness, through the open and accessible nationality transferral. This has raised the debate if a change to *jus soli* provisions worldwide, although unrealistic, would lead to successfully overcoming statelessness (Becker, 2015). For the exact reason of its nationality transferral, Latin America has experienced so-called birth migration, most recently from Russian women after the invasion of Ukraine, who are close to their estimated due date. Giving birth in a country with *jus soli* provision enables simple access to a new nationality for the child and in extension also for the parents, in this case preferable as the Russian passport has been limited by travel restrictions (Gozzi, 2023).

The other widely used concept for nationality transfer is the *jus sanguinis* principle, the transfer through direct lineage and blood. This previously had the purpose of keeping a clean lineage and having clear control over the feudal system. The *jus sanguinis* principle is more restrictive and regulated as only parents can transfer it to their children, for this reason, Europe has been preferring this concept for decades, and since 2004, when Ireland abolished its *jus soli* provision, all of Europe has using the *jus sanguinis* principle (Van Waas & Albarazi, 2016). When looking at nationality transfer globally, it is recognizable that many country that have *jus sanguinis* provision restrict these through a gender limitation: paternal *jus sanguinis*, the passing of the nationality only

through the father, is enacted in 27 countries like Syria, the Iran or Nepal (Edwards & Van Waas, 2014; Van Waas et al., 2017). This discriminatory aspect of the *jus sanguinis* principle has been strongly criticized in international law and is prohibited on the basis of non-discrimination of gender, nevertheless remains in nationality acts around the world, causing statelessness and compounded discrimination (Convention on Elimination of Discrimination of Women (CEDAW), 1979; Universal Declaration of Human Rights, 1948). The Conventions on statelessness from 1954 and 1961 do not provide a restriction on gender discrimination or mention gender in any form. As Beninger and Manjoo (2022) elaborate, the conventions are a product of their time and not shaped in a gender sensitive way, also visible through the sole usage of the male pronouns in the text. Nevertheless, several UN bodies have since highlighted the need to regard older conventions from a modern perspective and interpretation (Beninger & Manjoo, 2022; Brennan, 2019).

For individuals moving to a new country that they do not possess the nationality of, the principle of *jus domicili* enables access to nationality under certain conditions. This act can be called naturalisation and is purely voluntary, based on a personal application (Weis, 2016). Here, the states vary strongly in their approaches and requirements. Generally, states ask for a long amount of time as legal residents in the state's territory, a level of language knowledge and some form of integration into society. Furthermore, no involvement in another state's military or armed forces is a common prerequisite. In Germany, until 2023, migrants had to reside as legal residents within the country for 8 years. This is addressed in a new amendment of the nationality act (Entwurf eines Gesetzes zur Modernisierung des Staatsangehörigkeitsrechts (StARModG), n.d.). Countries like Germany or the United States of America further require what Edwards and Van Waas (2014, p. 18) call proof of 'allegiance to the state' which takes place through a citizenship test or a military service. Others have the requirement of giving up all previous nationalities, resulting in only having only the new nationality (Edwards & Van Waas, 2014).

## 2.2 Historical Implications of Nationality: Development over Time

To understand today's laws on nationality and passing on of citizenship, one has to look at the development of the rule of law within Europe and internationally, not only in modern days context but in relation to international historical developments and the overall form of society in the past.

For this reason, this chapter will briefly lay out the historical context of nationality and nation formation to show which historical developments bear a long-term impact on the passing of nationality.

For a state to establish nationality laws that then can be analysed, the state first needs to come into existence which requires a 'permanent population (…and) at that moment, an 'original' body of nationals' (Van Waas & Albarazi, 2016, p. 55) and a certain territory. This oftentimes took place based on residence, like after the colonisation and reestablishment of states in the Middle Eastern Region.

Scholars' opinions vary as to when exactly the birth of nation states took place, it could even be debated if it is sensible to pinpoint one event or timeframe in history or to rather ask which events have created supporting conditions for borders and sovereignty to be *accepted*. The Magna Carta (1215), the Peace of Westphalia (1648), the French Revolution (1789) and the involvement of Napoleon are widely named examples for influencing and impacting the creation of sovereign states through the establishment of clear borders (Brennan, 2020; *Peace of Westphalia*, 2024). The French revolution specifically transformed freedoms of the people, established clear external frontiers and constructed a political as well as juridical foundation (Brubaker, 1992; Sredanovic, 2017). These developments already neglected the rights of women and left them as 'citoyennes passives' (Brennan, 2020, p. 47) which caused feminists like Olympe de Gouges (1791) to demand equality before the law. Nevertheless, this did not similarly affect the neighbouring or closer located regions: the British law did not include the term 'citizenship' in its nationality act until the year of 1948 (Sredanovic, 2017). Nowadays Germany on the other hand, did not experience something comparable to the French revolution and developed all aspects like the individual freedoms covered by the French revolution, rather independently. Furthermore, the German nation state with its political system and nationality concept as known today was only recently formed in 1971 (Brubaker, 1992).

Nevertheless, one has to look at the historical developments shaping the frameworks on an international level to understand statelessness of children with Syrian origin. In the 18$^{th}$ Century, the concept of *jus soli* was vastly spread in Europe to create a bond between people, feudal traditions and their landlord, which would enable them to have stronger control over the people living on their land. With the French Revolution and the Civil Code of 1804 the 'Roman custom of *jus sanguinis*'(Bertocchi & Strozzi, 2010, p. 99) was reintroduced and later in the 19$^{th}$ century

transported into primarily British and French colonies. With Napoléon Bonaparte's conquests, the Code Civil and the Metric System were spread around the region (Sredanovic, 2017) and later the nationality concept of *jus sanguinis* as well (Bertocchi & Strozzi, 2010). The first was described as the 'real culprit (and) once great symbol of modernization' (Zantout, 2008, p. 1) as it decreased a woman's position and limited her to a status similar to a minor, criminal or mentally ill person (Zantout, 2008). France during that time achieved what Sredanovic (2017) calls a hegemonic status which led to the copying of its systems and the power of France to spread these structures to regions deemed inferior. As *jus sanguinis* was spread around Europe, it was also further transported into European colonies, specifically British and French ones, as 'colonization had extended the process of transplantation of legal traditions to the rest of the world'(Bertocchi & Strozzi, 2010, p. 99). Nationality was used not only as a mere way of spreading what was considered culture to the uncultured populations (Davis, 1996) but to manifest status and hierarchy within the region, thus securing the colonizers position (Sredanovic, 2017).

In Germany, the Wilhelminian citizenship law of 1913 established the *jus sanguinis* provision which enabled migrants overseas to pass on nationality to their children (Bertocchi & Strozzi, 2010). The nationality law put in place in 1913 remains the nationality act that is used today, with four amendments having taken place since the 2000s, the most recent one during 2021, and a new one currently being created to come into effect on 24th July 2024. During the Third Reich, Hitler and the Nazi regime used nationality as a tool for exclusion and to create the feeling of belonging to shape the idea of good Germans and exclude unwanted groups like the Jews, LGBTQ+ and Roma people. With the '11. Verordnung zum Reichsbürgergesetz' from the 25th December 1941 German citizenship was renounced from these groups. (Weis, 2016). These categorical deprivations of nationality, in the end, led to the international agreement of a need for international regulations. This enabled the creation of the Conventions on Statelessness in 1954 and 1961, that specifically address arbitrary deprivation of nationality, and the creation of stateless people. The conventions are nowadays considered the 'main human rights treaty dealing with the protections and freedoms of stateless persons' (Benslama-Dabdoub, 2021, p. 20). The arbitrary removal of nationality is nowadays prohibited through many documents of international law as well as the German basic law (Weis, 2016).

After the Second World War and the division of Germany by the allied forces, migration and guest workers shaped the area. To this day guest workers have effect on the citizenship policy

through possibilities and demands for accessible naturalization. In 2024, guest workers and former contract workers are still highly addressed in amendments to the nationality act and the process of naturalization, as many have stayed in Germany (Federal Ministry for the Interior and Community, 2023). Generally speaking within Central Europe, during the post-war period, citizenship went through a process of 'continuous adaptation in conjunction with decolonization, the collapse of the social system and the mounting pressure of international migration' (Bertocchi & Strozzi, 2010, p. 99). In Germany, with the Berlin Wall dividing Berlin and Eastern states from the Western part of the country, the paradox situation of 'foreigners born on the own soil and (…) millions of ethnic Germans living behind the Iron curtain' (Bertocchi & Strozzi, 2010, p. 102) was created. Nevertheless, the Berlin Wall established a stable, impermeable national border until its removal and the reunification in 1989. Shortly after, in 1990, the citizenship law was amended and implemented possibilities for naturalization of foreigners. Later, in 1999, an extension with the *jus soli* provision that enabled access to the German nationality, if a parent had lived in Germany as a legal resident for a period of 8 years (Federal Foreign Office, 2022). This provision remained within the law until a fifth amending act was passed in 2023 to shorten the time period to five years (Gesetz Zur Modernisierung Des Staatsangehörigkeitsrecht, 2024). In recent years, in the early 2000s, migration has had a strong impact on citizenship legislations around the European continent. As Bertocchi and Strozzi (2010) highlight, migratory pressure results in restrictions within citizenship policies and a movement towards *jus sanguinis*, vice versa, the lack or reduction of migration pressure does not automatically result in a movement towards *jus soli* or a relaxation of current legislations. This development was seen around Europe and Ireland, as the last country of having a full *jus soli* provision, abolished this system in 2004, leaving Europe under a full *jus sanguinis* provision (with individual adaptations of provisional *jus soli* additions) (Becker, 2015).

The history and the citizenship regulations of countries previously colonized and shaped by foreign powers is considered 'far more complicated than those of non-colonized states' (Sredanovic, 2017, p. 4) as shows the example of Syria and its history of occupation through the Ottoman empire and colonization by France. What is today known as Syria or officially the Syrian Arab Republic, has gone through transformative changes in the past that can be considered reasons and origin for its current borders, legislations and political state.

For almost four centuries, from 1516 to 1918, Syria, as many other countries of the Middle East, belonged to the Ottoman empire which is nowadays considered occupation instead of

colonization because the goals were merely to profit of the region or in military aspects and not to imprint a certain culture, language or religion on the population in dominant ways (Benslama-Dabdoub, 2021). During this time, women in the region were granted rights that women in Europe were not privileged enough to have as they enjoyed a 'relatively independent civil status and full legal capacity (Zantout, 2008, p. 2). This time was very vital for the first development of citizenship laws, a much earlier process than in Europe. In 1825, the citizenship law was passed that allowed women to transfer their nationality to their children if born on Ottoman soil (Zantout, 2008). Later on the Ottoman citizenship law was passed in 1869, also called Tabilyet-I Osmanive Kannunnamesi, which allowed the passing of nationality from the parents to the child and the acquisition of the nationality through application or naturalization after a residence period of five years (Van Waas & Albarazi, 2016).

The allied forces, specifically France and Britain had the aim of defeating the Ottoman Empire and approached the Arabic speaking population for their support. As they had gotten tired of foreign rule and wanted independence for some time, the allies promised them independence on the basis of their collaboration in fighting the Ottomans. Before the Ottoman occupation ended, the Anglo-French alliance drew up artificial borders and split the region without any regard to identity or nationality in the secret Skyes-Picot Agreement in 1916. When the Ottoman Empire was finally defeated in 1918, the French took *de facto* control over the newly created region and borders that nowadays is considered Syria for the next two years. Nevertheless, in 1920, the Syrian national congress and the Syrian people declared independence for the first time with democratic and equal characteristics (Benslama-Dabdoub, 2021). This period was very short-lived as the San Remo conference of the British and French declared 'mandates over politically backwards people' (Benslama-Dabdoub, 2021, p. 11) and took over the Middle Eastern territories in 1922, approved by the League of Nations (Davis, 1996). This occupation of the Syrian and Lebanese territory by France and of Jordan, Israel and Palestine by British forces aimed for civilizing the 'inferior, uncivilized, incapable of administrating themselves' (Benslama-Dabdoub, 2021, p. 11).

Merely a year after colonization had officially started, the Treaty of Lausanne established everyone on the territory as an officially Syrian citizen (Davis, 1996), thus having a permanent population, a vital step for the creation of an official state (Van Waas & Albarazi, 2016), which in this case remains to neglect the mismatch of identity and nationality that had started with the artificial borders drawn up by the allies previously. The former European colonizing powers thus liked

nationality to residence and brought with it the concept of the nation state (Benslama-Dabdoub, 2021).

Further, the French high commissioner later laid out a framework governing the nationality transfer heavily inspired by French law, in arrêtés, legal publications by the French executive power. Arrêté 16/S n114 Art1 established the concept of paternal *jus sanguinis* that can still be found in Syria and widely spread in the region (Benslama-Dabdoub, 2021). Although this period of French occupation remained for two decades only and ended with the founding of the Syrian Republic and elections in 1943, the impact it had had on the establishment of citizenship laws was tremendous. Shukri Al-Quwatli was elected the first president (Davis, 1996) and the last French soldier left Syria in on 17th of April 1946, the official day of independence still celebrated today (Benslama-Dabdoub, 2021).

In many countries, specifically in Latin America, the end of colonization resulted in a reversal or distancing of the colonial systems and a change in citizenship concepts to break with colonial legacies, this took not place within the Middle Eastern region (Bertocchi & Strozzi, 2010). Decolonization or the process thereof, can also increase instability within the current structure and the borders through a whole reorientation of the region. As Bertocchi and Strozzi (2010) noted, the aspect of border stability is crucial for shaping the citizenship law.

The coming years after official independence showed strong instability within the country and of its borders with nine coup d'états from 1949 to 1970 when Hafiz Al-Assad was established as President who was later succeeded by his son Bashar Al-Assad, the current president of Syria. With the rise of the Ba'ath party and the Assad family, the rule of Sharia law was integrated and remains as a part of the Syrian Arab Republic today, specifically in rebel-held areas of the state (Kelly & Breslin, 2010). In 1963 when the Ba'ath party came to power, they called out a state of emergency, manifested through the emergency law (Legislative Decree 51) that enables the prime minister and the interior minister with the power to restrict and limit basic human right, which led to the enactment of arbitrary actions (Human Rights Watch, 2007). The justification of this emergency state, that remains in effect, is the potential danger and threat of war since the creation of the state of Israel in 1948 (Human Rights Watch, 2007). The United Nations Human rights Committee strongly criticized this emergency state and the lack of 'convincing explanations being given as to the relevance of these derogations to the conflict with Israel' (UN Human Rights

Committee, 2005, p. 2) whilst Kelly and Breslin (2010, p. 4) state that the emergency law has 'eclipsed many legal protections offered by the constitution'.

During the period from 1949-1970, Syria had been part of the Unified Arab State (1946), with the goal to express pan-Arabism and cooperate on basis of shared identity, the United Arab Republic (UAR, 1958-1961) and later an independent state (1961) (Benslama-Dabdoub, 2021; Davis, 1996). This succession of the UAR did not cause a major creation of stateless persons as many state successions in European history have. Nevertheless, statelessness was created through a one-day population census in a region predominantly populated by the Kurdish community which led to a mass exclusion of this group from the Syrian nationality. Later in 2011, this population group participated strongly in protests against the government. To lower this participation, around 79.000 Kurds were offered the Syrian nationality (Van Waas & Albarazi, 2016).

Throughout the different states of the Syrian Arab Republic, the national legislation was shaped, thus different versions were established in 1951, 1958, 1961, 1969, 1973 and the most recent one in 2012. This newest constitution came through pressure of the population to remove the Ba'ath party as leading state party and responsible to nominate the president. This was enacted through the 2012 constitution and the removal of Article 8 of the 1973 constitution. Besides this change, many aspects of the 1973 constitution remained unchanged (Ziadeh, 2017). Article 48 of the 1973 constitution establishes that nationality is regulated through a legislative act, which to this day still includes the gender-based law directly resulting from patriarchal laws introduced by the French colonial administration with its arrêtés during colonization. The nationality act is further described in chapter 3.2. The French themselves based their own concept of nationality on the rule on *patria potestas*, the power of the father, until 1973 (Benslama-Dabdoub, 2021).

Activism and the political debate ignited mostly by the Syrian Women's League, sparked the conversation and demand for a reform of the discriminatory legislation on nationality. This resulted in an official vote of the Syrian parliament on the right of women to confer nationality to their children, in 2008. The vote did not turn out in favor for the change and the government highlighted again, that the 'children's identity derives from the father's name and nationality' (Albarazi, 2021, p. 14) on the basis of Shari'a law. A similar request was made in 2009 with an initiative of the Women's League which turned out to be unsuccessful. Nevertheless, in 2010 a new initiative was started but the conflict and political instability interrupted this discourse inside of Syria, thus leaving gender inequality as part of the nationality legislation (Albarazi, 2021).

While both countries developed their legal framework of nationality transferal, the international community founded the United Nations after the second world war, with the goal of creating a foundation for realizing universal human rights and protecting the world from similar harm as the previous war. The participating countries at that time were strongly representing what would nowadays be considered the West. In that time, and some authors would argue that to this day, many of the member countries were contributing to global inequality, (modern) slavery or the continuation of colonial relations, whilst standing up for the realization of universal human rights.

This historic development shows the impact the imperial, colonial and occupational events have had on modern day nationality laws in Syria and the Middle Eastern region. Whilst women had relatively liberal rights during the Ottoman Empire, the French colonization brough patriarchal laws with its European civilization process. It shows how modern patriarchal structures are an 'extricable part of racism and brutality of colonialism' (Benslama-Dabdoub, 2021, p. 20) as well as an 'adoption of archaic Western laws and principles' (Zantout, 2008, p. 3). This has since been overthrown in the West but remains intact in its former colonies. This further underlines the need for a postcolonial and feminist centered perspective on statelessness and gender-discriminatory laws.

The developments further highlight that there are tendencies and initiatives within the Syrian Arab Republic to change discriminatory laws, but the current system does not support these changes. It can be debated whether the Baa'th party does not want to change the status quo and risk losing of their power, or if the presence of Shari'a law is more dominating in the discriminatory legislation.

# 3 Legal Landscape: The Creation of Statelessness

Statelessness is a human-made creation through deficient and patchy nationality laws that, by accident or on purpose, leave out groups or individuals. The following chapters will first address the German nationality law and the changes that have taken place with *jus soli* being added in the early 2000s. Further, the developments of the German nationality law in June 2024 are critically highlighted in regards to their impact on statelessness. It will be explained in which ways nationality is transferred to new-born children and how nationality can be acquired at birth or later for

children of parents with a non-German nationality. Afterwards, the Syrian nationality law is introduced with perspectives on the influence of Shari'a and national law. Here, a focus will be added to the equality of women and men before the law in regards to family and conferring one's nationality. The third subchapter will address international conventions that are relevant to the case of stateless children born to Syrian refugee mothers in Germany. Here, it will be analysed if the treaties have been abided by or violated and what consequences are coming from this.

The aim of the chapter is to lay the foundation for the legal understanding of statelessness, built upon the previous chapters that have introduced the general concept of nationality (Chapter Chapter 2.1) and the historical framework (Chapter 2.2) that has been established.

The national laws and legislations are primarily addressed because they are the most impactful and enforced as state have created them themselves. International Conventions and international law are good tools to underline important topics or phenomena, but are not always followed and violations rarely punished effectively. Additionally, international law cannot provide a nationality to children or guarantee the protection of their rights, but merely require states to do this. For this reason, national law is given priority.

## 3.1 The Legal Gap between Nationality and Statelessness in Germany

Germany, and all of Europe, have been shaped by the use of *jus sanguinis* as a nationality transfer concept. Since 2004, when Ireland abolished its *jus soli* provision, no European country has had an unlimited *jus soli* provision in place, thus strictly regulating who is able to receive the nationality (Becker, 2015). As the previous chapter on the history of nationality shows, German laws and regulations have been created relatively recently through the involvement and impact of both world wars and the new creation of borders (Bertocchi & Strozzi, 2010). This subchapter has the purpose of laying out the German nationality law and relevant legislations that shape the conferral of nationality, especially in the case of children born to Syrian refugee mothers in Germany.

The German nationality is based on Article 16(1) of the German basic law (Grundgesetz) and the nationality act (Staatsangehörigkeitsgesetz), the latter lays out in detail the aspects and requirements for nationals as well as the receiving and transfer of nationality. The German nationality can be acquired in five different ways: 'by birth' (Section 3 (1) 1), 'by declaration' (Section

3 (1) 2), 'by adoption as a child' (Section 3 (1) 3), 'by issuance of the certificate (…) of the Federal Expellees Act' (Section 3 (1) 4) and 'by naturalisation' (Section 3 (1) 5).

The basic law was created in 1949, shortly after the Second World War, which can be recognized in its provision on nationality as it lays out in article 16(1) that no one's nationality shall be arbitrarily revoked and that it shall be ensured that a person is not left stateless, if their nationality shall be revoked (Grundgesetz, 1949). This is a strong reference to the Nazis actions and deprivation of nationality of Jews and other groups, which left many stateless (Goris et al., 2018).

The Nationality Act, created in 1913, remained a valid and highly utilized legislation throughout the century. The Federal German Republic (FGR) based its nationality law on this act with the aim to maintain an 'inseparable common German nationality' (Farahat & Hailbronner, 2020, p. 3), whilst the German Democratic Republic (GDR), also known as DDR, created a separate law. After the reunification of the Federal German Republic and GDR, the GDR's nationality law was abolished and the nationality law of the FGR was fully adopted (Farahat & Hailbronner, 2020). Since the reunification of Germany, the 1913 Nationality Act, specifically the transfer of nationality, has been amended five times, in 2000, 2014, 2019, 2021 and 2024 to follow modern developments (Bundestag, 2024; Federal Foreign Office, 2022). Before the first amendment, the nationality was mostly transferred through *jus sanguinis* which was expanded with the introduction of limited *jus soli* in 2000. This was seen as exclusionary and highly criticized as it provided no options for migrant parents to give their child access to the German nationality, although the child might be born and growing up in Germany (Becker, 2015) The second amendment removed the 'Optionspflicht' the choosing of either the German or the parent's nationality for children, born to foreign parents, who had reached certain educational requirements or resided in the country for 8 years, thus enabling and slightly relaxing the restrictions of dual citizenship (Michaud, 2023). The third amendment in 2019 declared that a person engaging with the activities of a terrorist group, would lose their German nationality, unless this rendered them stateless. In that case, their German nationality would remain regardless of their terrorist activities (Federal Foreign Office, 2022). In 2021 the atonement naturalisation (Wiedergutmachungseinbürgerung) was established to make up for the damages done by the Nazis and enable people who lost their nationality during the Third Reich and under Nazi persecution the ability to regain their German nationality (Michaud, 2023). This, again, shows the significance the country's history has in shaping modern laws and legal requirements.

In 2023, the government agreed on a fifth amendment of the nationality act, specifically with the goal of enabling integration and work migration for highly skilled workers (Tieben, 2024).

These changes come in a period where growing generations are not able to fill the needs and gaps of the job market that the baby boomer generations have left. The so-called modernisation of the nationality act aims at not only facilitating the nationality transfer, but also increase the naturalization of foreigners or non-nationals, which currently is at 1.1%, whilst the EU average is 2.0%. Furthermore, around 14% of the German society are not in possession of a German passport, thus lacking the ability for political participation and access (Federal Ministry for the Interior and Community, 2023). In addition to that, the role of former guest-workers is significant and highlighted by the parties in the government, as many still have not received or applied for naturalization, which this change in law shall address and support (Tieben, 2024).

The fifth amendment of the nationality act has been accepted in the German government in January 2024 with 382 of 639 members voting in favour. It will come into effect on 24th June 2024, with a modernization and relaxation for guest worker, highly qualified worker, and people wanting to retain their former nationality (Bundestag, 2024). But the changes have also caused strong criticism, not only from the far right party Alternative für Deutschland (AfD), that labels the changes as a degradation of the German nationality law in times of an already heavy migration crisis (Bundestag, 2023). Other parties like the Greens (Bündnis 90/die Grünen) criticize the requirement of self-sufficiency as discriminatory and exclusionary for elderly, sick people, single parents or part time workers as it merely looks at the productivity and usefulness of the person to the state and will leave less privileged people more vulnerable and with increased barriers to nationality (Bundestag, 2023). Furthermore, it can be criticized that the need for a passport or identification document is limiting for people who lack these. Especially stateless people and migrated people oftentimes struggle to gain a nationality for this reason.

The updated nationality act lays out the acquisition of nationality for children from non-German parents through Section 4 on the topic of ‘Acquisition (of nationality) by birth’ (Nationality Act as Amended in 2024, 2024, Section 4). Based on this, a child acquires the German nationality upon birth on German territory if one parent ‘has been legally ordinarily resident in Germany for five years’ (Nationality Act as Amended in 2024, 2024, Section 4 (3) 1).

The process of naturalization is another way of gaining a nationality and legal recognition of a country (Edwards & Van Waas, 2014) and becoming a full resident with all the relating rights

and duties. This is the most accessible way of persons to gain the German nationality without being born in Germany and costs 255 Euros for an adult and 51 Euros for subsequently naturalised child (Nationality Act as Amended in 2024, 2024). The fifth amendment, coming into force on the 24th of July 2024, allows people who have been lawful residents of Germany for five years, to apply for the nationality through naturalisation (Nationality Act as Amended in 2024, 2024, Section 10 (2)) this further implements derivative naturalisation of spouses and minor children. For this reason, it could be a way for stateless children to acquire nationality through the parent's naturalisation. This can be realized 'even if they (the spouses or minor children) have not yet been lawfully resident in Germany for five years' (Nationality Act as Amended in 2024, 2024, Section 10 (2)). The previous regulation asked for a legal residence of 8 years with possibility for shortening on the ground of participation in an integration course or volunteer work. With a high level of integration and special circumstances 'may be reduced to three years' (Nationality Act as Amended in 2024, 2024, Section 10 (3)). This change comes to create easier access for foreigners and to support the working market that is lacking qualified worker but could have a positive effect on stateless children if the parents fulfil the requirements for naturalisation. The access to naturalization is relying on several requirements like good German skills, self-sufficiency and the ability to financially take care of dependents to not rely on the German social system, some form of housing and accommodation as well as not having been persecuted and in conflict with the law. Just recently, it was again highlighted that the recognition of the state of Israel is another requirement, as well as the overall acceptance of the German basic law and human dignity (Nationality Act of 22 July 1913 (Reich Law Gazette I p. 583 - Federal Law Gazette III 102-1), as Last Amended by Article 1 of the Act of 12 August 2021 (Federal Law Gazette I p. 3538), 2021; Tieben, 2024). Most applicants also need to pass a citizenship test, covering 33 questions (Michaud, 2023). One last detail, that is easily overlooked, is the need for personal identification documents to apply for naturalization or any kind of residence status. The proof of documents is significant for most procedures in which one has to apply for services from the state, specifically when you are not a national of the state. Many arriving refugees and people from countries of conflict who are making their journey to Europe with dangerous conditions, are experiencing the loss, theft or damaging of their identification documents. This creates further barriers to registration and recognition by the state. The

lack of documents oftentimes results in a status of toleration[4] instead of temporary or permanent residence, as one cannot prove their identity or nationality (§ 60a Vorübergehende Aussetzung Der Abschiebung (Duldung) - AufenthaltsG, n.d.).

Another aspect that is left out of sight is the period that it takes a person to acquire legal residence that is required to be held for five years to gain the right to apply for naturalization. Reaching this point can pose issues. Many vulnerable groups, especially Roma or asylum seekers, receive a status of toleration (Duldung) that simply describes the temporary halt of a deportation and does not count towards the time one has to reside in the country to apply for naturalization (Bianchini, 2014). With this status, a person will not be able to access naturalization, even if they fulfil the other requirements (Cahn & Skenderovska, 2008).

The change of the law will, although heavily criticized, enable foreign people to naturalize faster which will facilitate derivative naturalisation. Furthermore, specifically important for the topic of statelessness and stateless children of foreign parents, as the limited *jus soli* provision creates access to the German nationality for a child when one parent has been a lawful resident for at least five years. This change will only affect children born after the coming into effect of the law on 24.06.2024. Nevertheless, for children born to foreign parents after the new law is in effect will be able to receive nationality by registration at birth without previous blood lineage (Gesetz Zur Modernisierung Des Staatsangehörigkeitsrecht, 2024). This has been further supported, as an early access to nationality shows to have positive, heightened effects on the educational success and development of the child (Gesetz Zur Modernisierung Des Staatsangehörigkeitsrecht, 2024). Further, nationality enables access to participation and integration from the very beginning (Bundestag, 2023).

Previous amendments of the Nationality Act have strongly avoided and restricted dual or even multi-citizenship, although this has been common practice around Europe and even globally. When applying for naturalization, former citizenship needed to be renounced unless the country of origin restricts this action (Federal Foreign Office, 2022). With the fifth amendment, the access

[4] The Duldung (translated as Toleration) is a status a person acquires when their deportation is impossible to realize due to temporary developments that make the deportation unlawful and a risk for the deportee. The status of toleration does not grant further rights to the individual but leaves the person unprotected and merely with a very temporary stay that can be removed at any time. The Duldung in itself is simply a registration of the person by government, enabling a legal but temporary stay (§ 60a Vorübergehende Aussetzung Der Abschiebung (Duldung) - AufenthaltsG, n.d.).

to dual-citizenship is facilitated and enabled in order for people to not have to ‘give up part of their identity’ (Federal Ministry for the Interior and Community, 2023).

On the topic of stateless people, one notices that this group is not further mentioned or included in any form in the modernised nationality act, thus leaving out a significant group that needs additional support for naturalization and breaking down barriers. The only time stateless children are mentioned is Section 4 (4), which states the non-acquisition of nationality when born abroad to a parent born abroad, ‘unless the child would otherwise become stateless’ (Nationality Act as Amended in 2024, 2024). The non-profit group Statefree e.V. strongly criticizes this lack of acknowledgement and further recognition of the issue of statelessness in its structures. The lack of mentioning and naming of statelessness and stateless people amounts to a gap in the understanding of people interpreting the law as well as a general missing of a definition in the German body of law. This compounds to guidelines that are not sensitive and aware of stateless people, potentially creating more barriers, a high administrative workload and an overall lack of support for the vulnerable group (Statefree e.V., 2023).

The laid-out changes in the nationality act all rely on the assumption that the applicants for nationality are already in the possession of a nationality, thus have the necessary documents and possibly the protection of another state. This is made specifically clear in Article 8 and 10, both concerning naturalization, as they only apply to persons whose ‘legal identity and nationality have been clarified’ (Nationality Act of 22 July 1913 (Reich Law Gazette I p. 583 - Federal Law Gazette III 102-1), as Last Amended by Article 1 of the Act of 12 August 2021 (Federal Law Gazette I p. 3538), 2021 Article 8(1) and 10(1)). This ignores the growing group of stateless persons and people without documentation to prove their status (Statefree e.V., 2023).

To conclude, the Nationality Act and the modernisation thereof have not shaped the law in ways that are actively addressing statelessness, hence the lack of stating statelessness. Nevertheless, the changes affect stateless children in the way that naturalisation can take place faster than previously, thus potentially saving them years of statelessness. The main question remains how the lack of identification documents changes these processes, as a previously recognized nationality and official documentation are the basis for naturalization and the German nationality.

## 3.2 The Legal Dimensions of Statelessness and Nationality in Syria

The German nationality act portrays the laws that would enable a stateless child of a Syrian mother help to gain the German nationality so that it would be officially recognizes by a state, in this case Germany. By focussing on the legal framework and nationality laws in the Syrian Arab Republic, this chapter will shape an understanding of the legislations that are involved in the creation of statelessness of Syrian refugees in exile. The Syrian nationality law and legislations are relevant as they provide the outcome of statelessness and lay out the legal conditions the mother and child are in. For this reason, even if the individuals are not in Syria anymore, their standing and recognition of the state remain relevant in this case. Throughout this subchapter, the Syrian law will be analysed specifically in regards to the passing of nationality and the discrimination of women in this process. Articles and aspects that influence the live in exile will be focussed on as well. The legal foundations are significant for the overall situation stateless children of Syrian refugee mothers find themselves in, show the stance of the Syrian government and clearly highlight the development of the republic over the decades.

In 2010, Syria had a population of around 21 million people, but with the Arab Spring and the continuing civil war, many flew from the country, seeking asylum in neighbouring countries or Europe (Kelly & Breslin, 2010). With the recent war and a longstanding history of political changes and insecurities (see chapter 4.1 on nationality formation), the longstanding tradition of emancipation of the woman might be unexpected from a Western perspective, but remains true. Women gained the right to voting in 1949 and the constitution, established by the Ba'ath regime in 1973, lays out the equality of women and men as well as 'equal opportunities that enable them to participate fully and effectively in political, social, cultural and economic life' Nevertheless, a lack of mechanisms and representation increase the difficulty and realization of said equality (Kelly & Breslin, 2010).

The transferral of the nationality to a child in Syria is, similar to mechanisms utilized in Europe, transferred through *jus sanguinis*, with the exception of it being limited to paternal *jus sanguinis*, the lineage of the father (Albarazi, 2021). Nationality conferral is regulated through the constitution, the nationality act as well as the personal status law. The most recent Syrian Constitution from 2012 is strongly build upon the constitution from 1973. Two aspects are specifically relevant: the conferral of nationality and the establishment of the foundations for the role of the

women in Syrian law. Within the constitution, the principle of equality is addressed first as a general matter (Article 19) and later more specific in Article 23 on the topic of women that shall be provided for by the state 'with all opportunities enabling them to effectively and fully contribute to the political, economic, social and cultural life'. Further, Article 23 states that the state is responsible for 'removing the restriction that prevent their (the women's) development and participation in building society', which would need to involve the conferral of nationality, if this was truly and closely followed instead of being interpreted as contradicting Shari'a law (Committee on the Elimination of Discrimination against Women, 2012). Scholars on the topic of Islamic Law and nationality transfer vary in their interpretation on this topic and it remains unclear if women are allowed to pass on their nationality under Shari'a Law.

On the topic of citizenship, the constitution regulates in Article 48 that a law, later named the nationality law or nationality act, shall further regulate the citizenship. The constitution further lays out that compulsory military service is a duty (Article 46 (1)) as well as elections and referendum (Article 49). With regards to the equality of women, Article 33 (3) highlights that 'citizens shall eb equal in rights and duties without discrimination among them on the ground so sex, origin, language and creed', thus underlining that women shall have the right to confer nationality in the same way and to the same ability as men can.

Further, the constitution of 2012 does not set out an official religion of the people of the country but states that the president has to follow the religion of Islam (Article 3) and that 'Islamic jurisprudence is a main source of legislation' (Article 3), thus enabling what is known as Shari'a law. Shari'a law in itself simply describes an Islamic law that is based on the ideas of the Muslim religion (Hauch, 2016). Based on this, the Personal Status Act is divided to have varying legislations for Muslim or Christian citizen. They specify that Muslims have to be married by a Sheikh and need to be registered in a Sharia Court whilst Christians are to be married in a Church Ceremony (Law 24/2018 'Syrian Law- Recent Legislation', n.d.).

The nationality act currently in use in the Syrian Arab Republic was enacted as Legislative Decree No.276 in November 1969. It differentiates between Syrian Arabs, Expatriate Citizen and Alien, to differentiate between people of Arab origin and from Arab states or other regions of the world (Davis, 1996). Everyone who holds the nationality is officially called a Syrian Arab, a citizen of the Syrian Arab Republic (Article 1 F). The act lays out four major ways of receiving the nationality by, or shortly after, birth. If a child is born to a Syrian Arab father, it will receive the

nationality, regardless of the birth taking place inside or outside of the country (Article 3 A). The father thus has the power to confer his nationality to any child born to him. A child born to a Syrian Arab mother on the territory of the Syrian Arab Republic will be granted the Syrian nationality as well on connection to the homeland and the mother, only when the father is unknown, thus unable to provide a nationality to the child (Article 3 B). This protects the child from being born stateless, even without a legal bond and establishment between the parents. If the child is born outside of Syria to a mother of Syrian nationality and an unknown father, the mother is not allowed to pass on the nationality and the child is at risk of statelessness or growing up with an uncertain nationality status. In occasions of children born to unknown parents and unknown nationality, the principle of *jus soli* can be utilized in the Syrian law, as children are considered foundlings then and will be granted the Syrian nationality unless proven otherwise (Article 3 C). Furthermore, the nationality act recognizes the possibility of someone being without entitlement to any country's nationality based on parental lineage, which could leave them stateless, and enabled the conferral of the Syrian nationality in this case (Article 3 D).

Article 3 of the nationality act recognizes possible situations for children to be born in various situations inside of the territory of the Syrian Arab Republic which can be looked upon favourably. Nevertheless, it fails to take into account the situation of mothers bearing children outside of the territory without an identifiable or known father or Syrian nationality. The reality of nationality transfer, specifically since the uprising of the Arab Spring in 2011, does not fit the categories the nationality act of 1969 draws up and leaves children and mothers upon themselves.

Although the first impression of the Syrian nationality act is rather critical, it can be praised that the law provides a 'perfect legislative safeguard against childhood statelessness within their borders' (Van Waas & Albarazi, 2016, p. 93), when you leave out Palestinian families and children, which are considered with separate legislations. The state has been able to avoid internal statelessness through this provision.

On the negative side, the strongest one remains the issue of discrimination of the women and mother within the Nationality Act remains, which prevents the mother from transferring her nationality unless on Syrian territory. This fails to address stateless children in exile and abroad (Davis, 1996) and potentially leaves the child stateless, if another state's nationality law does not provide for another nationality, which regularly is the case in *jus sanguinis*-dominated Europe. Furthermore, the regulation of maternal *jus sanguinis* only entering into effect when the father is

stateless and absent is short-sighted and leaves the focus on the father as the head of the family, instead of the child which should be provided with a nationality (Van Waas & Albarazi, 2016).

In October 2008, the Syrian parliament voted on the women's right to pass nationality, which did not succeed, thus leaving women without the ability of passing on their nationality and disregarding the high risk of statelessness for children born to Syrian mothers in exile (Van Waas & Albarazi, 2016). Furthermore, it showcases how values like kinship and family ties are solidified and ingrained in the culture of the Syrian Arab Republic (Van Waas & Albarazi, 2016). The principle and perspective that the man and father is the head of the family, the provider (Mousa, 2018), the giver of the name and the religion (Van Waas & Albarazi, 2016) remains as a guiding line within everyday life, the creation of families and the law. This perspective of the father as the giver of name, religion and nationality was one of the few times Shari'a Law was utilized in the context of nationality legislations (Van Waas & Albarazi, 2016). In 2009, a draft law within the personal status laws was proposed with which the role and freedoms of the woman would have been reduced even more. This draft was not accepted and the Ba'ath party has since made slight changes within the persona status law in regards of the status of the woman, which Mousa (2018, p. 9) considers 'formal changes to polish up (the party's) image with the personal status law but (…) maintain the status quo'.

The Personal Status Law is a body of law that is split into differing laws addressing the varying religions within the county. Historically, the law was adopted through resolution No. 60 in 1936 by the High Commissioner of the French mandate, thus dating back to the direct colonial influence. Mousa (2018) states strongly that this law causes tremendous harm to the citizens, especially women as it reinforces traditional stereotypes and prevents the separation of the public and the private. Largely, the Personal Status Law deals with matters of marriage, heritage, dowry, but it also specifies birth and custody, thus aspects potentially relevant to the nationality. The law specifies that 'a child born out of marriage is considered null and void will not be legally recognised'(Personal Status Law in Mousa, 2018, p. 4).

The topics of stereotypes and societal pressure remain strong influences in the development of statelessness and national law overall. Especially the recognition of identification documents and licenses within government and non-government areas is important to look at as documents or the lack thereof can play a role in the creation of statelessness. Syria has seen a rise of undocumented and unregistered marriages like Urfi marriages increasing since the Arab Spring. Urfi

marriages are marriages of two people officiated by a Sheikh without formal documentation or registration through a marriage license. Although not a new phenomenon, the number of these marriages has increased since 2011, especially in the areas of the country that are under *de facto* authorization of armed groups or areas without reliably working Syrian authorities (Independent International Commission of Inquiry on the Syrian Arab Republic, 2023). These regions have seen a growth of Shari'a Courts, in which Sheikhs recognize the birth of a child or the marriage. Nevertheless, the official Syrian government does not recognize courts in regions not under their control (Hauch, 2016).

The problem that arises through a missing marriage license in Syria is the lack of established legal connection and the failure to show that a child is born into marriage. For this reason, a marriage documentation is the prerequisite for birth registration as it unites the official documentation of identity and bond between parents and ensures paternity that the conferral for nationality relies on. The lack of a (recognized) marriage license is not only the case with Urfi marriages but generally (Civil Status Law 13/2021 'Family Law', n.d.). To address the growing issues that arise of urfi marriages, the Syrian government enabled ex post facto registration, when witnesses can be presented as well as the identity and, if relevant, the death can be evidenced. This would enable the establishing of a paternal lineage which would enable the child to receive its nationality through *jus sanguinis*. With the impact of the conflict, displacement and migration, especially the providing of witnesses can be difficult (Independent International Commission of Inquiry on the Syrian Arab Republic, 2023). The Committee on the Rights of the Child has recognized this issue as well and urges the state to accept non-government documents (Committee on the Rights of the Child, 2019).

The barrier of documentation due to the division between government and non-government led regions remains intact, thus hindering families to register or officially document their marriages, deaths or births. This problem in documentation and the unwillingness of the government to recognize documents from the non-government held regions provides a risk for statelessness in the otherwise well filled gaps of legislations (Hauch, 2016).

The need for a marriage certificate to register a child's birth relies partially on the society's stigma and the role of the woman. As a mother cannot confer her nationality, the connection to the father needs to be established for a child's nationality. For this reason, the role of the women before the law has been previously analysed. The role of society and how it views women is equally, if not more, important as it enables the way the law and a woman is seen, thus how a situation is

interpreted. The Independent International Commission on the Syrian Arab Republic highlights in their report on gendered impact of the Syrian civil war, that 'pre-existing discriminatory practices and laws, often reinforced by societal and patriarchal norms, placed women and girls at a disadvantage' (2023, p. 2). Further, it is shown how women are not only affected and restricted through the law but through the expectations of society and the possible stigmatization that they fear to receive. Based on this, the UNHCR (2017, p. 19) has described women as being 'reluctant' to register their child without a father out of fear of stigmatization and to protect themselves, children and family status. This statement of reluctance can be strongly questioned as it places women at the centre of wrong-doing and misbehaving, when the discriminatory action in itself and the limitations are created through the legal body and society, not the individual women. The usage of the word reluctant could be considered harmful as it moves the topic of conversation away from the necessary aspects of criticism for the societal and political situation. This portrayal of the situation further shows that a law and legislation in itself does not provide effective and supportive condition naturally but needs to be seen in its surrounding environment.

The effectiveness of the newer law that provides a method on child registration for a Syrian mother when the father had died, had not been utilized in a high frequency due to 'significant societal stigmatization' (Independent International Commission of Inquiry on the Syrian Arab Republic, 2023, p. 13). For this reason, whilst the law can be deemed a positive development and action by the Syrian government, the impact remains limited. To further avoid stigmatization, mothers chose to unlawfully register a male family member as the father (Independent International Commission of Inquiry on the Syrian Arab Republic, 2023), which can result in further long-term effects in terms of custody.

## 3.3 International Conventions: Tools to Fight Statelessness?

The right to a nationality is laid out in many international conventions and recognized as customary law. The individual laws of citizenship in each country can be considered 'domaine réservé' (Weis, 2016, p. 4) as they are a matter of the government and their agreed upon legislations. International law, and with that international conventions can be signed and ratified by a state on a voluntary basis. Once a state has ratified a convention, it becomes binding to the state, requiring the state to

abide to the enlisted obligations. These can potentially be of positive or negative culture, which translates to an active action of the state to create a structure or protection, or the mere lack of interference of the state. Through international law, customary law or customary practice can be established. Customary law can be understood as the laws that rely on a widely recognized practice, thus can be assumed a general custom. For example, the definition of a person without nationality, as stated in the 1954 UN Convention on the Status of Stateless Persons is nowadays understood as having a customary standing (International Law Commission, 2006). The issue that is presented through statelessness is the intersection of national and international law: International law lays out the necessary steps to prevent statelessness, but this is not necessarily translated into national law or forced onto the state through ratification. This leaves a gap through which people can become stateless.

Citizenship law does not need to be recognized by other states, if it clashes with international law or ratified conventions (Weis, 2016). So, although considered national law, international frameworks are binding and the interterritorial becomes the extraterritorial at times. In the case of violation against international law, the individual still remains in the interterritorial conditions and, in many cases, becomes stateless as no other mechanism is taking over. In the end, international law cannot provide for a nationality by itself (Weis, 2016).

In the modern international law framework, a handful of conventions that identify restrictions, obligations and consequences for the state, are particularly important and relevant for statelessness. But as Weis (2016) identified in 1962, the statelessness conventions do not create rules for a state's nationality, merely the demand for its effectiveness as has been decided in the case of Liechtenstein v. Guatemala, commonly referred to as the case of Nottebohm (*Nottebohm (Liechtenstein v. Guatemala)*, 1955). Syria and Germany are both party to international conventions, many of them binding and regulating its conduct. Nevertheless, some of the soon-to-be discussed conventions and the connected obligations are object to reservations by either or both countries. Furthermore, many are not in possession of strong control mechanisms which would consequently highlight violations, create punishments or restrictions other than the commonly used naming and shaming within the international community. This chapter will highlight the four relevant conventions deemed influential in this scenario of discriminatory nationality laws and caused statelessness. Further, it will show how nationality law is laying out the obligations and what reservations have been made, to limit the scope.

In regards to children, the Convention on the Rights of the Child is not only the most famous but also highly ratified and commonly referred to. For this reason, its implementation within German and Syrian law will be looked upon. As the origin of statelessness of Syrian children in exile are gender-discriminatory laws, the Convention on the Elimination of all Forms of Discrimination against Women is deemed relevant, especially as it refers directly to the transfer of nationality laws and inequalities on that matter. On the topic of statelessness, the first conventions standing out are the UN Convention on the Status of Stateless Persons from 1954 and the UN Convention on the Reduction of Statelessness from 1961, both of them together known as the Statelessness Conventions.

### 3.3.1 The Rights of the Child: The Needs of Stateless Children

This subchapter introduces the UN Convention on the Rights of the Child (CRC), a highly regarded and ratified convention around the world. As children are at the forefront of this thesis as well as the topic of statelessness, a closer look has to be given to the most relevant convention for children and the implementation of their rights. Both countries, Germany and Syria are a party to the CRC and obligated to realize the included rights. Specifically, the aspects of birth registration and nationality are relevant to the topic of statelessness and will be further examined. The following paragraphs will highlight if the Germany and Syria have followed their obligations and in which areas some improvements could be made.

Within the area of UN conventions, another very relevant convention is the Convention on the Rights of the Child from 1989 that has the highest ratification rate with 196 state parties (Institute on Statelessness and Inclusion, n.d.). The implementation of the convention is monitored and controlled by the UN Committee on the Rights of the child with its 18 independent members (Office of the High Commissioner of Human Rights, n.d.). The CRC with the Committee for the Rights of the Child have set out several steps to address and combat statelessness. These include the collection of data, interaction and collaboration with international organisations supporting work on the ground and creating protection against discrimination, for example gender discrimination. Lastly, the committee highlights the importance of joining and ratifying relevant treaties (Committee on the Rights of the Child, 2019, 2022). General Comment No. 23 of the Committee

highlights the obligation of states to take all the appropriate and necessary measures to prevent statelessness through birth registration and the removal of discriminating laws, for example on the basis of gender of the child or the parents (Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families & Committee on the Rights of the Child, 2017 paragraph 25). Although states are obliged to take all necessary measures, they are not required to grant nationality to every child on their territory, as it may have already gotten a nationality through a parent on the basis of *jus sanguinis* (Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families & Committee on the Rights of the Child, 2017 paragraph 24; Tobin et al., 2019). It is left unclear if a state is obligated to grant the child a nationality if it would in fact be born stateless (Tobin et al., 2019). In regards to gender discriminatory laws, the committee asserts the risk for statelessness of children with mothers limited in their ability to transfer their nationality. Here, it is underlined that measure for granting nationality to these children at risk is necessary as well as 'immediate steps to reform nationality laws that discriminate against women by granting equal rights to (…) confer nationality in their children' (Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families & Committee on the Rights of the Child, 2017 paragraph 26).

No reservations have been made by Germany upon the ratification in 1992, thus the obligation to have the best interest of the child in mind and provide the child with a nationality and enable birth registration (Article 7) are very vital in this context (UN Secretary-General, 1995). It has to be repeated that birth registration in itself does not eradicate statelessness, but can be a stepping stone out of the status of statelessness. Article 7 of the CRC (1989) further states that a child shall have the 'right to acquire a nationality' and that this right shall be 'implemented in accordance with national law', especially in the circumstance where a child could otherwise be or become stateless. This right does not require immediate implementation, as it shall only be realized until the child reaches majority, thus enabling states to not prioritize child statelessness although it can hinder the child's development and educational success, as the German government has recognized (Gesetz Zur Modernisierung Des Staatsangehörigkeitsrecht, 2024). With the clarifications of the CRC Committee in General Comment No. 23, Germany is required to 'adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he or she is born' (Committee on the Protection of the Rights of all Migrant

Workers and Members of Their Families & Committee on the Rights of the Child, 2017 paragraph 24).

The Syrian Arab Republic ratified the CRC in 1993 with several reservations, none of them in relation to the nationality of the child and nationality transfer through the parents. Nevertheless, the Republic has a reservation on Article 2 of the CRC which lays out that the state 'ensure(s) the rights set forth (…) without discrimination or any kind'(UN Convention on the Rights of the Child, 1989 Article 2.1) and that it 'ensures that the child is protected against all forms of discrimination' (UN Convention on the Rights of the Child, 1989 Article 2.2). This can result in a wide lack of protection for the child as it provides one of the guiding principles for the child. Furthermore, General Comment No.23 highlights the importance and need to reform discriminatory laws, especially in light of statelessness and the risk thereof (Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families & Committee on the Rights of the Child, 2017). The reservations made by Syria are a point of criticism in the report of the working group on the universal periodic review for Syria. Here, Slovenia recommends the removal of all reservations on the CRC (Human Rights Council, 2022, paragraph 133.11) and Norway recommends the change of Syrian legislations to be in accordance with the CRC (Human Rights Council, 2022, paragraph 133.248).

Both, Germany and Syria, are obligated to abide to the CRC as well as respect, protect and fulfil the connected obligations, such as avoiding statelessness and have its guiding principles such as the best interest of the child as the centre of their action. The importance of the CRC and its guidelines for states on the matter of statelessness is reiterated through the commonly made references to Article 7 and the necessity of full compliance with it as underlined in the European Parliament resolution of 2018 (European Parliament Resolution of 3 May 2018 on the Protection of Children in Migration, 2018).

### 3.3.2 The Intersection of Gender-Discrimination and Statelessness as Addressed by CEDAW

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) entered into force in September 1981 with the goal or highlighting and addressing the inequalities

done to women around the world (Convention on the Elimination of All Forms of Discrimination against Women, 1979). CEDAW is the main convention in regards to women and their standing within national laws. Syria has ratified the convention, although its body of law has some highly criticised and problematic aspects that spread negative stereotypes and implement barriers for women in the participation and accessing of their rights. As it is a highly regarded convention, and widely known, its implementation is monitored stronger than the implementation of the statelessness conventions. Furthermore, it is very specific to gender discrimination, a topic the statelessness conventions fully disregard. This subchapter is laying out the impact CEDAW has on the development and reduction of statelessness within Syria and further explains why the realisation of CEDAW in Germany is less relevant in this context.

The topic of stateless children born to Syrian refugee mothers is addressing the standing of children in Germany and Syria, as well as the abilities of women in front of Syrian law. The topic, however, does not include the role of women within the German society and culture. For this reason, this subchapter will not analyse the implementation of CEDAW within Germany.

CEDAW is a legally binding treaty, with the CEDAW committee as a regulating and progress tracking mechanism. Further, the committee has the ability to request progress reports from the countries and provide general recommendations on the basis of the progress made (Šimonović, 2008). In 2003, the Syrian Arab Republic ratified the CEDAW, making a significant step towards acknowledging and supporting women's rights (Kelly & Breslin, 2010). But the ratification includes several reservations that have been strongly criticized by the international community, like the reservation on Article 9(2) on the right of equal nationality passing for both parents. As previously highlighted, the Syrian nationality law, provides for paternal *jus sanguinis*, thus not enabling equal nationality passing, which does not align with CEDAW. The lack of compatibility with the nationality law, but also Shari'a law, signifies, why Syria implemented this reservation (Kelly & Breslin, 2010). This was later addressed in the State Party's second report of the Committee on CEDAW of 2012, in which it clarifies that Article 9 does not stand in contradiction with Shari'a law but that the reservation is based on the 'prime geopolitical and strategic location' (Committee on the Elimination of Discrimination against Women, 2012, p. 48) of Syria which allows for the a high number of refugees and for marriage with non-Syrian persons. Furthermore, the law specifically regards the status of Palestinian refugees and their 'need to preserve their identity' (Committee on the Elimination of Discrimination against Women, 2012, p. 48). Article 225 of the

report further clarifies that blood relationships are regulated under Islamic (Shari'a) law, whilst matters on nationality and nationality passing are concerning the relationship 'of an individual to the State under man-made law' (Committee on the Elimination of Discrimination against Women, 2012, p. 48).

### 3.3.3 The 1954 and 1961 Statelessness Conventions: Still Relevant?

The 1954 Convention on the Status of Stateless Person was not the first one to be solely raising and focussing on the topic of statelessness as the League of Nations had addressed the issue before. Nevertheless, the 1954 convention remains highly relevant, particularly for its widely utilized definition of a stateless person. Originally, it was created with the intention of addressing statelessness that had been caused through denationalisation on discriminatory basis shortly before and during the second world war (Foster, 2021). But the overall aim of the convention can be summarized as aiming to regulate the treatment of stateless persons and how states should deal with the phenomenon of statelessness. It does not, however, lay out rules regarding the combatting of statelessness (Tobin et al., 2019), thus has only a limited effect on the status of stateless persons as other treaties have since penetrated the area of statelessness more thoroughly. For this reason, the national laws were prioritized. Nevertheless, it cannot be denied that the conventions remain highly relevant to the topic and this thesis. For this reason, this subchapter will address the impact both conventions and their relevant articles have had on Germany throughout the decades since their creation. Both statelessness conventions are legally binding upon ratification but do not lay out control mechanisms that would ensure the realisation of its obligations. On this basis, both conventions carry issues of enforcement.

The Syrian Arab Republic is not party to either convention. Through the wide recognition of the reduction of statelessness as a general principle, Syria is bound without any prior ratifications nevertheless (Tobin et al., 2019). The lack of a signature or ratification portrays the overall attitude and highlights the importance that Syria allocates to statelessness.

Germany is a party to the UN Convention on the Status of Stateless Persons since 1976 with two reservations in place, thus being obliged to grant stateless persons additional protection and access to nationality (UN Convention Relating to the Status of Stateless Persons, 1954).

Although ratified, Germany has made reservations on Article 23 and 27 of the 1954 Convention, effectively limiting the convention's scope and not following best practices. Article 23, addressing the treatment of stateless persons equal to the one of own nationals, is limited and will only be applied to refugees under the official definition of the 1951 UN Convention relating to the status of refugees and its 1967 protocol. Article 27, reserved and not applied by Germany, would have created the obligation for Germany to provide every stateless person within Germany 'without a valid travel document' (UN Convention Relating to the Status of Stateless Persons, 1954, Article 27) with an official identification document (Bundesgesetzblatt BGBl - Gesetz Zum Übereinkommen Vom 28. September 1954 Über Die Rechtsstellung Der Staatenlosen, 1976). As previous chapters have laid out, the owning of an official identification document is vital to the recognition of the person and their bond to a state, as well as family relations and the passing on of a nationality. For this reason, it can be strongly criticized that Germany is not following the obligation resulting of this article which could reduce the risk for statelessness of children born to undocumented refugees.

Specifically relevant at its creation was Article 32, as it laid the foundation for easier accessible naturalization processes for stateless persons. The wording remains rather vague and leaves a wide interpretation framework, but can be looked upon favourably. In June 2024, Germany introduced updated naturalization procedures and conditions, which can be seen in relation to Article 32 (see chapter 3.1).

The UN Convention on the Reduction of Statelessness was the second convention on statelessness, created in 1961 and entered into force in 1975. Aiming for the reduction of statelessness, hence the name of the convention, Article 1 lays out that a 'Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless' either through birth or an application procedure. This is a strong nod to the need of easily accessible *jus soli* provisions to provide support to the permeable *jus sanguinis* concept but leaves states with the independence of creating restrictions and requirements independently. Contracting states are free to make their nationality conditional upon one or several of the requirements named under Article 1.2. The conditions at hand are an application period decided upon by the state including one year of majority to enable the individual to an independent application (Article 1.2 (a)), a period of residence in the contracting state of maximum five years prior to the application (Article 1.2 (b)), no conviction or prison sentence (Article 1.2 (c)), and lastly that the person 'has always been stateless' (Convention

on the Reduction of Statelessness, 1961 Article 1.2 (d)). It is important to note that the Convention in itself does not have direct effect but 'provides guiding principles' (Marambio et al., 2022 page 3) that the country shall implement in their national law. Furthermore, the Convention does simply clarify in which circumstances a state is obligated to grant a stateless persons its nationality, but not the right to be granted a nationality in itself (Tobin et al., 2019).

Germany ratified the Convention in 1977 with reservations that were later reviewed. In addition to that, Germany clarified that it will apply the convention 'in respect of elimination of statelessness' (United Nations, 2024) in relation to the 1951 Convention's definition and 'in respect of prevention of statelessness and retention of nationality' (United Nations, 2024) in regards to the German Basic Law (Grundgesetz). The Universal Periodic Reviews (UPR) can highlight situations and articles in which the implementation is lacking. Here, comments are made by UN member states, these are presented to the state but do not oblige or bind the state to any action. They can signify the relevance of a topic to the state and the international community but the overall impact is rather limited. The latest UPR for Germany includes several recommendations, amongst others by Panama and North Macedonia, to withdraw the reservations on the Statelessness Conventions (Human Rights Council, 2024). In addition to that, Uruguay recommends a national protection plan for stateless persons in reference to the 1954 Convention (Human Rights Council, 2024, paragraph 140.23), Mozambique encourages a development of the nationality act so that children would acquire the German nationality upon birth (Human Rights Council, 2024, paragraph 140.22), and Uzbekistan addresses the need to increase efforts to 'document and combat statelessness' (Human Rights Council, 2024, paragraph 140.25). A point raised by Romania is the training of workers coming in contact with stateless persons (Human Rights Council, 2024, paragraph 140.24), aiming to increase awareness within society and especially the relevant offices. Several further comments address the barriers to birth registration and birth certificates and the discrimination created through this (Human Rights Council, 2024, paragraph 149-255).

The effectiveness and power of the conventions can be considered limited due to a lack of mechanisms and low, although rising, numbers of ratifications (Tobin et al., 2019). Regardless of the number of ratification and Syria's ratification status for the statelessness conventions, the recognition of the customary status of the conventions within international law requires Syria, like other non-signing countries, to abide to it (Van Waas & Albarazi, 2016). Further, the 1954 convention merely talks about the status of stateless persons, not the prevention of this status, whilst the

1961 convention does not have any direct effect on national law but simply provides guidelines. Benslama-Dabdoub (2021) highlights that the conventions focus on the creation of statelessness based on conflicting nationality laws that leave gaps in the conferral of nationality. This leaves out further realities and the historical aspects like European colonization that strongly impacted modern migration and statelessness pattern.

Neither convention raises the point of gender-discrimination and barriers to equal nationality transmission although this has been a continuous issue and women have been affected by these exclusionary laws for centuries. Brennan (2020) poses the question if this is a mere act of neglect based on the domination of men within the UN at that time, or if the creators of the conventions excluded any reference to gender purposefully. Regardless of the intention at the point of creation, any implementation of the statelessness convention and the fight against statelessness should mainstream gender sensitivity and equality.

The situation around international conventions is messy. They do lay out clear obligations and many of them would push country's legislations into the rights decision, but the lack of enforcement remains a major barrier. Currently, there is little options for the international community to push a country to change their national law with the aim of combatting statelessness.

## 4 Awareness and Action: Steps to Combat Statelessness

As women took on the migration route and applied for asylum in Europe, some gave birth along the migration route, arrived pregnant or with new born babies in Germany. Many men fighting on the frontlines had died during the conflict or were not to be found and identified. This left women alone with the responsibility to care for the child's registration and wellbeing. Based on the Syrian law, women cannot confer their nationality when the child is born outside of Syrian territory. Without an established, documented connection to the father, the child is left stateless. But the passing of the father is not the only potential cause for statelessness. A lack of certificates and documentation of paternity and marriage can hinder nationality transfer as well. As migration and refugee routes are insecure and oftentimes dangerous, the loss, theft or destruction of identification documents is a common phenomenon. The father could also be unknown or unwilling to recognize the child (Benslama-Dabdoub, 2021). Through the conflict and migration, families are faced with

differing challenges. Nevertheless, the result remains the same: an absent father and the risk of statelessness for the child.

Whilst the situations causing statelessness can be hard to imagine from a privileged perspective, numbers and statistics support the reality of the issue at hand: the UNHCR has reported that 300.000 Syrian children were born in exile between 2011 and 2016, thus potentially at risk for statelessness (UN High Commissioner for Refugees (UNHCR), 2016). Furthermore, more than 145.000 Syrian refugee households are led by women, which leaves children without a father they could inherit their nationality from, if not previously registered or legally recognized (UN High Commissioner for Refugees (UNHCR), 2014). The challenge is to prove one's own connection to Syria and one's right to a Syrian nationality.

The intersection of the Syrian and German nationality laws creates a gap that actively establishes statelessness. As previously discussed in chapter 3.1 the German Nationality Law allows for *jus soli* with the condition of having at least one parent who has stayed in Germany as a legal and permanent residence for five years, this does not apply to newly arrived mothers or families (Nationality Act of 22 July 1913 (Reich Law Gazette I p. 583 - Federal Law Gazette III 102-1), as Last Amended by Article 1 of the Act of 12 August 2021 (Federal Law Gazette I p. 3538), 2021). The Syrian nationality law only allows for the father to pass on his nationality based on parental *jus sanguinis*, although violating international and customary law, still is abided by (Weis, 2016). This clearly shows that the issue and the risk for statelessness of children born to Syrian refugee mothers stems from a collection and potential accumulation of issues. The primary issue can be identified as the discriminatory laws originating from colonial times and bearing colonial legacies. The secondary issue, nevertheless, is the treatment of refugees in Germany and the lack of all-encompassing nationality laws that would protect children, and people generally, from statelessness. Further aspects to regard in the context of statelessness, as listed by the European Network on Statelessness (2020), can be the knowledge of the present language(s) and the utilized administrative system within the region as well as the personal network and support one has. This chapter will bring together the previously established frameworks and analyse in which ways statelessness is maintained and how it can be sustainable addressed in ways that combat gender-discrimination and colonial legacies. It takes into account the plethora of causes to statelessness and in which ways these can be prevented or combatted in the future. Hereby, the focus will be laid on Germany

and Syria separately, to address the changes that need to be made in the individual countries to fulfil children's rights and lower the risk of statelessness.

## 4.1 The Way Forward: Recommendations for Addressing Statelessness in Germany

This subchapter aims at identifying the relevant areas of improvement that can be utilized in the addressing of statelessness in Germany. A focus will be laid on the body of law and the legislations that are enabling the creation of statelessness. The overall structures of the administrative system will be addressed as well as they are not providing the support and guidelines for stateless people that would be desirable or helpful. Furthermore, the role of awareness and different actors in the field of nationality conferral will be addressed.

The German nationality law was changed in July 2024 which impacted the period of time a person had to legally reside on German territory to be eligible for naturalisation or enabling their child the German nationality at birth. This has been strongly criticized as shambling away of the nationality by the AFD, Germany's leading right-wing party (*Streit um Pläne der Regierung zur Reform des Einbürgerungsrechts*, 2022). Nevertheless, the actual removal of statelessness and the gap that is created through nationality laws, is not addressed. Now, it could be argued that Germany is not responsible for another country's lacking equality within the body of law. Whilst Germany is not responsible for Syria's legislation directly, as Germany did not contribute to the colonization of Syria, Germany has an international responsibility to ensure children's rights and equal treatment of the people on their territory. This is especially underlined through Germany's ratification of the Convention of the Rights of the Child, CEDAW and the Statelessness Conventions.

On a very foundational level, the topic of statelessness needs to be raised and awareness on the issue has to be increased, as it 'remains a secondary topic' (Szwed, 2020) . The mere naming and labelling of an issue are first steps in recognizing it and the demand for action. The term 'stateless' is only mentioned in the connection of German law making the child stateless through deprivation of nationality but not in a form of positive obligation that would require Germany to act on cases of statelessness that are created through gaps in nationality laws (see German Nationality act as amended in 2024, 2024, Section 4 (4), Section 17 (2), Section 28 (1) 2, Section 35 (2)). So, by including the term 'statelessness' or 'stateless person' more actively within the law and

guidelines for public workers, the conversation around statelessness will be commenced and made more accessible. This would not only help people affected by statelessness in their everyday lives, but everyone that comes into contact with stateless people in their jobs, especially in offices responsible for the registration of persons. Unified guidelines and action plans would combat the 'unpredictability and inexplicability of the outcome of bureaucratic interactions' (Farinha, 2022, p. 810) which could simplify the procedure for all involved parties. Furthermore, contact points, like medical facilities, education providers and financial aid offices, will be made aware of the topic of stateless persons and their existence. The raising of awareness is a very foundational and crucial step, that is easily overlooked or disregarded as useless. Nevertheless, it enables society to be educated and form an opinion on the matter and, ideally, support or volunteer for the cause. Additionally, stateless persons, belonging to the most vulnerable people with compounded discrimination in many cases, should not have to fight for this themselves, unless eager to. The burden of educating people should not be laid on them but educational campaigns should be incentivised through organisations or official offices, with stateless persons as paid partners and collaborators.

There is a strong need for development of supporting structures through advocacy and legal aid. The Statefree e.V. organisation is providing an important example and achieved representation of statelessness through their lobbying in the Germany government and the voluntary involvement of stateless persons. This step would be especially important as statistics and exact recording of statelessness are necessary to even start addressing it in an organized and effective way. The lack of clarity creates a barrier to effective action. Most assumptions of the number of stateless people are based on the UN's work. Germany's most recent census from 2022 asked about nationality, but does not include any numbers on stateless persons (*Personen: Staatsangehörigkeit*, 2024), which makes the phenomenon and the existence of stateless persons invisible. Invisibility has been mentioned by authors like Van Waas (Van Waas et al., 2017) previously, and further underlines the recommendation of increasing awareness.

Already before a person becomes stateless, it is important to identify persons and groups who are at risk of statelessness, to not only prevent but analyse pathways into statelessness (Van Waas & Albarazi, 2016). Creating a label of 'at risk of statelessness' hereby would be of high importance. On the foundation of research and data, families, refugees and people with an unclear nationality could be provided with additional help and awareness would be raised. If the case of statelessness then comes true, established structures and connections could be utilized. This approach would

require additional funding and resources allocated to the identification of causes for statelessness and ways to overcome them, including staff to assist in the realisation thereof. Nevertheless, the initial efforts and costs could repay themselves in the long run.

One of the major aspects of statelessness is the legal framework that creates or enables the lack of a nationality. In Germany, *jus sanguinis* and the strongly restricted *jus soli* provision are the main aspects of this framework. The general transfer through *jus sanguinis* as one of the main forms to gain the German nationality is limiting to nationality by blood but does not pose a problem in itself. The limited *jus soli* provision, on the other hand, restricts children's and migrant's access to the nationality. An implementation of a stronger, less restricted *jus soli* provision that would enable access to children born in Germany, without a requirement for parents to have stayed in the country as legal resident for five years, would be a step forward. This would catch children born into statelessness on Germany territory. It needs to be mentioned, that the mere implementation of unrestricted *jus soli* in itself would not fully eradicate statelessness within Germany. Vengoechea Barrios (2017) lays out that *jus soli* could only protect children if it is accompanied by state practice and availability of birth registration.

Additionally, development towards this opening of the access to German nationality does not seem realistic at this point of securitization, growing support for populism and far-right parties, as well as the tightening of migration laws in Germany and the European Union (see Bertocchi & Strozzi, 2010). In addition to widened *jus soli* provisions, the German nationality law needs to ensure the registration and the access to nationality for children who would otherwise be stateless. This obligation is specifically addressed in the Convention on the Rights of the Child (Article 7) and will fill the gap of statelessness that is created through the German and Syrian nationality law.

Access to nationality is created through birth registration which is highly mentioned in by institutions like the UN, who has given more than 50 recommendations on the topic to European countries (Petroziello, 2024). Hereby, it is important to note that birth registration in itself does not avoid statelessness as it does not guarantee a nationality, but it provides a foundation for the recognition of the identity and nationality of the child before a state (UN High Commissioner for Refugees (UNHCR), 2017). The topic of birth registration is further addressed within international law and conventions, highlighting the need for accessible birth registration. The European Network on Statelessness (2020) showcases why birth registration does not always take place or is not initiated by a parent. A first reason is the general lack of knowledge for the need and the procedure

of birth registration. When a child is born in the hospital, the hospital is usually tasked with forwarding the information of the birth to the responsible authority, but with the rising popularity of home births, or an inaccessible medical support, this task has to be taken over by the parents.

Furthermore, a second reason for not registering a child's birth can stem from fear. Many unregistered parents, that could be subject to deportation, choose not to give birth at a hospital, fearing they would be reported. This is not an unnecessary fear as 'Germany requires that registry officials report those who are subject to deportation, breach geographic restrictions, or who have irregular residence status to immigration authorities' (Petroziello, 2024, w.p.). Furthermore, all public bodies have the obligation to report unregistered persons to the relevant authorities (Marambio et al., 2022). The Committee on the Rights of the Child (2022) has spoken out against this law. To avoid the risk of deportation and reporting, direct contact between the unregistered person and the authorities was avoided and a migrant right's group took up the task to apply for the birth registration (Petroziello, 2024). Persons within the medical field, who count as part of public bodies, are obligated to protect their patient's data in the sense of confidentiality, for this reason, they are exempt from the requirement to report unregistered persons. Although a medical professional might abide to their duty of confidentiality, there is a potential for documentation on the insurance company's receipts giving away the status of the person and leading to being reported. The obligation to report persons is addressed in the CRC General Comment 23 paragraph 21, which states that 'data sharing between authorities' should be prohibited. The Committee on the Rights of the Child further comments that unregistered 'parents should not be reported' (2022, paragraph 18 c) as it creates a barrier to registration for children with an insecure migration and registration status. This could further result in a rippling effect of parents being scared and unsure of their migration status and not registering their child based on fear, although they would not be at risk of deportation at the current moment. The lack of a reliable and trustworthy institution where migrants and refugee mothers can ask for help without risking deportation is harming children. In the concluding observations of the working group on the Universal Periodic Review from 2024 several comments address birth registration within Germany. Primarily, comments focus on the removal of barriers to birth registration (Human Rights Council, 2024, paragraph 140.251 & 140.255), especially the parents' status as a barrier (Human Rights Council, 2024, paragraph 140.251 & 140.252) and the need for 'birth registration of newborns regardless of their migration status' (Human Rights Council, 2024, paragraph 140.253). It has to be specified here, that, under

international law, Germany is only obligated to register children born on their territory (UN High Commissioner for Refugees (UNHCR), 2017) which leaves children born on the move or displaced shortly after with barriers to a nationality.

A third reason to not register a child is the lack of documents to prove the parent's identity, nationality and marital status. Many refugees, or newly arrived persons had to suffer the loss, theft or destruction of their documents due to the conflict and journey. Insufficient documentation creates a barrier to further register a child with the relevant authorities (UN High Commissioner for Refugees (UNHCR), 2017). The missing of documents is an additional barrier to the parents' own registration and being granted a residence status of some kind, but affects the child's registration as well.

A system introduced by Petroziello (2024) is the universal and generalised birth registration that would enable birth registration on a structured and unified level. This would need to be detached from 'border enforcement' (Petroziello, 2024), securitization and deportation practices but support the recognition of children before the law and as having their own identity. A requirement for this would be the general support and recognition of states for this new and universal system. Through a universal system, it could be recognized which nationality a child is given through *jus sanguinis* or *jus soli*, thus establishing a bond with a state and being granted a nationality. The recognition could then be enacted through the transfer of the birth registration to the state, once the child has been completely registered. For children who are not granted a nationality by birth through gaps within nationality laws, the registration would still take place, with the aim of facilitating the gain of a nationality in the future and simply initiating the documentation of the individual. For the realistic implementation, an independent authority, similar to or created through the UN, would need to process the universal registration. A problematic with this could be the acceptance and transfer of power of all states to this independent authority. The overall idea of a unified system seems very logical and would solve issues of differing practices, inaccessibility and lack of structures. Although an interesting concept, realisation thereof seems utopian at this point in global politics.

The legislation for nationality in Germany, although not eradicating statelessness, are non-discriminatory towards gender. Nevertheless, with the Syrian law discriminating against women, other countries like Germany are left with a gap to fill. This gap is created through Syria's legislations. Thus, Germany somehow is left to pick up the pieces of the metaphorical mess Syrian law

made. Now, it is easy to blame Syria, the Syrian government, or Islamic Law but the situation is more multifaceted. The previous chapters on history and colonisation have laid out how European countries, specifically the UK and France, have impacted the development within the MENA region and the legal framework in what is nowadays called the Syrian Arab Republic (Van Waas & Albarazi, 2016). Economic growth, stability and peaceful development are not just lucky developments within Europe in the last decades came to existence because the circumstances could develop organically and the countries were not forced into borders, religions, certain aspects of culture or gender perspectives unlike Syria and the MENA region (Benslama-Dabdoub, 2021). The trail European colonisation has left behind in Syria is now paying back in unwanted ways. Especially France and the UK had aimed for dominance, submission and influence hidden under paroles of educating the people. The current developments show the egoistic and unsustainable behaviour of colonizing powers in the past, and the carelessness about long term consequences that European powers would now need to step up to not leave people on their own and take responsibility for: refugee movements and statelessness. One might say that we live in a postcolonial or neo-colonial era, but colonial legacies keep haunting us and the people most affected by colonization. After all, the independence of Syria only began in the middle of the 20$^{th}$ century. Even if European or Western powers would not have been involved in any political mingling ever since, which they have, the political development and the creation of legislations remains a sad legacy of colonialism.

It has to be highlighted that within the group of women, women from the Global South, Black women and women of color are potentially stronger affected as colonization took place in the Global South and around fifty countries keep carrying these legacies (Brennan, 2020). The remaining of discriminating laws pushes women into involuntary submission under men as only they have the full right to nationality transfer.

Statelessness is not a widely discussed topic in Germany. To address the barriers and issues of statelessness and the people affected by it, this needs to change. The previous paragraphs have laid out how awareness campaigns and workshops for staff in public offices can be a first and foundational step to realising improvement on the topic of statelessness. Implementing support structures for people with an unclear nationality and at risk of statelessness could change this. On the topic of combatting statelessness at the root within Germany, as many stateless persons are born in Germany and not stateless based on migratory movement, the topic of birth registration needs to be addressed. As other countries have recommended before within the UPR 2024,

Germany should remove barriers to birth registration and enable access for all. Birth registration in itself does not provide a nationality but facilitates easier access to recognition by the state. Furthermore, the mere documentation of existence and personal data is crucial for the child's future. This is prevented when public officials are required to report persons with unclear migration status and causes rippling effects for a child's future based on the parent's migratory status. Petroziello (2024) has raised the idea of universal and generalized birth registration, an interesting concept that should be explored more but would need strong international cooperation and support, which seems unrealistic in current times. Lastly, the intersection of colonialism, gender discrimination and statelessness were further explored, looking into the responsibility Germany has. Whilst Germany did not colonize Syria, it remains a former colonizer and Syria is still shaped from colonial influence. It leaves the question if former colonizing countries have the collective responsibility to repatriate colonized regions.

## 4.2 Fighting Discrimination: Recommendations for Stateless Syrians in Exile

This subchapter highlights the areas of improvement in Syria that are relevant to statelessness. First the realism of change will be addressed. Afterwards, the topic of awareness, equality of women and the lack of identification documentation are touched upon with suggestions for change.

Addressing the issue of stateless children born to Syrian refugee mothers at the root would mean tackling discriminating nationality laws and gender discrimination in Syria as a whole. Whilst this would be admirable and the ideal result, this does not seem realistic to achieve at this point with the long-lasting rule of the Al-Assad family as well as the continuing civil war in Syria and the growing tension in the MENA region, specifically since 2023. In many cases of neglect of international law and conventions, the concept of naming and shaming is used as a tool to change a country's stance on a topic. So far, the actions of the UN through Universal Periodic Reviews and General Comments by the convention's committees have left a rather shy impression for the rights of women to transfer nationality. This is also highlighted by Albarazi and Van Waas (2016) who describe the MENA states as 'not necessarily sensitive to external pressure' (p. 272). Recommendations and attempts to restrict gender-discriminatory legislations have been avoided by the Syrian government through reservations and non-fulfilment of requests (Office of the United

Nations High Commissioner of Human Rights, 2020). Other countries do not need to accept Syria's legislations, but this does not change the Syrian law and its implementation. The UN seems powerless to have Syria develop more gender equality and avoid statelessness in exile. On the ground, support for women through UN organisations like the UNHCR or UN Women could be a way to support the overall goal and combine the aim of established women's rights in the region with the help of the international community. The advancement of women's rights and their ability to transfer nationality would then lower the risk of statelessness of Syrian children born in exile.

Nevertheless, the development and reintroduction of women's rights in the MENA region after the colonial occupation, has, in the big picture, positively progressed through collective action and the opportunity to share good practices and exchange experiences (Van Waas & Albarazi, 2016). The increase of advocacy through women's rights activists and NGOs have played a vital role in the addressing of discriminatory legislations (Van Waas & Albarazi, 2016). This can be further connected to the mere act of raising awareness as a simple but effective tool in the fight against statelessness and discrimination. The change for a positive development can be highlighted, but that does not erase the current state of women that remains discriminating and shows how the 'eradication of colonial influence is today well overdue' (Brennan, 2020, p. 61)

Similar to Germany, Syria does not have a high awareness on the topic of statelessness and its creation. In parts, this can be explained through a solid nationality legislation that protects from statelessness within the country through an additional *jus soli* provision for children born to Syrian mothers on the territory, without a father being available, recognized, or documented. Furthermore, Arabic lacks the word for stateless and utilizes the term 'maktoumeen' which translates to 'concealed' or 'without nationality' (Benslama-Dabdoub, 2021, p. 27). The introduction of a term specifically for the intersection of people without a nationality and affected by statelessness would be helpful at addressing the issue. On the one hand, the lack of a term enables a lack of awareness. On the other hand, the lack of awareness does not demand for a term to support the cause. Awareness does not only need to be raised on the topic of statelessness but further around women's equality and the standing of the women within the Syrian society. Here it is important to not be dependent on the father's nationality and be able to independently decide on the child's nationality. The 'significant societal stigmatization' (Independent International Commission of Inquiry on the Syrian Arab Republic, 2023, p. 14) remains influential, even with the law advancing, and will need further addressing as to enable an overcoming of statelessness and an increase of registering of

children born without a legally established paternity. The independent International Commission of Inquiry on the Syrian Arab Republic (2023) further establishes that 'women are reported to continue to be reluctant to register children under unknown paternity, fearing stigmatization and shaming by society' (p. 14). This *reluctance* might be rightfully termed this way, nevertheless, it shapes the narrative as if women would be the only actor in this situation. It could as well be looked at from a feminist perspective that asks if maybe women are not given the power and tools to register children, as they are hindered by a patriarchal structures and culture, even with the change in the personal status law. If the law does not enable the women to access their rights, maybe further mechanisms to support and protect need to be introduced instead of women being blamed for their inability or perceived stubbornness to register a child. Active steps to advance women's rights and their opportunities within society need widespread, sustainable awareness campaigns that are culturally sensitive and establish connection through language, religion and personal experience. The Independent International Commission of Inquiry on the Syrian Arab Republic (2023) recommends a similar approach with a 'national strategy to eradicate stigmatization and negative stereotypes' (p. 19).

A remaining issue is the lack of documentation of marriages, deaths and births. One of the main causes for this is the non-recognition of documentation from rebel groups and non-government authorities. As established, the non-recognition of marriages, like Urfi marriages, leaves children born into a legally unrecognized marriage, coming with societal stigmatization and potentially lack of nationality through no legally established father. Previously, the law was adjusted to enable women to register a child if paternity cannot be established, nevertheless, this is still rare as stigmatization weighs heavily. The Independent International Commission explains that, whilst it is difficult to estimate how many people are suffering the loss or lack of documents, due to unavailable statistics, it is clear to say that 'many children frequently lack civil documentation or ID documents' (Independent International Commission of Inquiry on the Syrian Arab Republic, 2023, p. 12). One could encourage Syrian government authorities to recognize rebel group's documentation. Whilst this seems like a logical step, this would have a strong effect on the conflict, with the recognition of rebel groups as authorities and actively shaping the documentation of the population. This would further normalize and secure their presence and actions, thus does not seem to be a realistic request to be made from the government. To solve or minimize the issue of statelessness based on missing documents, several steps need to be taken. The government needs to make

available access and information in a variety of languages through the official and most frequently used media platforms on the importance of officially recognized birth registration to the gaining of the Syrian nationality. This is specifically important to ensure that women with limited language knowledge from different cultural backgrounds will be able to access it. As registration of a child opens the pathway to further documentation, participation and a nationality in general, no child, regardless of the parent's status, should be left unregistered. An example for good practice is the country of Jordan. Upon the rise of refugees and stateless persons, the country has set up 'mobile registration offices' to ensure easy access and prevent statelessness (Independent International Commission of Inquiry on the Syrian Arab Republic, 2023). The increase of official places to register a child or other family related documents, is necessary, especially in non-government held areas. If a parent is not able to register a child themselves, an option could be registration through a third party like an organisation that would help with the process, have professional knowledge and ensure that the registration is recognized by the government.

It is visible that Syria is still affected by the long-term effects of colonial legacy of European powers and their legislations. This has shaped not only the country but the entire MENA region. It is important to keep this in mind when addressing the developments of statelessness. Realistic expectations for improvement were highlighted in the previous paragraphs. Similar to Germany, awareness and the spreading of knowledge is of importance for the development of legislation or societal pressure. With the help of national campaigns, the society could be educated on the importance of birth registration and official documentation of marriage, birth and death. The issue of documentation not being recognized by the Syrian government remains striking and needs to be addressed through increased efforts by the government and potential help of organisations to support families with new-borns with the registration process and is recognition. The second major issue that requires action is the role of women within society and the legal system. Here, equality needs to be promoted in an open and culturally appropriate manner that provides women with voluntary opportunities to engage with their human rights and choices. In the end, equality needs to be mainstreamed throughout legislations and be addressed at the hard of the fight against statelessness.

# 5 Conclusion

Nationality establishes the bond between the individual and the state which shapes the obligations of the state and duties for the national. The recognition of a person as a national provides one with actively enabled rights and positive obligations fulfilled by the state, voting in elections being one of them. As the CEDAW committee put it, nationality is critical to full participation within society (UN Committee on the Elimination of Discrimination Against Women (CEDAW), 1994). Through the varying systems of nationality transfer, *jus soli* and *jus sanguinis*, the states have possibilities to choose their preferred system. In Europe, the system of *jus sanguinis*, the rule of blood, has been highly preferred. This legal foundation of *jus sanguinis* has resulted in a non-inclusive transfer of nationality and exclusion of all that do not have a connection by blood, unless the concept is accompanied by further access points to nationality like (limited) *jus soli* provisions or naturalization. *Jus soli* is the rule of the soil, granting new-borns the state's nationality based on birth within the territory. Over time many countries, like Germany, have introduced limited *jus soli* provisions to ensure easier access to the German nationality and address international pressure to protect from statelessness and erase highly exclusionary nationality laws.

Germany's nationality law was established in 1913 and has been amended five times since, most recently in July 2024. During the division, the law had been implemented within the West, whilst East Germany had differing laws. After reunification, the law was introduced in the region of former East Germany as well. The newest change of the nationality law has enabled a faster access to nationality after five years of legal residence of either oneself or a parent. Naturalization and nationality for children of foreign parents is simplified through this change, specifically to address the high rate of residents without a German passport like former guest workers and their families. Statelessness and the waiting period of five years after arrival additionally to the time needed to obtain legal residence is left out of sight. On top of that, the gaining of legal residence as a first step to potential nationality is an obstacle many refugees are facing.

The Syrian nationality law, on the other hand, is originating from Arrêté 16/S n114 Art1 of the French mandate of the High Commissioner during French colonization of the Syrian and Middle Eastern Region (Benslama-Dabdoub, 2021). The legislation removed many equality norms that had been established during the Ottoman Empire and created a gender-discriminatory law that restricts women from passing on their nationality to a child. This has been slightly amended in

recent years to ensure the nationality of children born on Syrian territory to one Syrian parent are able to receive the nationality nonetheless. If a child is born to a Syrian mother in exile, the mother is not able to pass on her nationality. Without an established and officially recognized paternity through marriage or the father's recognition, the child is left stateless until it is able to gain another nationality, for example through naturalization after five years of legal residence in Germany. This gap in nationality law through gender-discrimination and colonial legacies is strongly affecting Syrian women and children in exile in Germany. An additional barrier is created through the lack of birth registration and general documentation in Syria due to the ongoing conflict or stigmatization of single mothers in Syria. Barriers in Germany are created due to the risk of being deported as public officials have the duty to report irregularly registered migrants. Further obstacles can be, but are not limited to, language, cultural understanding and negative stereotypes.

The current Syrian civil war highlights the issue and gaps within nationality laws that would otherwise remain undiscovered or less relevant for German nationality regulations. The conflict increases the difficulty to change the root of gender-discrimination within law. Societal stigmatization and the lack of recognized documentation are further aggravating. This shows the need to address statelessness.

The aim of this thesis was to first identify on which legal foundation children of Syrian refugee mothers become stateless. As the previous paragraphs have laid out, the German and Syrian legislations create a gap that enables statelessness for children born to Syrian mothers in exile. This gap in the legal body, as well as the gender-discriminating Syrian law needs urgent attention and removal to ensure protection of human rights for all.

The second objective was to follow up on the legal framework by highlighting the historical and colonial context these laws were created in. This should finally answer the question how colonial legacies and laws are impacting the statelessness of children born to Syrian refugee mothers in Germany. Chapter 2.2 shows how the actions of former colonizers have deeply shaped the development of the MENA region and with that Syrian law. This strongly underlines the damage that has been done through colonization and how equality was hindered and removed through colonizers which has long-lasting effects that are still recognizable.

By employing a postcolonial and feminist lens throughout the thesis, the perspective was shaped and sensitized to the impact of patriarchal structures and long-term consequences of racist, discriminating traditions of European countries, like the inequality of the women in terms of their

own and their child's nationality. Through the exploration of a wide variety of authors with a balance in gender, a diversity of origins and cultural backgrounds, the thesis ensured a plethora of thoughts. Specifically, the combination of historical developments and legal frameworks aimed at the deepening of the discourse through questioning the origin of gender-discrimination and avoiding to fall back onto stereotypes. This formed an understanding of why women remain excluded from nationality transfer and how the development of the Syrian civil war has destroyed government-recognized administrative structures, thus negatively affected the registration of children in and outside of Syria. Furthermore, it showed the immense lack of support mothers receive to register their new-born children in Germany and Syria.

The performed research demonstrates strong international interconnections within the history of Syria and former colonial European powers. Not only do actions from colonization remain influential in the current global discourse on statelessness and migration, it further shows how the local affects the global. Local nationality laws can have wide consequences on the development of other nation's laws around the globe. In Germany, it affects the gaining of nationality for children of Syrian refugee mothers as the mothers are legally prohibited of conferring their nationality. This causes the children to experience a high risk of statelessness. Colonial legacies are now haunting the formerly colonized and continue to create vulnerabilities. But former colonizers are negatively impacted by this as well, as statelessness requires actions and recognition through human rights frameworks and pressure of the international communities. At the same time, the cases of statelessness underline the lack of helpful international conventions that would effectively bind states to the protection of human rights and equal treatment of the people. UN Conventions like CEDAW, the CRC and the statelessness conventions lay out regulations for statelessness and the access to nationality for all children. Whilst they are binding, crucial aspects are avoided through reservations and violations are rarely followed up on. The lack of mechanisms that would enable close following of the ratified documents is visible and non-binding recommendations through the UPR lack the political influence to create sustainable change. Especially CEDAW lays out the necessity for equality of parents in the matter of conferring one's nationality, the inclusion of mothers in the law and the independence of women from men. The CRC underlines the need for birth registration and documentation of the child for the confirmation of nationality before the state and the fulfilment of the right to a nationality and identity.

In regards to the overall situation of statelessness created in exile enhanced by colonial legacies, the question can be raised if Syria should be responsible for their own political actions and development at this point. A valid question, but shortsighted. The situation and circumstances Syrian politicians were set up with to establish a well-functioning and smoothly running republic were rather difficult, especially with randomly drawn borders that divided population groups, exploited resources and discriminating legislations from Europe. This leaves new leaders of an independent state to address the country's issues whilst attempting to distance oneself from the previously colonizing country. Aiming to do the latter, many South American countries abandoned the colonial system by adopting a *jus soli* provision after colonization (Bertocchi & Strozzi, 2010), Syria has not acted similarly but remained with many of the legislations. At this point, the colonial history cannot be reversed and a way forward needs to be found. The question can be raised if European powers should take on reparations for the damage they have done. This could be of extensive consequences depending on the perspective: should reparations only account for the damage made at that time, or the long-term effects out of colonialism as well? Can a country be repaid for damage so fundamental that is shapes culture and the people? How do you measure the effect of colonialism over decades and countries? And how to you make up for the years people have spent stateless as a consequence of colonial legislations? These questions need to be further explored through research. Regardless of the answer, stateless persons do exist and they need administrative and structural support to gain a nationality, documentation and access to fundamental human rights. In the end, stateless persons are the ones left alone and suffering without protection. A first step would be taking up best practices from other countries like integrating the entitlement to a birth certificate of a new-born into the rights of the mother, independent from the migration status. This practice is done in Cyprus (Petroziello, 2024). Although it does not equal birth registration, the certificate is proof of the child's existence and a step towards registration.

This thesis has thoroughly explored the ways in which statelessness can be approached in Germany, starting with the raising of awareness and inclusion of statelessness in the discourse on nationality laws, to enable education around the topic. The development of support structures for stateless persons and advancement of public officials on the ways to deal with stateless persons is another aspect to look into. Everyone involved in the registering of children and administration processes within public offices needs to be properly trained to ensure documentation of children and enabling a way out of statelessness and the risk thereof. Most importantly, the obligation to

report undocumented persons needs to be removed as it creates barriers to birth registration. The latter is vital for the documentation of a person, the forming of an identity and, later, the paving the way to a nationality. For this reason, birth registration should be made accessible and promptly fulfilled after the birth of any child within Germany. The next amendment of the German nationality law needs to focus on stateless children and the combatting of statelessness altogether though specifically targeted articles that ensure registration, documentation, and nationality for children born to refugees on German territory which would otherwise be stateless.

Finally, the future of stateless persons and their standing within the German society remains insecure. Future research needs to raise the following points in the development of the field of statelessness and legal as well as administrative support structures. Primarily, the perspective on statelessness and its detachment from migrations shall be monitored to examine how securitization and anti-migrant development within society affect stateless persons. New ideas, or good practices of other countries on non-discriminatory ways of ensuring access and participation for stateless persons in the field shall be adopted. Lastly, predictions of the development of statelessness in the coming years and decades is of importance for the adaptation of support structures and should be looked into. Van Waas and Sturkenboom (2016) already stated that there is currently no risk for a stateless generation, which remains to be true. But laws change and potential migration developments might demand future monitoring of changes in the statelessness field. Hereby, climate change, conflict, wars and the division of society need to be included to form a holistic picture. Together, these steps will improve the structures for and future of stateless persons, combat the creation of statelessness and enable individuals to be recognized, protected and in possession of the human rights.

In the end, a state with solid global standing and resources such as Germany should not leave people in their territory without the most basic and fundamental rights that they deserve on the basis of being human. This thesis clearly shows that Germany is leaving people in the most vulnerable position without protection, access to their human rights or hope for change in the near future. It further shows how Syrian law is inherently discriminating and future changes in policy need to be centred around the realisation of women's rights.

# Bibliography


Albarazi, Z. (2021). *Report on citizenship law: Syria* [Technical Report]. European University Institute. https://cadmus.eui.eu/handle/1814/71905

Arendt, H. (1958). *The Origins of Totalitarianism*. Meridian Books MG 15.

Bahous, S. (2022, July 29). *Statement: Crises drive an increase in human trafficking – Here's how we stop it*. UN Women – Headquarters. https://www.unwomen.org/en/news-stories/statement/2022/07/statement-crises-drive-an-increase-in-human-trafficking-heres-how-we-stop-it

Becker, C. (2015). Jus Soli: A miraculous solution to prevent statelessness? *Statelessness*. https://www.statelessness.eu/updates/blog/jus-soli-miraculous-solution-prevent-statelessness

Beninger, C., & Manjoo, R. (2022). The Impact of Gender Discrimination on Statelessness: Causes, Consequences and Legal Responses. *African Human Mobility Review*, *8*(3), 17–40.

Benslama-Dabdoub, M. (2021). Colonial Legacies in Syrian Nationality Law and the Risk of Statelessness. *Statelessness and Citizenship Review*, *3(1)*, 7–32.

Bertocchi, G., & Strozzi, C. (2010). The Evolution of Citizenship: Economic and Institutional Determinants. *The Journal of Law and Economics*, *53*(1), 95–136. https://doi.org/10.1086/600080

Bianchini, K. (2014). On the Protection of Stateless Persons in Germany. *Tilburg Law Review*, *19*, 35–51.

Brennan, D. (2019). Statelessness and the Feminist Toolbox: Another Man-Made Problem with a Feminist Solution. *Tilburg Law Review*, *24(2):170*. https://www.researchgate.net/publication/334187929_Statelessness_and_the_Feminist_Toolbox_Another_Man-Made_Problem_with_a_Feminist_Solution

Brennan, D. (2020). Feminist Foresight in Statelessness. *The Statelessness & Citizenship Review*, *2*(1), Article 1. https://doi.org/10.35715/SCR2001.114

Brubaker, R. (1992). State, State-System, and Citizenship in Germany. In *Citizenship and Nationhood in France and Germany* (pp. 50–72). Harvard University Press. https://epdf.tips/queue/citizenship-and-nationhood-in-france-and-germany.html

Bundesgesetzblatt BGBl - Gesetz Zum Übereinkommen Vom 28. September 1954 Über Die Rechtsstellung Der Staatenlosen, 22 (1976). https://www.bgbl.de/xaver/bgbl/start.xav#__bgbl__%2F%2F*%5B%40attr_id%3D%27bgbl276s0473.pdf%27%5D__1717767992987

Bundestag. (2011). *Aussetzung der allgemeinen Wehrpflicht beschlossen*. Deutscher Bundestag. https://www.bundestag.de/webarchiv/textarchiv/2011/33831649_kw12_de_wehrdienst-204958

Bundestag. (2023, May 25). *Plenarprotokoll 20/106*. https://www.bundestag.de/dokumente/textarchiv/2023/kw21-de-aktuelle-stunde-staatsangehoerigkeit-950152

Bundestag. (2024, January 19). *Bundestag erleichtert Zugang zur deutschen Staatsangehörigkeit*. https://www.bundestag.de/dokumente/textarchiv/2024/kw03-de-staatsangehoerigkeitsrecht-986286

Cahn, C., & Skenderovska, S. (2008, July 4). *Roma Citizenship, Statelessness and Related Status Issues in Europe: Briefing Paper for Expert Consultation on Issues Related to Minorities and the Denial or Deprivation of Citizenship, 6-7 December 2007, Convened by the UN Independent Expert on Minority Issues*. Www.Nationalromacentrum.Org. https://nationalromacentrum.org/en/publications/research/roma-citizenship-statelessness-and-related-status-issues-in-europe

Committee on the Elimination of Discrimination against Women. (2012). *Consideration of reports submitted by States Parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW/C/SYR/2; pp. 33–45). United Nations. https://www.cambridge.org/core/product/identifier/S0020782900043448/type/journal_article

Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families & Committee on the Rights of the Child. (2017, November 16). *Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return*. https://documents.un.org/doc/undoc/gen/g17/343/65/pdf/g1734365.pdf?token=LhLgWmy4eeP6kbL8za&fe=true

Committee on the Rights of the Child. (2019). *Concluding observations on the fifth periodic report of the Syrian Arab Republic* (CRC/C/SYR/CO/5). https://documents.un.org/doc/undoc/gen/g19/061/59/pdf/g1906159.pdf?token=JCnv4Mm0URj7uMbUst&fe=true

Committee on the Rights of the Child. (2022). *Concluding observations on the combined fifth and sixth periodic report of Germany* (CRC/C/DEU/CO/5-6). https://documents.un.org/doc/undoc/gen/g22/525/13/pdf/g2252513.pdf?token=zSGcXepKD0XUs939Rj&fe=true

Convention on Elimination of Discrimination of Women (CEDAW) (1979).

Convention on the Elimination of All Forms of Discrimination against Women (1979). https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women

Convention on the Reduction of Statelessness (1961). https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-reduction-statelessness

*Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe (2017-2019)*. (2017, May). Council of Europe Publishing. https://edoc.coe.int/en/children-s-rights/7362-council-of-europe-action-plan-on-protecting-refugee-and-migrant-children-in-europe-2017-2019.html

Davis, U. (1996). Citizenship Legislation in the Syrian Arab Republic. *Arab Studies Quarterly*, *18*(1), 29–47.

De Schutter, O. (2019). *International Human Rights Law: Cases, Material, Commentary* (Third Edition). Cambridge University Press.

Edwards, A., & Van Waas, L. (Eds.). (2014). *Nationality and Statelessness under International Law*. Cambridge University Press.

Entwurf eines Gesetzes zur Modernisierung des Staatsangehörigkeitsrechts (StARModG), 20/9044. Retrieved 24 May 2024, from https://dserver.bundestag.de/btd/20/090/2009044.pdf

European Network on statelessness. (2020, May 5). *Birth Registration and the Prevention of Statelessness in Europe: Identifying good practices and remaining barriers*. https://www.statelessness.eu/sites/default/files/2020-10/ENS-Birth_registrations-StatelessnessINDEX_briefing-revised.pdf

European Parliament Resolution of 3 May 2018 on the Protection of Children in Migration, 2018/2666(RSP) (2018). https://www.europarl.europa.eu/doceo/document/TA-8-2018-0201_EN.html

Family Law. (n.d.). *Syrian Law Journal*. Retrieved 18 June 2024, from https://www.syria.law/index.php/main-legislation/family-law/

Farahat, A., & Hailbronner, K. (2020). *Report on Citizenship Law: Germany* [Country Report 2020/05]. Robert Schuman Centre for Advanced Studies. https://cadmus.eui.eu/bitstream/handle/1814/66430/RSCAS_GLOBALCIT_CR_2020_5.pdf?sequence=1

Farinha, M. (2022). 'What about it is unclear? I mean I was born here:' Ungeklärte Staatsangehörigkeit and the (re-)production of de facto statelessness in Germany. *Citizenship Studies*, *26*(6), 799–815. https://doi.org/10.1080/13621025.2022.2103972

Federal Foreign Office. (2022, October 19). *Law on Nationality*. https://www.auswaertiges-amt.de/en/visa-service/konsularisches/-/229970

Federal Ministry for the Interior and Community. (2023, August 23). *Modernes Staatsangehörigkeitsrecht auf den Weg gebracht*.

Foster, M. (2021). *The 1961 Convention on the Reduction of Statelessness: History, Evolution and Relevance*. https://statelessnessandcitizenshipreview.com/index.php/journal/article/download/401/227

*General Assembly Declaration on the Rights of People who are not Nationals of the Country in which they live*. (1985, December 13).

German Federal Foreign Office. (2023, January 3). *Guidelines for Feminist Foreign Policy: A foreign policy for all*. German Federal Foreign Office. https://www.auswaertiges-amt.de/en/aussenpolitik/themen/ffp-guidelines/2585074

Gesetz Über Den Aufenthalt, Die Erwerbstätigkeit Und Die Integration von Ausländern Im Bundesgebiet 1) (Aufenthaltsgesetz - AufenthG) § 60a Vorübergehende Aussetzung Der Abschiebung (Duldung). Retrieved 5 June 2024, from https://www.gesetze-im-internet.de/aufenthg_2004/__60a.html

Gesetz Zur Modernisierung Des Staatsangehörigkeitsrecht, 104 (2024). https://www.recht.bund.de/bgbl/1/2024/104/VO.html

Goris, I., Harrington, J., & Köhn, S. (2018). *Statelessness: What it is and why it matters*. https://grassrootsjusticenetwork.org/resources/statelessness-what-it-is-why-it-matters/

Gozzi, L. (2023, December 2). Pregnant Russian women flying to Argentina for citizenship, officials say. *BBC News*. https://www.bbc.com/news/world-64610954

Grundgesetz (1949). https://www.gesetze-im-internet.de/gg/GG.pdf

Hauch, L. (2016, June 16). Sharia law will play a greater role in Syria's future. *Middle East Eye*. https://www.middleeasteye.net/opinion/sharia-law-will-play-greater-role-syrias-future

Human Rights Council. (2022). *Report of the Working Group on the Universal Periodic Review—Syrian Arab Republic* (A/HRC/50/6). https://documents.un.org/doc/undoc/gen/g22/297/96/pdf/g2229796.pdf?token=ParHDTH0ADMFwL1luv&fe=true

Human Rights Council. (2024). *Report of the Working Group on the Universal Periodic Review—Germany* (A/HRC/55/10). https://documents.un.org/doc/undoc/gen/g23/254/72/pdf/g2325472.pdf?token=F7Rrom2WaNUFc5WFTA&fe=true

Human Rights Watch. (2007). *No Room to Breathe: State Repression of Human Rights Activism in Syria: IV. Syria's Legal Framework*. https://www.hrw.org/reports/2007/syria1007/3.htm

Independent International Commission of Inquiry on the Syrian Arab Republic. (2023). *Gendered Impact of the Conflict in the Syrian Arab Republic on Women and Girls*. Office of the High Commissioner of Human Rights. https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coisyria/policypapersieges29aywar/2023-06-12-Gendered-impact-women-girls-%20Syria.pdf

Institute on Statelessness and Inclusion. (n.d.). *Addressing the Right to a Nationality through the Convention on the Rights of the Child: A toolkit for Civil Society*. Institute on Statelessness and Inclusion. Retrieved 3 July 2024, from http://crc.statelessnessandhumanrights.org/CRC_toolkit_brochure.pdf

International Law Commission. (2006). *Draft Articles on Diplomatic Protection with Commentaries* (Yearbook of the International Law Commission, pp. 22–100). United Nations. https://www.refworld.org/sites/default/files/legacy-pdf/en/2006-0/525e7929d.pdf

Kauranen, A. (2023, April 4). What can Finland's armed forces and arsenal offer NATO? *Reuters*. https://www.reuters.com/world/europe/what-can-finlands-armed-forces-arsenal-offer-nato-2023-04-04/

Kelly, S., & Breslin, J. (Eds.). (2010). Syria. In *Women's Rights in the Middle East and North Africa: Progress amid Resistance* (pp. 459–486). Freedom House. https://freedomhouse.org/sites/default/files/inline_images/Syria.pdf

Marambio, H., Neselovskyi, D., & European Network on Statelessness. (2022). *ENS Statelessness Index Survey 2022: Germany*. https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Germany-2022.pdf

Michaud, J. (2023, February 16). *The Evolution of German Citizenship Law*. https://americangerman.institute/2023/02/the-evolution-of-german-citizenship-law/

Mousa, D. (2018). *Syrian Personal Status Laws*. Friedrich-Ebert-Stiftung. https://library.fes.de/pdf-files/bueros/beirut/14969.pdf

Mrkić, S., & United Nations Legal Identity Expert Group. (2019, June). *United Nations Strategy for Legal Identity for All*. https://unstats.un.org/legal-identity-agenda/documents/UN-Strategy-for-LIA.pdf

Nationality Act of 22 July 1913 (Reich Law Gazette I p. 583 - Federal Law Gazette III 102-1), as Last Amended by Article 1 of the Act of 12 August 2021 (Federal Law Gazette I p. 3538) (2021). https://www.gesetze-im-internet.de/englisch_stag/englisch_stag.html

Nationality Act of 22 July 1913 (Reich Law Gazette I p. 583 – Federal Law Gazette III 102-1), as Last Amended by Article 1 of the Act of 22 March 2024 (Federal Law Gazette I No. 104) (2024). https://www.gesetze-im-internet.de/englisch_stag/englisch_stag.html#p0008

Nationality Act [Syrian Arab Republic], Legislative Decree No. 276 (1969). https://www.refworld.org/legal/legislation/natlegbod/1969/en/75964

Nick Robinson. (2023, July 14). How the tide of migration is changing European politics. *BBC*. https://www.bbc.com/news/world-66202565

Nottebohm (Liechtenstein v. Guatemala) (International Court of Justice 1955). https://icj-cij.org/case/18

Office of the High Commissioner of Human Rights. (n.d.). *Committee on the Rights of the Child*. OHCHR. Retrieved 2 July 2024, from https://www.ohchr.org/en/treaty-bodies/crc

Office of the United Nations High Commissioner of Human Rights. (2020). *United Nations Human Rights Recommendations to the Syrian Arab Republic: The Second Cycle of The Universal Periodic Review*. https://www.ohchr.org/sites/default/files/Documents/Countries/SY/UPR-EN.pdf

Olympe de Gouges. (1791, September). The Declaration of the Rights of Woman. In *The materials listed below appeared originally in The French Revolution and Human Rights: A Brief Documentary History, translated, edited, and with an introduction by Lynn Hunt (Boston/New York Bedford/St. Martin's, 1996), 124–129.* https://revolution.chnm.org/d/293

*Peace of Westphalia*. (2024, April 10). Britannica. https://www.britannica.com/event/Peace-of-Westphalia

*Personen: Staatsangehörigkeit*. (2024). Zensus Datenbank. https://ergebnisse.zensus2022.de/datenbank/online/statistic/1000A/table/1000A-1019/search/s/bmF0aW9uYWxpdCVDMyVBNHQ=

Petroziello, A. (2024, July 3). *Birth Registration as Bordering Practice in Fortress Europe*. https://www.statelessness.eu/updates/blog/birth-registration-bordering-practice-fortress-europe

Schlott, R. (2020, July 17). *Wir schaffen das!* bpb.de. https://www.bpb.de/shop/zeitschriften/apuz/312826/wir-schaffen-das/

Šimonović, D. (2008, December). *Introductory Note: Convention on the Elimination of All Forms of Discrimination against Women*. Audiovisual Library of International Law. https://legal.un.org/avl/ha/cedaw/cedaw.html

Somers, M. R. (2010). *Genealogies of Citizenship—Markets, Statelessness, and the Right to Have Rights*. Cambridge University Press.

Sredanovic, D. (2017). Was citizenship born with the Enlightenment?: Developments of citizenship between Britain and France and "everyday citizenship" implications. *Miranda*, *15*. https://doi.org/10.4000/miranda.11118

Statefree e.V. (2023, June 15). *Stellungnahme von Statefree e.V. zum Entwurf eines Gesetzes zur Modernisierung des Staatsangehörigkeitsrechts*. https://statefree.world/wp-content/uploads/2023/06/Statefree_SN_Modernisierung-Staatsangehorigkeitsrecht_16062023_Copyright_Statefree_.pdf

*Streit um Pläne der Regierung zur Reform des Einbürgerungsrechts*. (2022, January 12). Deutscher Bundestag. https://www.bundestag.de/dokumente/textarchiv/2022/kw48-de-aktuelle-stunde-einbuergerung-924032

Sturkenboom, I., & Van Waas, L. (2016). *How real is the risk of a 'stateless generation' in Europe?* https://ssrn.com/abstract=2877368

Syrian Law- Recent Legislation. (n.d.). *Syrian Law Journal*. Retrieved 18 June 2024, from https://www.syria.law/index.php/recent-legislation/

Szwed, A. (2020). Statelessness in the Context of the Migration Crisis in Europe: A Growing Challenge for the International Community. *CYELP*, *16*, 301–317.

Tieben, H. (2024, May 30). *The new German citizenship law—Here you find a summary of the most important changes*. https://www.mth-partner.de/en/immigration-law/the-new-german-citizenship-law-here-you-find-find-a-summary-of-the-most-important-changes/

Tobin, J., Alston, P., Archard, D., Barrett, D., Besson, S., & Byrne, B. (2019). *The UN Convention on the Rights of the Child: A commentary* (First edition). Oxford University Press.

UN Committee on the Elimination of Discrimination Against Women (CEDAW). (1994). *CEDAW Recommendation No.21: Equality in Marriage and Family Relations*. https://www.refworld.org/legal/general/cedaw/1994/en/61456

UN Convention on the Rights of the Child (1989). https://www.unicef.org/media/52626/file

UN Convention Relating to the Status of Stateless Persons (1954). https://www.ohchr.org/sites/default/files/stateless.pdf

UN High Commissioner for Refugees (UNHCR). (2014). *Woman Alone: The fight for survival by Syria's refugee women*. https://www.refworld.org/reference/countryrep/unhcr/2014/en/100426

UN High Commissioner for Refugees (UNHCR). (2016). *In Search of Solutions: Addressing Statelessness in the Middle East and North Africa*. https://www.refworld.org/reference/regionalreport/unhcr/2016/en/32226

UN High Commissioner for Refugees (UNHCR). (2017). *Good Practices Paper on Ensurin Birth Registration for the Prevention of Statelessness*. https://www.unhcr.org/ke/wp-content/uploads/sites/2/2017/11/Good-Practices-Paper-on-Ensuring-Birth-Registration-for-the-Prevention-of-Statelessness.pdf

UN High Commissioner for Refugees (UNHCR). (2021, March 18). *Syria Refugee Crisis – Globally, in Europe and in Cyprus*. UNHCR Cyprus. https://www.unhcr.org/cy/2021/03/18/syria-refugee-crisis-globally-in-europe-and-in-cyprus-meet-some-syrian-refugees-in-cyprus/

UN High Commissioner for Refugees (UNHCR). (2022, April 3). *Background Note on Gender Equality, Nationality Laws and Statelessness 2022*. https://www.refworld.org/reference/themreport/unhcr/2022/en/123115

UN Human Rights Committee. (2005). *Consideration of reports submitted by States parties under article 40 of the Covenant: International Covenant on Civil and Political Rights: concluding observations of the Human Rights Committee: Syrian Arab Republic*. UN,. https://digitallibrary.un.org/record/560158

UN Secretary-General. (1995, July 28). *Reservations, declarations and objections relating to the Convention on the Rights of the Child: Note/ by the Secretary-General*. UN,. https://digitallibrary.un.org/record/191747

United Nations. (2024, June 30). *Chapter V: Refugees and Stateless Persons. 4. Convention on the Reduction of Statelessness*. United Nations Treaty Collection. https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=V-4&chapter=5&clang=_en#EndDec

Universal Declaration of Human Rights (1948).

Van Waas, L., & Albarazi, Z. (Eds.). (2016). *Nationality and Cases of Statelessness in the Middle East and North Africa* (1–1). https://citizenshiprightsafrica.org/wp-content/uploads/2016/01/LegalAgenda-Tilburg_NationalityStatelessness-MENA_2016.pdf

Van Waas, L., De Chickera, A., & Institute on Statelessness and Inclusion (Eds.). (2017). *The World's stateless: Children*. Wolf Legal Publishers. https://children.worldsstateless.org/assets/files/worlds-stateless-full-report.pdf

Vengoechea Barrios, J. (2017). Do jus soli regimes always protect children from statelessness? Some reflections from the Americas. In L. van Waas, A. De Chickera, & Institute on Statelessness and Inclusion (Eds.), *The World's stateless: Children* (pp. 393–400). Wolf Legal Publishers. https://children.worldsstateless.org/assets/files/worlds-stateless-full-report.pdf

Vlieks, C. (2022). *Nationality and Statelessness in Europe: European Law on Preventing and Solving Statelessness* [Tilburg University]. https://statelessness.uwazi.io/api/files/1701340160888uc0rkkzf64.pdf

Weis, P. (2016). *Staatsangehörigkeit und Staatenlosigkeit im gegenwärtigen Völkerrecht: Vortrag gehalten vor der Berliner Juristischen Gesellschaft am 29. Juni 1962* (Reprint). De Gruyter.

Zantout, M. R. (2008). *Robbed of Citizenship: French Law Stripped Lebanese Women of Basic Rights They Freely Enjoyed Under Ottoman Rule* (SSRN Scholarly Paper 1213098). https://doi.org/10.2139/ssrn.1213098

Ziadeh, R. (2017). *The History of the Syrian Constitution*. https://www.academia.edu/72899297/The_History_of_the_Syrian_Constitution