



## Nationality, Migration and Post-Marriage in Legal Systems of Different Countries

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### **Abstract**

Inside the eighteenth century a school known as "Unity System of Nationality" specified the hypothesis that ladies should discover the nationality with their spouses after marriage. Also, the nationality of men ought to be authorized on ladies. In any case, in the twentieth century, a development distinguished as women's liberation surfaced which brought about the framing of a school called known as "Arrangement of Nationality Independence". This school upheld the separating of marriage and nationality and accepted that ladies' nationality ought not change following marriage. These legitimate schools experienced distinctive signs in the positive laws and directions of various nations and it is some of the time hard to characterize them into an individual lawful school. The legitimate frameworks of nations can be classified into two groups: lawful frameworks pushing the burden of spouses' nationality on wives; lawful frameworks restricting the inconvenience of husbands' nationality on wives. This paper tries to involve distinctive frameworks of connection amongst marriage and nationality.

**KeyWords:** Migration; Post-marriage; Nationality

### **Introduction**

Prior to the Convention on the Nationality of Married Women, no enactment existed to secure wedded ladies' entitlement to hold or deny national citizenship in the way that men could. Ladies' rights bunches perceived a need to lawfully secure the citizenship privileges of ladies who wedded somebody from outside their nation or nationality. The League of Nations, the global association later prevailing by the United Nations, was campaigned by ladies' rights bunches amid the mid twentieth century to address the absence of universal laws perceiving wedded ladies' privileges of national citizenship. The Conference for the Codification of International Law, held at The Hague in 1930, drew dissents from universal ladies' rights gatherings, yet the League declined to incorporate enactment authorizing wedded ladies' nationality rights. The League took the position that it was not their part, but rather the part of part states, to manage equity amongst men and ladies.

The International Women's Suffrage Alliance (IWSA, later renamed the International Alliance of Women) propelled a message battle in 1931 to weight the League of Nations to address the absence of enactment. Ladies from around the globe sent wires to the League of Nations as a dissent. The League made the concession of making an unfunded Consultative Committee on Nationality of Women (Gordon, 1997).

The Pan-American Conference in Montevideo passed a Convention on the Nationality of Women in 1933. It was passed by the Pan American Conference in the meantime as the Treaty on the Equality of Rights Between Men and Women. These were the primary bits of worldwide law to "unequivocally set sexual uniformity as a guideline to be fused into national legislation" which was expected of nations approving the tradition and arrangement. Campaigning by the American National Women's Party has been credited with this legislation. However, neither the International Labor Organization (ILO) nor the League of Nations passed any enactment on the issue amid the interwar years (Schaps, 1998).

## ***Discussion***

There are different viewpoints on this issue and different legislations have approached it with different rules and regulations. These differences are addressed in the following.

### ***1. Legal Systems Advocating the Imposition of Husband's Nationality on the Wife***

Before the 20th century years and because the start of the 21th century years, jurists have always pressured the problem of nationality and also have explained that marital human relationships can't be ruled by several national legislations. Hence, it's important to ensure unity of nationality by any possible means. However, this guideline pertains to a country that is applicable the national lovers legislations to personal affairs. Therefore, in countries that apply the house rule to the non-public affairs, unity of nationality does not have any sensible use (Azimzadeh & Khosravi, 2009).

The good thing about unity of nationality is usually that the rights and tasks of lovers are described and interpreted in a single legal system because in many countries, personal affairs are consuming national law and for that reason if the couple are consuming two different guidelines contradictory commitments are imposed with them and everyone is troubled. It could even spoil the marriage of these lovers. Regardless of this benefit, there will vary disadvantages to the system .

Firstly, following relationship, the girl is not absolve to choose her new nationality and the new nationality is enforced on her behalf sometimes without her consent. Because of this, the girl might won't marry a overseas person or gets into into a casual relationship with the person. Second, from the demographic procedures perspective, this theory leaves a poor effect on the populace of nationals of the country especially in countries with negative inhabitants growth. Associated with that whenever the nationality of any international man is enforced on a female, the populace of women and their children in the united states declines. However, the speed of matrimony of countrywide men with international women is suprisingly low because men immigrate more than women. Therefore, the likelihood of marriage of overseas men with countrywide women is greater than marriage of overseas women with nationwide men. Finally, when the federal government admits the nationality of foreigners who ask for the nationality of the country for their love for his or her mates, but don't have any desire for the vacation spot country, it is known as a national menace to the security of the united states. The exact same also pertains to women who lose their homeland nationality because of matrimony (Badaqi, 2004). There are different viewpoints on the legal source of the post-marriage change in women's nationality.

1.1 Women will can change the nationality: promoters of this viewpoint accept that a lady acknowledges the nationality for her spouse in view she needs on would so. Toward those the long run from claiming marriage the lady knows that her spouse need the nationality about another nation over and In this manner acknowledges the nationality from claiming her spouse with consciousness Also understanding. Hence, those elementary nationality of the mamoncillo may be exchanged of the lady and not those resulting nationality of the mamoncillo that may come about from those marriage. The

lady may be also mindful of the nationality In the time about m. There would criticisms looking into this viewpoint Likewise the critics think that this thinking is not solid. To fact, those Adversaries contend that In a lady acknowledges the nationality from claiming her spouse Toward her own will, she if need those benefit should deny it a really. However, this may be not accurate Also An lady can't deny the nationality by any methods. Promoters from claiming this principle argue that At An lady acknowledges a mamoncillo she will be by implication tolerating as much nationality excessively awful (Dover, 1973).Therefore, they believe an imaginary will is involved in this process. However, this reasoning can be opposed by saying that free will only exists when you can express it and therefore it cannot have an imaginary existence.

1.2. Change about woman's nationality because of the man's dominance: promoters for this viewpoint trust that Concerning illustration man's predominance assumes a paramount part Previously, conjugal existence What's more as those mamoncillo is those leader of the family, thusly those nationality of mamoncillo is forced on the lady due to man's necessity. There need aid likewise various criticisms about this hypothesis and the adversaries have confidence that Eventually Tom's perusing discussing man's strength through the lady or an absence about such strength we need aid truth be told entering those domain about private law, Anyhow nationality is a standout amongst the ideas from claiming general law. Moreover, In those husband's strength may be the requirement, In this way as much strength ought Additionally apply of the progressions committed On as much ensuing nationalities (Nazif, 2009). However, those transform from claiming nationality due to marriage happens at those period of marking the m accord.

1.3. Progress for woman's nationality Likewise an aftereffect about marriage: Dr. Yohan accepts that the transform On An woman's nationality may be not planned or unintentional. It likewise doesn't effect starting with the strength for her spouse. He accepts that the change about nationality may be "the aftereffect from claiming marking those m agreement". Clinched alongside other words, legislatures that require the transform in the woman's nationality following m think about it an aftereffect about marriage. That is on say, when An lady gets married, she acknowledges the m institutional Similarly as it is secured for her husband's organizations in the nation. Evidently, a lady who gets hitched with her own assent may be naturally tolerating the regular alternately unavoidable outcomes of the marriage, including those inconvenience of her husband's nationality ahead her. She truth be told acknowledges the sum of the lawful impacts of the m. Toward tolerating this thinking those incapability of At whatever resulting progressions of the husband's nationality will be Additionally demonstrated (Arafnia, 2012)

Legal systems that believe in the unity of nationality for couples, make a distinction between the case in which a foreigner woman wants to marry a man of local nationality and the case in which a woman of local nationality wants to marry a foreigner man. Concerning women's nationality, legal systems has provided four classifications that are discussed in the following.

A) In this legal system, which is known as the "relative independence system", when a foreign woman marries a local man, the husband's nationality is imposed on the wife regardless of the law in the woman's homeland. In other words, the foreign woman automatically earns the nationality of the local man. Moreover, after the husband's nationality is imposed on the woman (and even after the marriage agreement is terminated) the woman still has her former husband's nationality unless she asks for cancellation of the nationality and revival of her primary nationality after termination of the marriage within the appropriate legal framework.

However, when a local woman marries a foreign man the rules governing the husband's country are applied. Hence, if the law ruling the husband's country imposes husband's nationality on the woman, the woman loses her primary nationality (Nasiri, 2007). In other words, when a local woman marries a foreigner man, loses her primary nationality only on the condition that she earns the nationality of her

husband. Such a woman will continue to live with the nationality of her husband and can only acquire her primary nationality after termination of the marriage. Therefore, such a system applies the “relative independence of nationality” principle to its local women.

B) In this legal system, at the time of imposing nationality the rule governing the woman’s homeland is applied and at the time of revoking the nationality the rule governing the man’s homeland is applied. That is to say, when a foreign woman marries a local man, she only earns her husband’s nationality on the condition that she gives up on her own nationality as a result of their marriage. In that case, the woman earns the nationality of her husband, and as she lets go of her own primary nationality the nationality of her husband is imposed on her. In the legal systems that follow this principle, the husband’s nationality is imposed on the wife only if the woman loses her primary nationality because of the marriage. In other words, in this group of legal systems, the rule governing the woman’s country is implemented when it is necessary to impose the husband’s nationality on the woman (Richard, 1992).

The main philosophy behind this method is to prevent statelessness of the woman. That is to say, if a woman loses her primary nationality due to the marriage and she also fails to earn the nationality of her husband, she remains stateless. Another philosophy behind this principle is to prevent “dual nationality” as a result of positive contradiction of laws because if the husband’s nationality is imposed on the wife and the woman’s homeland also still considers her among its nationals, then the woman has dual nationality.

In such systems, when a national woman marries a foreigner man, she only loses her nationality on the condition that she earns the nationality of her husband and informs the government of her homeland of the change in her nationality through legal formal procedures (Hemmat, 2011).

C) In this legal system, the rules governing the woman’s homeland are used to impose nationality. When a foreign woman marries a local man, she earns the nationality of her husband provided that she gives up on her primary nationality as a result of her marriage.

This legal system is basically and principally similar to the system explained in paragraph (B) in this assumption. However, the difference between this legal system and the one explained in paragraph (B) is that in the system explained in paragraph (B) when a foreign woman marries a local man but keeps her nationality, she is able to earn the nationality of her husband after marriage and on some specific condition. However, in the legal systems explained in paragraph (C) there is no law on this situation and the woman keeps her primary nationality. The reason is that these legal systems do not recognize dual nationality by which the woman keeps her primary nationality and also earns her husband’s nationality at the same time (Thomas, 1991).

However, when a local woman marries a foreign man she has the right to reject her primary nationality. A local woman who marries a foreign man keeps her primary nationality unless she wants to terminate it. The woman is granted with the unconditional right to reject her primary nationality and if a woman decides to this she has to inform her homeland government through legal formal procedures. In this type of legal systems, when a local woman marries a foreign man, the woman is still considered a national by her homeland country regardless of the rules governing the man’s country. Therefore, the only factor that can deprive the woman of her primary nationality is her own rejection of her nationality and her request for asking her husband’s nationality. This group of legal systems does not apply the principle of “unity of nationality in family” when the woman is a national and the man is a foreigner (Raeesi, 2011).

## **2. Legal Systems Opposing the Imposition of Husband's Nationality on the Wife**

In the examinations from claiming women's privileges conspicuous school that supporters restoration from claiming women's privileges may be those "feminism school". Woman's rights will be a expression that alludes to "the faction from claiming spreading women's privileges Furthermore parts in the society". In general, it could be said that hypotheses about woman's rights outcome starting with an arrangement about investigations ahead women, which implicitly alternately unequivocally recommend An general broad scholarly framework of the basic aspects from claiming women's social existence. These hypotheses bring basic and dynamic methodologies that profit ladies What's more attempt to make a better universe to ladies. These hypotheses hold that An preferred universe for ladies makes An better reality to those entirety mankind.

Investigation from claiming distinctive manifestations for "discrimination Toward gender" uncovers that a standout amongst those the vast majority imperative illustrations from claiming this structure for separation will be "discrimination on the fact for nationality". Separation on the fact from claiming nationality will be an express structure from claiming separation that unequivocally grants privileges should men that are not conceded to ladies Also deprives ladies from claiming the individuals reductions. For the advancements for this class and the scholarly endeavors aggravated in distinctive societies, the issue about women's freedom need pulled in broad consideration since the early twentieth century. Consequently, because of those various endeavors Furthermore solicitations by ladies Also developments advocating women's privileges a amount for administrations offered finish flexibility with ladies and allowed them rise to privileges Likewise men. Therefore, they Additionally constructed transforms with their laws for crew Also couples nationality (Ebadi, 2006).

As stated by this theory, a lady could wed An mamoncillo for An nationality not the same as hers without Hosting should accept the man's nationality after the marriage. Hence, it will be said that at those period from claiming m those lady just tumbles in affection for the mamoncillo Also not as much nationality. Concerning illustration An result, the m need no impact on the couple's nationality and particularly the woman's nationality. Therefore, the woman's nationality is not transformed naturally by those marriage. However, so as should help crew Furthermore solidarity from claiming family, offices are given of the couple thereabouts that every of them could pick those nationality of the different mate voluntarily. The advantage of the absolute independence system is that it allows women marry foreign men without having worries about the imposition of the husband's nationality on them. Moreover, marriage of a local with a foreigner does not make any changes to the country's population too. However, in spite of the aforementioned advantages, this system also has disadvantages. For example, in this system a single legal system does not rule the family and the family's order might be disturbed at any time. Moreover, the probability of dual nationality for the children intensifies if the children's nationality system is affected by their maternal or paternal side or both sides. In addition, when the relations between two countries reach a critical point or a war starts, limitations are imposed on foreign residents in the involved countries. The constraints can undermine the unity of families and considerably increase the chances of disagreement on the rules and regulations affecting couples (Mehrpour, 2011).

Although the similarity between all these legal systems lies in the fact that they do not impose the husband's nationality on the wife, they can be classified into three major groups.

A) In this group of legal systems which are known as the "absolute independence of nationality" systems, when a foreign woman marries a local man, she does not acquire the nationality of her husband. In addition, when a local woman marries a foreign man, she does not lose her primary nationality. In this approach, feminism calls for equality of men and women concerning the issue of nationality. Therefore, it completely separates marriage from nationality and as a result marriage has no effect on nationality of people. This approach leads to the negation of unity of nationality of couples. As a

result, each of the mates enters into the marriage and lives with his/her mate with their own primary nationality.

- B) In this legal system, when a foreign woman marries a local man, she does not automatically acquire her husband's nationality, but she can earn through a requestor through brief paperwork (Imani Naeeni et al, 2011). Moreover, when a local woman marries a foreign man, she only loses her primary nationality on the condition that she rejects it.

In these absolute legal systems, the teachings and principles of feminism as well as the idea of equal rights for men and women govern the concept of nationality. Accordingly, any effect of marriage on nationality is rejected and the key factor in this process is the will and determination of women to select their nationality without having to accept a nationality that is imposed on them through marriage. In this group of legal systems, in the case of mixed marriage, which does not require unity of nationality for couples, the woman (either local or foreigner) is allowed to keep her primary nationality. This applies to a foreign woman who marries a local man and a local woman who marries a foreign man (Lindsay, 2005).

The third system is also classified into four different sub-categories.

1. When some of the criteria for acquiring nationality are applied to the person and the residence time is also reduced.

In some countries that run this legal system, the foreign woman who wants to marry a local man should meet some criteria such as the criteria for other foreigners to be able to acquire the nationality. However, some criteria and conditions, including the residence condition are exceptions and the residence period is reduced for the woman (Al Kajbaf, 2010).

2. When all of the criteria for acquiring nationality are applied to the person and the residence time is also reduced.

In some countries that run this legal system, a foreign woman who wants to marry a local man should meet all of the conditions such as the conditions for other foreigners to be able to acquire the nationality. The only exception is the residence period, which is reduced for this woman.

3. When the person is obliged to meet the residence criterion and have an understanding of the destination country's official language.

In countries following this principle, a foreign woman that marries a local man should meet the residence criterion and have good knowledge of the destination country's official language in order to be able to acquire the desired nationality (Saljuqi, 2009).

4. When the person is obliged to meet the residence criterion to earn the nationality

In some countries, a foreign woman who wants to marry a local man should only meet the residence criterion to be able to acquire her husband's nationality (Kar, 1999).

## **Conclusion**

These legal systems, the fairest system that complies with the basics and essentials of human right is the legal system where the husband's nationality is not enforced on the women if a woman marries with a local man. In this operational system woman can find the nationality of her spouse by implementing or going right through brief paperwork. Furthermore, in this operating system if a local woman marries a foreign man, the woman is granted with the right to reject her primary nationality This system not only stresses the independence of marriage from nationality and rejects any gender discrimination between women and men, but also preserves the woman's nationality after her marriage to a foreign man. Furthermore, in order to safeguard the unity of family, this technique grants the woman to reject her husband's nationality. This system can be a good example for other countries that are lack of a legal system of nationality. Because this system shows that the rate of criminal action, depravity and divorce have decreased markedly.

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