

LEAGUE OF NATIONS.

Communicated to the
Council and the Members
of the League.

Official No: C.342.M.158.1934.V.

Geneva, August 15th, 1934.

NATIONALITY OF WOMEN.

REPORT OF THE SECRETARY-GENERAL ON THE INFORMATION
OBTAINED IN EXECUTION OF THE RESOLUTIONS OF THE
ASSEMBLY AND THE COUNCIL.

In view of the hope expressed last year by the Assembly (resolution of October 11th, 1933) that, before its next session, the Governments would have put the Secretary-General in a position to communicate to the Council information as to the effect which they had found it possible to give to Recommendation VI of the Codification Conference regarding equal treatment of the sexes in matters of nationality, the Secretary-General has the honour to communicate to the Council, and to circulate to the Members of the League for information, the present report on the information which he has obtained in regard to this subject.*

Part I. - Information supplied by the Governments.

The following Governments have supplied information in response to the Secretary-General's circular letter: Albania, South Africa, Belgium, United Kingdom of Great Britain and Northern Ireland, Canada, Chile, China, Colombia, Cuba, Ecuador, Finland, Iraq, Italy, Mexico, Monaco, Nicaragua, Persia, Siam, Sweden, United States of America.

* On October 12th, 1932, the Assembly had adopted a resolution instructing the Secretary-General to obtain from time to time from the Governments information as to the effect given to the Codification Conference's recommendation, and requesting the Council, on the basis of the information so obtained, to follow the development of public opinion in order to determine when further concerted international action with regard to the nationality of women would be desirable. The Council on January 24th, 1933, had agreed that it would be prepared to take appropriate action so soon as the conditions contemplated by the Assembly were realised, and had given the Secretary-General instructions as to obtaining information from the Governments. The request for information was made to the Governments by the Circular Letter 36.1933.V., of March 25th, 1933. The Assembly's resolution of October 11th, 1933, was brought to the attention of the Governments by the Circular Letter 202.1933.V., of November 1st, 1933.

1. Changes in nationality legislation since the date of the Codification Conference which affect the nationality of women have been notified by the United Kingdom of Great Britain and Northern Ireland (letter of January 9th, 1934), Canada (letter of May 9th, 1933), Sweden (letter of June 27th, 1934) and the United States of America (letter of May 19th, 1933).

The United Kingdom and Canada, while maintaining the general rule that the wife of a British subject shall be deemed to be a British subject and the wife of an alien shall be deemed to be an alien, have enacted laws which bring their existing legislation into conformity with those provisions of the Hague Convention of 1930 which deal with the nationality of married women (Chapter III, Articles 8-11).

Sweden has amended its law to ensure that a foreign woman shall not acquire Swedish nationality without her own consent as the result of naturalisation of her husband, provided she retains the foreign nationality despite the naturalisation of her husband.

The chief effect as regards the nationality of women of the new legislation mentioned in the letter from the United States Government would appear to be:

(a) To remove existing exceptions to the rule enacted in 1922 that a woman national of the United States shall not lose her United States nationality through marriage except she formally renounces such nationality;

(b) To facilitate resumption of U.S.A. nationality by women who have lost it as the result of marriage.

A subsequent law of May 24th, 1934, enacted with a view to ratification of the Convention mentioned in Part II below, removes certain differences still remaining between the treatment of the sexes in regard to nationality under United States law. In particular, the law alters the law regarding acquisition of United States nationality by children jure sanguinis or as the result of naturalisation of the parents, so that henceforth a child born abroad to parents one of whom is a national of the United States or a child of alien parents one of whom obtains naturalisation will, under the prescribed conditions, be a national of the United States irrespective of the sex of the parent.

2. The Government of Belgium (letter of May 26th, 1934) states that it does not find it possible at present to give effect to the first paragraph of the recommendation of the Codification Conference since Belgian law is based exclusively on the principle of the jus sanguinis paterni. The second paragraph of the recommendation is stated to be of little importance so far as concerns Belgium, whose existing law permits a foreign woman marrying a Belgian to choose the nationality which she is henceforth to possess.

3. South Africa, Iraq and Monaco indicate that they are unable to adopt the principle of identical treatment of the sexes in regard to nationality.

South Africa (letter of January 16th, 1934) refers to the statement made in 1932 and communicated to the Assembly to the effect that the results of the Hague Conference represent the extent to which the Government of the Union is at present prepared to make a concession to the principle of differing nationalities in the family.

Monaco (letter of January 23rd, 1934) states that the constitutional law of 1911 and the French-Monegasque Convention of October 7th, 1919, do not allow of legislation giving effect to the principle of sex equality in regard to nationality.

Iraq (letter of July 28th, 1934) states that, owing to existing laws and national customs, the Iraqi Government is of opinion that the recognition of the principle of equality between the sexes in matters of nationality is detrimental to the unity of the family and its mutual interests, and in many cases prevents inheritance among its members, thus rendering the registration of inherited property in the name of alien wives impossible. While taking the above points into serious consideration, the Iraqi Government is considering the advisability of embodying the following principles in the preparation of the new draft of the law of nationality:

- (1) The wife of an Iraqi national shall be deemed an Iraqi national thus acquiring Iraqi nationality by marriage;
- (2) A woman who had acquired Iraqi nationality by marriage after the death of her husband or upon dissolution of the marriage;
- (3) An alien woman shall have the option to acquire Iraqi nationality when her husband becomes Iraqi by naturalisation;
- (4) The wife of an alien is alien with the following exceptions:
 - (a) The Iraqi wife of an alien shall retain her Iraqi nationality until she acquire her husband's nationality according to the laws of his country;
 - (b) The wife of an Iraqi shall not lose her Iraqi nationality for the sole reason of her husband's doing so until she acquires her husband's nationality according to the laws of his newly adopted country;
 - (c) The Iraqi woman who has become alien according to the previous clause shall retain the right to acquire Iraqi nationality after the death of her husband or upon the dissolution of the marriage.

4. The Governments of Albania, Chile, China, Cuba, Ecuador, Mexico, Nicaragua and Persia, which appear to have made no changes in their law since the date of the Hague Conference, give an account of the effect of their law upon the nationality of women or forward the text of the law.

Under the law of Chile (letter of December 30th, 1933), marriage has no effect on nationality; the rules governing the acquisition and loss of Chilean nationality apply indifferently to men and to women, whether married or single. The Chilean Government therefore considers that there could be no occasion to alter its law for the purpose of establishing sex equality in regard to nationality.

China (letter of March 21st, 1934) also states that her law is based on the principle of equal rights for both sexes. A Chinese woman does not automatically lose her nationality as the result of marriage to a foreigner or of a change in her husband's nationality. A foreign woman marrying a Chinese national and the wife of a foreigner who is naturalised need not become Chinese nationals if they retain their previous nationality. Women may be naturalised although they are married to aliens.

Cuba (letter of April 12th, 1933) states that the chief recent change in its law regarding the nationality of women is that effected in 1929, which prevents a Cuban woman from losing Cuban nationality as the result of marrying a foreigner.

Ecuador (letter of December 1st, 1933) considers that its law is in conformity with the recommendation of the Hague Conference. A woman national does not lose Ecuadorian nationality as the result of marriage or of a change in her husband's nationality; a foreign woman marrying an Ecuadorian national acquires her husband's nationality, but is free to reject this nationality by making a declaration to that effect.

Under the law of Persia (letter of April 10th, 1934), a foreign woman acquires Persian nationality on marriage to a Persian national or on naturalisation of her husband, but in the latter case she may renounce it in favour of her former nationality. A Persian woman retains Persian nationality on marriage to a foreigner, unless the marriage gives her the nationality of her husband.

As regards the other three countries:

The law of Albania (letter of August 8th, 1933) adopts with some qualifications the principle that a married woman has the nationality of her husband. An Albanian woman loses Albanian nationality on marriage to a foreigner if she acquires her husband's nationality, and on a change in her husband's nationality if she is living with her husband and acquires his new nationality. A foreign woman acquires Albanian nationality by marriage to an Albanian. Naturalisation of a foreigner makes his wife an Albanian national if she is living with him. In the last two cases, if the spouses have been the object of a judicial separation and there are no children of the marriage, the wife may apparently renounce Albanian nationality but the law lays down the general principle that a married woman may not take a nationality different from that of her husband.

The Mexican Government (letter of September 13th, 1933) states that it is considering new legislation on the subject of the nationality of women, but gives no details as to its contents. Under the existing law, a foreign woman acquires Mexican nationality on marriage to a Mexican and a Mexican woman loses Mexican nationality on a change in the nationality of her husband, if she resides in the country whose nationality the husband acquires.

The Government of Nicaragua (letter of November 30th, 1933) states that the adoption of equality of the sexes in regard to nationality would involve an amendment of the Constitution, which provides that a Nicaraguan woman who marries a foreigner loses Nicaraguan nationality if she thereby acquires the husband's nationality.* The relevant rules of the Constitution can, however, be modified by treaties on the basis of reciprocity. The question of changing the Constitution has been discussed in the country, not exactly in connection with the question of the nationality of women and their equality with men in regard to political and civil rights, but as a result of new general tendencies as regards organisation of the public authorities, civic liberties, representation of minorities and so forth.

5. The Italian Government (letter of May 1st, 1933), while stating that there has been no change in its nationality law, adds that a bill to amend the law has been submitted to the Senate, but does not indicate its contents.

6. Colombia (letter of August 10th, 1933), Finland (letter of May 5th, 1933) and Siam (letter of August 19th, 1933) state that there has been no change in their law since the Codification Conference.

Part II. Convention on the Nationality of Women concluded at the Seventh International Conference of American States in December 1933.

A reference to the above Convention is necessary in order to complete the account here given of the action taken by Governments with regard to the nationality of women.

By Article 1 of the Convention, the parties agree that there shall be no distinction based on sex as regards nationality in their legislation or in their practice. The remaining four articles deal with ratification of the Convention, its entry into force, denunciation and accession by non-signatory States. The text of the Convention is reproduced in the Annex.

The Convention was signed on December 26th, 1933, by Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, United States of America, Uruguay.**

* The Constitution also provides that a foreign woman marrying a Nicaraguan becomes a Nicaraguan national (Note by the Secretariat).

** The list given is taken from a certified copy of the Convention supplied by the Director-General of the Pan-American Union on June 14th, 1934.

Reservations were made at the time of signature by Honduras, Salvador, and the United States of America, as follows:

Honduras. "The delegation of Honduras adheres to the Convention on Equality of Nationality, with the reservations and limitations which the Constitution and laws of our country determine."

Salvador. Reservation to the effect that in El Salvador the Convention cannot be the object of immediate ratification, but that it will be necessary to consider previously the desirability of reforming the existing Naturalisation Law, ratification being obtained only in the event that such legislative reform is undertaken, and after it may have been effected.

United States of America. The delegation of the United States of America, in signing the Convention on the Nationality of Women, makes the reservation that the agreement on the part of the United States is, of course and of necessity, subject to Congressional action.

In reply to an enquiry by the Secretary-General as to the effect of Article 5 relating to the accession of non-signatory States, the Director-General of the Pan-American Union has been good enough to inform him that, in virtue of an interpretation given by the Supervisory Committee of the Pan-American Union, the Convention may be considered to be open to accession by all States, including States not members of the Pan-American Union.*

* In taking its decision, the Supervisory Committee placed on record that the interpretation in this particular case was not to be considered a precedent in the interpretation of other treaties and conventions in which similar clauses appear.

CONVENTION ON THE NATIONALITY OF WOMEN

signed at Montevideo on December 26th, 1933.

The Governments represented in the Seventh International Conference of American States:

Wishing to conclude a Convention on the Nationality of Women, have appointed the following Plenipotentiaries:

.....
.....

Who, after having exhibited their full powers, which were found in good and due form, have agreed upon the following:

Article 1.

There shall be no distinction based on sex as regards nationality, in their legislation or in their practice.

Article 2.

The present Convention shall be ratified by the High Contracting Parties in conformity with their respective constitutional procedures. The Minister for Foreign Affairs of the Republic of Uruguay shall transmit authentic certified copies to the Governments for the afore-mentioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan-American Union in Washington, which shall notify the signatory Governments of said deposit. Such notification shall be considered as an exchange of ratifications.

Article 3.

The present Convention will enter into force between the High Contracting Parties in the order in which they deposit their respective ratifications.

Article 4.

The present Convention shall remain in force indefinitely, but may be denounced by means of one year's notice given to the Pan-American Union, which shall transmit it to the other signatory Governments. After the expiration of this period, the Convention shall cease in its effects as regards the party which denounces, but shall remain in effect for the remaining High Contracting Parties.

Article 5.

The present Convention shall be open for the adherence and accession of the States which are not signatories. The corresponding instruments shall be deposited in the archives of the Pan-American Union, which shall communicate them to the other High Contracting Parties.

In witness whereof, the following Plenipotentiaries have signed this Convention in Spanish, English, Portuguese and French, and hereunto affix their respective seals in the city of Montevideo, Republic of Uruguay, this twenty-sixth day of December, 1933.

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NATIONALITY OF WOMEN

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ASSEMBLY AND THE COUNCIL.

Addendum 1 to Part I. - Information supplied by the Governments.

Irish Free State.

By a letter dated August 29th, 1934, the Irish Free State has supplied the following information:

"No legislation has yet been passed by the Parliament of Saorstát Eireann on the subject of citizenship. A Citizenship Bill was, however, introduced in Dáil Eireann on June 27th, 1934, containing the proposals of the Government on the subject of the acquisition and loss of citizenship and providing for the regulation of citizenship generally. The Bill purposes to give effect, as far as possible, to the principle of the equality of the sexes in the domain of nationality law in accordance with Recommendation No.VI of the Hague Codification Conference. The Bill will recommend to Parliament proposals in the following terms:

"1. That, in principle, the marriage of a national and a non-national shall not of itself affect the nationality of either party.

"2. That, in the case of a marriage between a national and a non-national who intend to reside permanently in Saorstát Eireann after the marriage, the party to the marriage who is not a national at the date thereof may, at any time during six months after the marriage, elect for citizenship of Saorstát as his or her post-nuptial citizenship, and may be accorded such citizenship subject to compliance with the law.

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1934. V. 4.

"3. That, in the case of a marriage between a national and a non-national who intend to reside permanently outside Saorstát Eireann after the marriage, the party to the marriage who is a national at the date thereof may, at any time within twelve months after the marriage, elect to retain citizenship of Saorstát Eireann.

"4. That (a), the acquisition of citizenship of Saorstát Eireann by any person shall not of itself confer such citizenship on the wife or husband of such person, (b) the loss of citizenship of Saorstát Eireann by a person shall not of itself deprive the wife or husband of such person of such citizenship, and (c) the acquisition by a person of citizenship of a country other than Saorstát Eireann shall not of itself deprive the wife or husband of such person of citizenship of Saorstát Eireann.

"The Citizenship Bill will be proceeded with in the forthcoming session of the Parliament of Saorstát Eireann, which opens on November 14th, 1934."

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NATIONALITY OF WOMEN.

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THE ASSEMBLY AND THE COUNCIL.

Addendum 2 to Part I. - Information supplied by the Governments.

Hungary.

By a letter dated September 5th, 1934, the Hungarian Government states that its point of view is the same as that explained in its communication of July 12th, 1932.

In this communication, which was published in document A.15.1932 (page 7), the Hungarian Government expressed the opinion that the results obtained at the Hague Conference of 1930 represented the maximum which at present could be obtained by way of general international agreement in regard to the nationality of women, and stated that it could not accept the proposals of the Women's International Organisations, since they were not in harmony either with the provisions of the Hungarian law of nationality or with the principles of private law in force in Hungary.
