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# The Determination of Citizenship for Children Born Aboard International Flights: A Comparative Analysis Under International, Nigerian, and Islamic Legal Frameworks

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## ABSTRACT

*Instances of childbirth occurring aboard international aircraft, while rare, pose unique legal challenges in determining the child's citizenship. Typically, pregnant women in their trimester period are not allowed to board aircraft except for medical emergencies. This article aims to conduct a comprehensive analysis of how citizenship for children born on such flights is addressed within the realms of International Law, Nigerian Law, and Islamic Law, exploring the similarities and differences in theoretical and practical applications across these legal systems. Utilizing a qualitative research methodology, this study examines both primary and secondary legal sources. The findings indicate a divergence in approaches: Under International Law, a child born on an international aircraft generally acquires the citizenship of the country where the aircraft is registered. In contrast, Nigerian and Islamic laws prioritize jus sanguinis (right of blood), where a child's citizenship is determined by the parents' nationality, superseding jus soli (right of soil) principles that confer citizenship based on the location of birth (in this case, the aircraft's nationality).*

## KEYWORDS

*Citizenship acquisition, child born on board aircraft, international law, Nigerian law; Islamic law*

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## INTRODUCTION

It is a very rare situation for a pregnant airline passenger to deliver a baby while on board an international aircraft (Balarishnan, 2023). Because a pregnant woman would not, ordinarily be permitted to board an aircraft during her trimester period (Balarishnan, 2023), except and probably for medical reasons. Where the reverse is the case, it gives rise to a conflict of laws as to which law will govern the acquisition of citizenship of such a baby.

It is obvious that the United Nations International Civil Aviation Convention 1944 (Chicago Convention, 1944) has maintained that an airline company that is interested in engaging in international air carriage enterprise shall register in the country in which it set out its business, bear and carry the nationality of such country (art. 17, Chicago Convention, 1944). This Convention only determined the law that regulates the operation of aircraft in its place of registration as opposed to citizenship acquisition. The 1961 Convention on the Reduction of Statelessness person is copiously relevant in this discussion as clarification will be made as to how and the nature of citizenship a child born on board an aircraft will acquire.

It is argued in some quarters, relying on the provision of the 1961 Convention on Reduction of Statelessness to maintain that an airborne child will automatically acquire nationality citizenship at the place of registration of aircraft (*Jus Soli*). Others rely on their national laws to maintain that such an airborne child will automatically assume the citizenship of his/her parent(s) (*Jus sanguinis)* and it will take precedence over and above *jus soli (*Steinhardt And Wedemeier, 2012; Achermann, 2010). In another view, Islamic law scholars similarly but with an addendum that *jus sanguinis* will be applicable in determining the citizenship of a child born on international aircraft, but other divisions such as citizenship by nationalization, and neutralization among others are for the purpose of administrative convenience (Alaro, 2023).

It is on the basis of argument and counter-argument that this article seeks to analyze the position of laws under international, Nigeria, and Islamic with a view to juxtapose whatever position this article supports. In this paper, Nigeria is chosen to be the country of the author and as one of the commonwealth countries that is a party to the convention and as well where Islamic law is being applied. Consequently, the paper is divided into four sections. Section I introduces the paper with a view to carrying the reader along on

what the paper will discuss. Section II makes conceptual clarifications of some terms which are adopted in this paper. Section III critically examines legal perspectives on the acquisition of citizenship of a child born on board an international aircraft. In this section, the discussion is limited to International, Nigerian, and Islamic laws as the basis for knowing the citizenship acquisition status of a child born on board an international aircraft. This section is important in the field of aviation law as it will make a clear-cut difference in the nature, law, and mode of acquisition of citizenship of a child born on board an international aircraft. Section IV finally concludes the analysis of the paper and stands on a position to which it deems to be followed.

## CONCEPTUAL CLARIFICATION OF CITIZENSHIP

The conceptual development of citizenship began with the development of human thinking of what society, state, and politics connote. It denotes a membership of a particular state (otherwise known as a political community) entitled to all the rights and privileges (Ewelukwa, 1982). "Citizens" is held to connote 'members of a political community who in their associated capacity, have established or submitted themselves to the dominion of a government for the promotion of their general welfare and protection of their individual as well as collective rights'. This judicial definition is similar to that of Justice Wetson when he defines citizenship as "a juristic and political status in which an individual enjoys full, legally sanctioned membership in a state and owes full allegiance to" (*Herriot v. City of Seattle)*. Citizenship is a status that is legally granted to an individual by a state which enables said individual to enjoy the privileges and responsibilities that come with that status. Citizenship refers to "a person who under the constitution and the laws of a particular state is a member of the political community owing allegiance to the community and being entitled to enjoy all its civil rights and protections. The person is a member of the civil state entitled to all its privileges" (Garner, 2013). The concept of citizenship is important in a modernised state because it determines the nature of rights and obligations, benefits and privileges a member of a political community will derive having paid allegiance to that particular community. This position finds support in the word of Shaw when he maintained that:

> "the concept... is important since it determines the benefits to which persons may be entitled and the obligations (such as conscription) which they must perform." (Shaw, 2008)

The allegiance from a person and reciprocal rights and privileges from the state can be attained through what is known as *jus Soli and jus sanguinis* (Umozurike, 2015). In aviation parlance, international aircraft are those airlines that are plying international routes, in that they are involved in the international carriage of passengers by air. An international carriage of passengers by air can be defined as 'any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two States Parties or within the territory of a single State Party if there is an agreed to stop place within the territory of another State, even if that State is not a State Party (Montreal Convention 1999). Even, though the aim and objective of the 1961 Convention are on the Reduction of Stateless persons, the convention did not define what a stateless is. Consequently, the definition provided by Michele Foster when he defines it "as persons who were not recognized by any state as its nation" (Foster, 2022) will be adopted in this article.

## LEGAL PERSPECTIVE ON THE ACQUISITION OF CITIZENSHIP OF A CHILD BORN ON BOARD AN INTERNATIONAL AIRCRAFT

To analyze the legal perspectives on the acquisition of citizenship of a child born on board an international aircraft, the paper limits itself to international, Swiss, and Islamic laws. The examination shall be quickly done hereunder:

### 1. International law perspective on the acquisition of citizenship of a child born on board an international aircraft

Some academic writers cited articles 17-21 of the Chicago Convention 1944 and the Convention on the Reduction of Statelessness Persons 1961 as authorities to argue that a child born on board an international aircraft automatically acquires the citizenship of the State of registration of the aircraft. In aviation parlance, articles 17-21 of the Convention on International Civil Aviation 1944 govern the issue of the acquisition of citizenship of a child born on board an international aircraft. Article 17 of the Convention provides that "aircraft have the nationality of the State in which they are registered" (art. 17, Chicago Convention 1944), and must not have dual nationalities (art. 18 Chicago Convention 1944). For the operation of aircraft and other incidental matters of aircraft in a place of registration, the national law of such aircraft will govern any human endeavour that occurred within that jurisdiction. Therefore, for delivery of a child on board an aircraft, the nationality law of the aircraft which may be *jus soli or jus sanguinis* as the case may be. While *jus soli* have been interpreted to mean citizenship on grounds of place of birth or place of residence of the parent, *jus sanguinis* is otherwise known as "Genealogical" or Hereditary Citizenship that is transmitted through the bloodline (Brigitte, 2001). For example, the principle of *jus soli* is applicable in the United States of America to any child born on international aircraft of the United States while such aircraft is in the airspace of the United States but not elsewhere (Best Citizenship, 2023). While it submitted in this respect that this Convention did not in any way address the issue of acquisition of a child born on board international aircraft of a State party to it, rather the purport of articles 17-21 of the Convention is to clear the jurisdictional issue as to the

applicable law whenever the aircraft is in the territory of another state on one hand, and on the other hand, it is for the purpose of ensuring proper identification of every aircraft (Cheng, 1966). That is why the Convention forbids dual or multiple registrations of aircraft (art. 18 Chicago Convention 1944) which is suggesting that such an aircraft has more than one nationality (Best Citizenship, 2023).

The 1961 Convention on the Reduction of Statelessness was adopted on the 4th of December 1954 pursuant to the United Nations General Assembly Resolution 896 (IX), 1954 but opened for signature at the Headquarters of the United Nations from 30th August 1961 to 31st May 1962 art. 16, Stateless Convention 1961). The aim and objective of the convention are to reduce the syndrome of statelessness of persons through international agreement (Preamble to Stateless Convention 1961) by granting its nationality status to any person born within the territorial jurisdiction who will otherwise be stateless (art. 1 Stateless Convention, 1961). Such nationality may be granted at birth, or by operation of law (art. 1 (a) Stateless Convention, 1961), or upon application of a person who would have been stateless (art. 1 (b) Stateless Convention, 1961) but subject to certain conditions as enumerated in the Convention (art. 2 Stateless Convention, 1961).

Although the aim and objective of the Convention is to reduce statelessness person laudable and important, (AG/RES. 2826 (XLIV-O/14, 2014) however, the Convention fails to state the meaning of "statelessness" or "stateless person" as the case may be. Michele defines a "stateless person" as a person who was not recognized by any state as her citizen or national (Foster and Lambert, 2019; Foster, 2022). Thus, a person may be in a position of statelessness where him/herself cannot claim to be or national of a particular state.

The relevance of the Convention to the issue of the acquisition of citizenship of a child born on international aircraft is demonstrated in Article 3. The Convention provides:

> For the purpose of determining the obligations of Contracting States under this Convention, birth on a ship or in an aircraft shall be deemed to have taken place in the territory of the State whose flag the ship flies or in the territory of the State in which the aircraft is registered, as the case may be. (art. 3 Stateless Convention 1961)

While the obligation required of a contracting state is to reduce statelessness by granting its nationality to a person born in its territory. Thus, according to Article 3, a child born on board an international aircraft registered in one of the contracting states is deemed to be the national of that state in which the aircraft is registered. This is akin to the principle *jus soli* where a nationality of a born child is determined and recognized on the ground of place of birth. It is submitted that if this convention is fully complied with the issue of acquisition of a child born on international aircraft will be determined.

However, the convention creates confusion on the ground that how can a child born international aircraft by parents (father and mother) be stateless? This question requires a response from an international perspective. It is argued in this article that even though there is no clear-cut international law that regulates a situation like this. It is further submitted that a child born on board an international aircraft cannot be stateless. It is therefore assumed that that is why some countries adopt the doctrine of *jus sanguinis* to govern the nationality of such an airborne child.

## 2. Nigeria's law perspective on the acquisition of citizenship of a child born on board an international aircraft

This sub-section of the paper seeks to analyze the historical antecedent of Nigerian law regulating citizenship acquisition in Nigeria with a view to knowing its applicability and the status of a child born on board an international aircraft. The approach shall be in two folds: A child born on board an international aircraft over the Nigeria air space; and a child born on board Nigeria's international aircraft over the air space of another state.

Before the arrival of the colonial master, from Great Britain, what is known as modern Nigeria of today consisted of different ethnic groups of different backgrounds and languages. They include *Yoruba*, *Nupe, Edo, Igbo, and Hausa* just to mention but few. None of these ethnic groups has a formalized system of acquiring citizenship, rather they depended on their local customs to the effect that a child born to the descent of a community automatically acquired citizenship of that community. Thus, member of each ethnicity was recognized on the basis of language and traditional institution (Bronmen et al. 2020; Ubaku et al 2014).

What could be referred to as a formalized citizenship acquisition law in Nigeria started during the colonialization of the people of Nigeria in the olden days by the British master in 1861. Thus, the era witnessed a division of the then Nigeria into Southern and Northern protectorates. Thus, the communities recognized themselves as such. This was the position until 1914 when the southern and Northern protectorates were amalgamated and collectively known as the colony and protectorate of Nigeria (Ikelegbe, 1995; Emmanuel, 2014; Erick, 2016). Thus, inhabitants of the colony and protectorate retained their status as 'British Subject' if born in the Colony, or 'British Protected Person' if born in the Protectorate (Bronmen, 2020). This was the position until 1960 when Nigeria became independent.

On 1st October 1960, the acquisition of Nigerian citizenship took a new dimension by reapplying the principle of *jus sanguinis* and *jus soli respectively*. Accordingly, *Jus sanguinis* in that respect was that those born before independence continued to retain their citizenship status of citizen of Nigeria colony if born in the colony and any of their parents or grandparent was born in the colony, or protectorate if born in the protectorate, and to those born outside Nigeria if any of their parents or grandparents was a Nigeria descent (Bronmen, 2020). On the other hand, *jus soli* as applied during the era was that those whose parents were not of Nigerian descent were required to

register to become Nigerian citizens on the ground of place of birth (Bronmen, 2020). It is submitted that the nature of citizenship acquisition in Nigeria began to take shape by the introduction of *jus sanguinis* and *jus soli* which were never applied before the independence.

In 1966, the civilian government was overthrown by the Military. Consequently, a Decree was promulgated to suspend Chapter II of the 1960 Constitution and Citizenship Acts of 1960 and 1961 respectively (Nwogugu, 1976), and created a sort of automatic acquisition of Nigerian citizenship. The Decree adopted the principle of *jus sanguinis* when it provided that any person born in Nigeria after independence shall be a citizen of Nigeria provided any of his/her parents or grandparents was a descent of Nigeria (Constitution (Amendment) Decree 1974, sec 7 (3) and (4)) on one hand, and on the other hand, a *jus soli* is created when it stated that a person born by parents became Nigeria citizen by registration was also considered a citizen of Nigeria (Constitution (Amendment) Decree 1974, sec 7 (5). This has been the citizenship acquisition law until 1979 when Nigeria returned to civilian government. The 1979 Constitution basically adopted the principle of *jus sanguinis.* Thus, the acquisition of citizenship was on the basis of descent or bloodline or hereditary (Nigeria 1979 Constitution, sec. 28). However, it went further to provide that those that had acquired citizenship by birth, naturalization, or registration should maintain their status as such (Nigeria 1979 Constitution, sec. 268). This has been the position under the Nigerian 1999 Constitution as amended.

**The Current Nigerian law on citizenship acquisition**

Even though Nigeria is a signatory to the 1961 Convention on the Reduction of Stateless Persons, nonetheless, the Nigeria 1999 Constitution is the main law regulating citizenship acquisition in Nigeria. This is due to the fact that all other laws derive their validity from the Nigerian Constitution by virtue of section 1 of the Constitution. There are two ways in which a person can acquire citizenship under the Nigeria 1999 Constitution as amended. These are automatic and non-automatic.

**Automatic acquisition of citizenship**

The constitution provides for the automatic acquisition of citizenship through the adoption of the principle of *jus sanguinis* (descent). The constitution provides for a wide range of descent under which any person born in or outside Nigeria can acquire citizenship of Nigeria. They are the biological father or mother, grandfather or grandmother, provided that they are part of an indigenous community in Nigeria. And any person born outside Nigeria by any of descent as the case may be (Nigeria 1999 Constitution, secs 25 and 31).

It is submitted that apart from the list of descent contained in the Constitution, there are no other grounds (s) upon which Nigerian citizenship can be automatically conferred on any person. Therefore, the acquisition of citizenship as a result of foundling or being born on aircraft is not mentioned as one of the grounds for the automatic acquisition of Nigerian citizenship.

**Non-automatic acquisition of citizenship**

Acquisition of citizenship by Registration or naturalization is recognized under the Constitution. Accordingly, they are regarded as non-automatic since any person who wants to acquire either of the classifications shall fulfill certain conditions enumerated under the Constitution (Nigeria 1999 Constitution, secs 26 and 27). What therefore is the position of a child born on board an internal aircraft as to the acquisition of Nigeria citizenship?

It is submitted that despite the fact that Nigeria is a signatory to the 1961 Convention on the Reduction of Stateless Persons, a child born on an international aircraft may automatically acquire Nigerian citizenship or otherwise. It is automatic where the child's biological father or mother, grandfather or grandmother are part of an indigenous community in Nigeria. Consequently, a child born on board an international aircraft whose parents or any of his parents are from Nigeria shall be regarded as a Nigerian citizen irrespective of whether or not the aircraft is in Nigerian airspace. In this connection, regard is given to both paternal and maternal descent being indigenous to any part of Nigeria.

On the other hand, a child born on an international aircraft whose parent is not from any of the indigenous communities of Nigeria can still acquire Nigeria citizen subject to registration or neutralization. The Nigeria Civil Aviation Act, 2022 empowers the Nigeria Civil Aviation Authority (NCAA)to make regulations for the registration of birth of any person born on board an aircraft (Nigeria Civil Aviation Act, 2022, sec. 113), whether international or otherwise. It is submitted that registration here is general in nature as it is applicable to a child whose either of his/her parents is Nigerian or not.

It can be seen from the discussion that unlike international law that basically provides for the doctrine of jus soli as a means of acquisition of citizenship for a child born on board an international aircraft, such a child may acquire automatic citizenship in Nigeria where either of his/her parents is a descent of Nigeria or acquire through any of the processes called citizenship by registration or neutralization.

What therefore is the position under Islamic law? This poser shall quickly be addressed in the next section of the article.

## 3. The Islamic law perspective on the acquisition of citizenship of a child born on board an international aircraft

Islamic law is a separate legal system derived primarily from the Holy Qur'an (Kidwai, 1987; Talib et al, 2020; Ahmed, 2005) and Hadith (Hallaq 2009) on one hand; and secondarily from *Ijma (*Hallaq, 2009) and *Qiyas* (Hallaq, 2009) on the other hand. Islam having been perfected as a religion, has conglomerates of Islamic legal documents that guides and directs the affairs of Muslims in all ramifications. The Holy Qurán says: "Nothing have We omitted

from the Book" Qurán 6 verse38); and "...This day have I perfected your religion for you, completed My favour upon you, and have chosen for you Islam as your religion." (Qurán 5 verse 3) Consequently, this section will examine the status of a child born on board an international aircraft in relation to citizenship acquisition from an Islamic law perspective. The analysis will rely on the Islamic legal system as espoused in both primary and secondary sources.

Conceptually, *Muwatana* interpreted in English as 'Citizenship' (Kanchana, 2020), is rooted in the three Arabic letters و ط ن, which literarily mean "homeland" or any permanent place of abode of a human being. (Ibn Fares, 1979) It needs to be stated that a person may have two or three homelands, therefore, the plural of *watan* is *awṭān* (homelands), While *awtantu* (verb) is when a human being moves from one homeland to another (Ibn Manzur et al 1414 A.H).

Furthermore, various terminologies have been adopted in the Qurʾān to express homeland. For instance, Qurán, 2: 84, 85, 243, 246; 3: 195; 22: 40 adopt *diyār* to mean homeland while *dār* (the singular form of *diyār*) means "one's house", "location", or "country" as it occurs in the Quran 7: 78; 59:9; and *al-balad* [i.e.town] in Quran 90: 1-2 respectively. Other terms also include *masakin* i.e. "dwelling", "locations", and "remnants of houses that belong to past nations" as adopted in Quran, 20: 128, 29: 38; 32: 26. It is from the marriage of all these terms that the Arabists interpreted the term *muwatin* (Citizen) as: "a person whose two parents are citizens", (Ackrill et al 1995) b) "a person who is a member of a certain country, who enjoys the rights to political participation," (Lester and Poweller, 2008) c) and "someone with the right to participate in judicial functions and in office" (Thomas, 1998). Consequently, Muhammad Fawzy Hassan defines citizenship as "a relationship between an individual and a state to which the individual owes allegiance and in turn is entitled to its protection". It is also referring to a bundle of fundamental rights and entitlements, reciprocal with duties and obligations, which constitute individuals as authentic members of a socio-political community, that provides them with access to resources (Bryan and Peter, 2002).

Having conceptualized what Citizenship connotes in Islamic law, what therefore is the nature of citizenship under Islamic law? A collection of very little available literature on the subject under Islamic law perspectives on citizenship (Kamali, 2009; Muhammad Fawzy, 2018; Kanchana, 2020) acquisition neither directly discussed nor mentioned the exact types or classification into *jus soli* or *jus sanguinis.* However, reference will be made to these principles in this section to analyse the nature of citizenship that is applicable in Islam. There are three main methods under which a person can acquire citizenship under Islamic law. These include *Jus Sanguinis; Jus Soli* and Migration.

The concept of division of land into *dar al-Islam* (Land of Muslims) and *dar al-harb* (Land of none-Muslims) has no basis, according to Muhammad Hashim Kamali (Kamali supra) which is also supported in this article shall be ignored in analysing how a child can acquire citizenship under Islamic Law.

In determining the classification of acquisition, the author interviewed some Islamic law Scholars to know whether the above-mentioned classifications are applicable under Islamic law. Accordingly, AbdulRazaq Abdul Mojeed Alaro, (Alaro, 2023) Ibraheem Ridwan Olagunju, (Olagunju, 2023) and Numan Sulyman (Numan, 2023) unanimously agreed that the classifications are perfectly applicable under Islamic law but with *jus sanguinis* takes priority over and above the other classification. They maintained that irrespective of where a child is born, whether in Islamic State or not, the doctrine of Jus sanguinis shall take precedence over and above other types of citizenship acquisition. Accordingly, Alaro maintains that citizenship of a child under Islamic law is a function of the origin of his parents, irrespective of where he/she is born; on board an aircraft, a ship, or any other form of transportation. He goes further to argue that, usually a child assumes the citizenship of his father's nationality automatically (*jus sanguinis),* except in some few cases where the nationality of the mother will supersede that of the father. Citing an example, Alaro states that if the two parents profess different faiths, then the rule is that the child will assume citizenship of any of his/her parents who professes better religion. To further justify his position, he states that where a slave marries a freeman, as in those days, any product of the union shall assume the citizenship of his/her mother, not father; hence the restriction in Islamic law on marrying slave girls belonging to another man as her master, except in case of dire necessity as stated in surat Niisaai verse 25. (Alaro supra)

Alaro further contended that the practice of *jus soli* adopted by some states is viewed in Islamic law as a purely administrative matter, which if unless found to be inconsistence with any known Islamic law, remains under the vast umbrella of permissibility (*mubah*). (Alaro supra)

It needs to be stated that even though the 1961 Convention on the Reduction of Statelessness is actively in application throughout the world, especially in some countries that are parties to it. The expression that a child born on board an aircraft shall be a national of the country where such aircraft is registered (*jus soli*) cannot take precedent under Islamic law. Because according to Alaro, such as child shall acquire, automatically, citizenship of his/her parents. Alaro further maintains that no child can be born stateless under Islamic law because the parents of the child are from a particular state. That is why *jus sanguinis* is a better-served purpose than another form of citizenship acquisition. Numan supported the view of Alaro when he relied on Q 33 verse 5 where Allah said: "Call them by their fathers' name". He is of the opinion that the verse is referring to *jus sanguinis* as the superior method of how a child could acquire citizenship anywhere.

## CONCLUSION

Citizenship may be acquired based on *jus soli* or *jus sanguinis* thereby categorized as automatic citizenship acquisition. However, the disagreement is on which of the two automatic acquisitions is applicable in the case of a child born on an international aircraft. This appears to have been settled under international law through the adoption of the 1961 Convention on the Reduction of Stateless Persons where the doctrine of *jus soli* is preferred to *jus sanguinis.* Thus, even though Nigeria, a party to the Convention is not bound to apply the provisions of the convention into to. Therefore, a child born on board Nigeria's international airspace will acquire Nigerian citizenship automatically on the ground of *jus sanguinis* if any of his/her parents is of descent in Nigeria.

The position under Islamic law seems to be different from that obtainable under international and Nigerian law. Under Islamic law, a child born on board an international aircraft will acquire the nationality of his parents, particularly that of his father irrespective of where such a child is born. This position is held by some Islamic law scholars who relied on Quran 33 verse 5 to support their arguments. The reason is that all the available literature neither discusses the doctrine of *jus soli* as a method of citizenship acquisition nor mentioned *jus sanguis* as a means of acquisition for a child born on board an international aircraft. These different views on the method of acquisition of citizenship of a child born on board an international aircraft clearly expressed conflict of laws between International and Islamic law.

Summarily, International law relied on *jus soli,* Nigeria law relied on *Jus sanguinis* on the ground that either of his parents is an indigen of a community in Nigeria, or registers or neutralizes to be a citizen of Nigeria while Islamic law maintains *jus sanguinis.*

## REFERENCES


A. Ikelegbe (1995) *Politics and Government: An Introductory and Comparative Analysis* (Benin: Uri Publishers).

A.A KHAN, et. Al (2006). Encyclopaedia of Islamic Law. v.1 Concepts of Islamic Law. New Delhi: Pentagon Press, 2006. p.59; RAMADAN, H.M. Understanding Islamic Law. Oxford: AltaMira Press,.4

A.R Kidwai, (1987) Translating the Untranslatable – A Survey of English Translations of the Qur'an. The Muslim World Book Review, Summer.

AG/RES. 2826 (XLIV-O/14) PREVENTION AND REDUCTION OF STATELESSNESS AND PROTECTION OF STATELESS PERSONS IN THE AMERICAS (Adopted at the second plenary session, held on June 4, 2014) http://www.oas.org/en/sla/dil/docs/AG-RES_2826_XLIV-O-14.pdf accessed 2 May 2023.

Ahmed Souiaiai, (2005). On the Sources of Islamic Law and Practices, 20(1) *Journal of Law and Religion*, 123-127.

Alberto Achermann et al (2010). *Country Report: Switzerland,* (EUDO Citizenship Observatory: Robert Schuman Centre for Advanced Studies in Collaboration with Edinburgh University Law School, Country Report, RSCAS/EUDO-CIT-CR 2010/25, Badia Fiesolara, San Domenico di Fiesole (FI), Italy, 12.

Best Citizenship, Airborne Citizenship for Child Born in a Flight, https://best-citizenships.com/2023/01/24/ airborne-citizenship-for-child-born-in-a-flight/ accessed 19/5/2023.

Bin Cheng, (1966) "Nationality and Registration of Aircraft-Article 77of the Chicago Convention, *Journal of Air Law and Commerce* 32 (4),556-557.

Carolyn A. Dubay, (2014) "General Principle of International Law: Monism and Dualism" *International Judicial Monitor*.

Claude Hofhansel (2008), Citizenship in Australia, Germany, and Switzerland: Courts, Legislatives and Administrators" *International Migration Review,* 42 (1),181.

Cohn, (1953) "The New Swiss Nationality Act" *International and Comparative Law Quarterly* 2 (3) (1953): 428.

Constitutional (Amendment) Decree, No. 33 of 1974.

Convention for The Unification of Certain Rules for International Carriage by Air, done at Montreal on 28 May 1999 and entered into force on 4 November 2003, ICAO Doc. 9740 [hereinafter Montreal Convention].

D.I.O Ewelukwa, (1982), "Acquisition and Loss of Citizenship in Nigeria," *Nigerian Current Law Review*, 216.

E. O Ojo (2014) Nigeria, 1914-2014: From creation to cremation?" vol. 23 *Journal of the Historical Society of Nigeria,* 67.

E.I Nwogugu (1976) Recent Changes in Nigerian Nationality and Citizenship Law" vol. 25 (2) *International and Comparative Law Quarterly* 423-439.

Federal Act on Swiss Citizenship (Swiss Citizenship Act, SCA) of 20 June 2014 (Status as of 15 February 2018).

Garner, B. A, (ed.), (2013), *Black's Law Dictionary*, 9th ed. Minnesota: West Group.

Ibn Fares, Aḥmad (d.395 AH/1004 CE). Muʿjam Maqayīs al-Lughah. Edited by ʿAbdel-Salam Harūn, (Beirut: Dar al-Fikr, 1399 AH/1979 CE), vol. 6, 84, 120.

Ibn Manẓūr, Jamaluddīn. Lisān al-ʿArab. (Beirut: Dar Ṣader, 1414 AH), vol. 13, p. 451.

International Civil Aviation Organization (ICAO), Convention on Civil Aviation ("Chicago Convention"), 7 December 1944, (1994) 15 U.N.T.S. 295, available at: https://www.refworld.org/docid/3ddca0dd4. html [accessed 17 May 2023].

J. C. Batra, (2000). *"Modernization of the Warsaw System - Montreal 1999,*" J. AIR L. & COM. 65 (3), 429-444.

J.L. Ackrill and Lindsay Judson, eds. (1995). Richard Robinson, Trans. *Aristotle Politics*, (Oxford: Clarendon Press), vol. 3, 5.

Kane, Lester and Poweller, Marylyn, (2008). *Citizenship in the 21st Century*, (New York: Nova Science Publishers), vii.

*Lavoie v. Canada,* 1995 CanLII 3593 (FC), [1995] 2 FC 623.

M. Bronmen and S. Momoh (2020), *Report on Citizenship law: Nigeria* (County Report, 2020), 2.

M. Hamidullah, (1981). *Khutbat-i Bahalvalpur*. *Bahavalpur: Islamiyyah University.*

Max Friedrich Steinhardt And Jan Wedemeier, (2012). "The Labor Market Performance of Naturalized Immigrants in Switzerland-New Findings from the Swiss Labor Force Survey," *International & Integration* 13, 226.

McGinn, Thomas (1998). Prostitution, Sexuality, and Law in Ancient Rome. (Oxford University Press), 22.

MICHELE FOSTER (2022), "The 1961 Convention on the Reduction of Statelessness: History, Evolution and Relevance" *Statelessness and Citizenship Review* 4 (3),188.

Michele Foster And Helen Lambert (2019), *International Refugee Law and the Protection of Stateless Person* (Oxford: Oxford University Press), 25-26.

Michele Foster, (2022) "The 1961 Convention on the Reduction of Statelessness: History, Evolution and Relevance" *Statelessness and Citizenship Review* 4 (3) ,188.

Muḥammad Fawzy Ḥasan Abdel-Ḥay, (2018). The Concept and Principles of Citizenship from an Islamic Perspective, *JHS* 22(22),119-120.

Muhammad Hashim Kamali, (2009). Citizenship: an Islamic Perspective, *Journal of Islamic and Culture*, 11(2).

N.A Inegbedion, and J.O Odion, (2011). *Constitutional Law in Nigeria*, 2nd ed. (Benin: Ambik Press),168.

N.M Shaw, (2008). *International Law* 6th ed. (London: Cambridge University Press), 660.

Nigeria 1979 Constitution.

Nigeria 1999 Constitution as amended.

Pablo Mendes De Leon and Werner Eyskens, (2001). "The Montreal Convention: Analysis Of Some Aspects Of The Attempted Modernization And Consolidation Of The Warsaw System" *Journal of Air Law and Commerce*, 66(3), *1155-1184.*

Prabhu Balarishnan,(2023). "Airborn Citizenship for Child Born in a Flight", *Best Citizenship* 1 January, 2023 https://best-citizenships.com/2023/01/24/airborn-citizenship-for-child-born-in-a-flight/ accessed 29 April, 2023.

Prawitra Thalib, - And Faizal Kurniawan, - And Mohamad Nur Kholiq, (2020). The Application of Quranic Interpretation, of Sunnah And Ijtihad As The Source Of Islamic Law, *Rechtidee Jurnal Hukum*, 15 (2):193-206.

Pul Eric (2016) The Amalgamation of Nigeria: Revising 1914 and the Centenary Celebrations *12* (12) *Canadian Social Science* 66.

Radhika Kanchana, (2020). How do Muslims States Treat their "Outsiders"?: Is Islamic Practice of Naturalisation Synonymous with *Jus Sanguinis? In* Jureidini, Ray, and Said Fares Hassan, eds. *Migration and Islamic Ethics: Issues of Residence, Naturalization and Citizenship*. Brill, 136-158.

S.I Nchi (1996). *The Nigerian Law Dictionary* (Zaria: Tamza Publishing Co. Ltd.), 69.

Studer Brigitte, (2001). "Citizenship as Contingent Natural Belonging: Married Women and Foreigners in Twentieth Century Switzerland "in Gender & History, *Jg* 13, 625.

Swiss Federal Court Decision 125II 417, p. 424s., 128 IV 201 p. 205s. Or Decision of 12 October 2012 (2C_828/2011) Consideration 5).

The Convention on the Reduction of Statelessness Persons 1961, United Nations Treaty Series, vol. 989, 175.

The General Assembly Resolutions AG/RES. 1693 (XXIX-O/99), AG/RES. 1762 (XXX-O/00), AG/RES. 1832 (XXXI-O/01), AG/RES. 1892 (XXXII-O/02), AG/RES. 1971 (XXXIII-O/03), AG/RES. 2047 (XXXIV-O/04), AG/RES. 2511 (XXXIX-O/09), AG/RES. 2599 (XL-O/10), AG/RES. 2665 (XLI-O/11), and AG/RES. 2787 (XLIII-O/13) on the issue of prevention and reduction of statelessness and protection of stateless persons in the Americas.

Tumer, Bryan S. and Peter Hamilton, eds. (2002). Citizenship Critical Concepts, (London/New York, Routledge,), vol. 1, 3.

U.O Umozurike (2005)., *Introduction to International Law*, 3rd ed., (Ibadan: Spectrum Books Limited),156

Ubaku, Kelechi et al (2014) Impact of Nationalist Movement on the Acquisition of Nigerian Independence: 1914-1960" vol. 2 (1) *International Journal of History and Philosophy Research*, 54-67.

W. B Hallaq, (2009). *An introduction to Islamic Law*. Cambridge: Cambridge University Press, 16.

Wael B. Hallaq, (2009). *An introduction to Islamic Law*, (McGill University, 22.

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