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UN convention on the nationality of married women

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Abstract

Convention on the Nationality of Married Women, first time in the history of international legal system, provides a legal framework for nationality of married women. Convention protects the citizenship of married women to retain or renounce the citizenship on equal terms of men.

This paper explores the provisions of United Nations Convention on Nationality of Married Women and response of India as a signatory of said convention and, reservation and declaration made by India at the time of signature.

Keywords: Nationality of married women, international law, declaration and reservation, Indian State Party

1. Introduction

With the inception of United Nations, issue of married women was a burning issue of women's rights. The United Nations Commission on the Status of Women launched a study in 1948 on the issue. CSW recommended to the United Nations Economic and Social Council that legislation be drafted to give women equal rights as set out in Article 15 in the Universal Declaration of Human Rights (UDHR).

General Assembly for adoption of Convention noted the point that on the celebration of marriage, dissolution of marriage, or change the nationality by the husband, wife suffers from the conflicting laws of different sovereign nations. So for elimination of difficulties and inequalities, General Assembly decided to conclude a Convention under the auspices of United Nations.

One of the purposes of the United Nations is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion. Married women over the years have not always enjoyed the same protection as to loss, and acquisition of nationality than their husbands. As there is no justification for discrimination on the basis of gender, the Convention was adopted to promote gender equality^[1]. The Convention was done at New York on 20 February 1957 and entered into force on 11 August 1958. The objects of the Convention are to recognize that conflict in law and practice with reference to nationality arises as a result of provisions concerning the loss and acquisition of nationality by women as a result of marriage, of its dissolution, or of the change of nationality of the husband during marriage, and to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to sex^[2]

In its preamble Convention clearly mention the Art 15^[3] of Universal Declaration of Human Rights recognizing that, conflicts in law in practice with reference to nationality arises as provisions concerning the loss or acquisition of nationality by women as a result of marriage, of its dissolution or of the change of nationality by the husband during marriage^[4]. By the way of article 15 of the Universal Declaration of Human Rights, the General Assembly of the United Nations has proclaimed that "everyone has the right to a nationality" and that "no one shall be arbitrarily deprived of his^[5] nationality nor denied the right to change his nationality". Desiring to co-operate with the United Nations in promoting universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to sex, adopted the Convention^[6].

Rights and provisions set out in the Convention

Articles 1 to 3 of the Convention provide that neither the celebration or dissolution of a marriage between a national and an alien, nor the change of nationality by the husband during the marriage shall automatically affect the nationality of the wife; that neither the

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voluntary acquisition of the nationality of another State, nor the renunciation of its nationality by one of its nationals shall prevent the retention of its nationality by the wife of such national; that the alien wife may acquire the nationality of her husband through specially privileged procedures, but subject to such limitations as may be imposed in the interests of national security or public policy.

Reservation and Declaration

India has reserve the obligation contend u/a 10. It provides the settlement for disputes with regard to the interpretation and implementation. It framed that if any Contracting Party to the Convention not agree to settled their disputes by negotiations then unless they referred the case for any other mode of settlement, shall be with the consent of the parties to the dispute be referred to the International Court of Justice for decision. It nullified the adoption and ratification of Convention but it can be use as moral presser and self-obligation and as well as other stake holder to condemn the violation of rights enshrined in Convention.

Conclusion

Despite of India being signatory ^[7] of Convention on the Nationality of Married Women 1957, not ratified till now, however after the adoption of CEDAW, present Convention has no longer significance as all the provision of Convention on Nationality of Married Women contained in Convention on Elimination of All forms of Discrimination against Women 1979 which came into force in 1981 and India is not only signed however ratified it in 1993 and obliged to fulfill the later and sprit of said Convention ^[8].

References

1. <http://www.queensu.ca/samp/migdocs/Documents/Minutes/270301.htm>
2. <http://www.queensu.ca/samp/migdocs/Documents/Minutes/270301.htm> Accessed on 13/05/2012
(1) Everyone has the right to a nationality.
(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality
3. Preamble, Convention on the Nationality of Married Women 1957
4. The use of word 'his' could be signals that the document does not treat women as individuals, trapping them in the family and giving them rights only as housekeepers or mother.
5. Ibid.
6. Article 9
7. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
8. States Parties shall grant women equal rights with men with respect to the nationality of their children.