

The Effects of Marriage and Divorce on Women's Nationality in the Iranian Law

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ABSTRACT

As the first and foremost social institution, the family significantly impacts its immediate larger society. Also, the importance of family as a key figure in a healthy society and the necessity of strong relations between spouses make it imperative to devise the required legal devices. As women are prone to suffer and receive more damage in cases of family breakdown, the legislator should develop and establish more protective statutes concerning women's rights. This study uses legal research methods with a qualitative approach. To protect Iranian women's rights, the legislator distinguishes cases where an Iranian woman marries a foreign man and those where Iranian men marry foreign women. In the former case, the wife's change, or retention, of nationality is subject to the laws of the husband's State. In contrast, in the latter case, the legislator enforces the unity of nationality principle. Marriage between Iranian women and foreign men causes women to experience many changes and limitations regarding their national and inheritance rights. Also, they may lose their Iranian nationality due to their marriage—in cases when the husband's nationality, due to the law of the husband's State, is forced upon the wife. On the other hand, foreign women married to Iranian men, though forced to accept Iranian nationality, encounter fewer limitations resulting from marriage. Upon Divorce, they are neither forced to accept a nationality, unlike when marriage is celebrated, nor denied their Iranian nationality. They can choose whether to remain an Iranian national or recover their original nationality.

Keywords: marriage, Iranian women, foreign women, Iranian men, foreign men, nationality

ABSTRAK

Sebagai institusi sosial pertama dan utama, keluarga secara signifikan mempengaruhi masyarakat terdekatnya yang lebih besar. Juga, pentingnya keluarga sebagai tokoh kunci dalam masyarakat yang sehat dan perlunya hubungan yang kuat antara suami istri membuat perangkat hukum yang diperlukan harus dirancang. Karena perempuan cenderung menderita dan menerima lebih banyak kerusakan dalam kasus kehancuran keluarga, legislator harus mengembangkan dan menetapkan undang-undang yang lebih melindungi hak-hak perempuan. Penelitian ini menggunakan metode penelitian hukum dengan pendekatan kualitatif. Untuk melindungi hak-hak perempuan Iran, legislator membedakan kasus di mana seorang wanita Iran menikah dengan pria asing dan kasus di mana pria Iran menikahi wanita asing. Dalam kasus yang pertama, perubahan atau retensi kewarganegaraan istri tunduk pada hukum Negara suami. Sebaliknya, dalam kasus terakhir, pembuat undang-undang memberlakukan asas persatuan kebangsaan. Perkawinan antara perempuan Iran dan laki-laki asing menyebabkan perempuan mengalami banyak perubahan dan keterbatasan mengenai hak kebangsaan dan hak warisnya. Juga, mereka dapat kehilangan kewarganegaraan Iran mereka karena pernikahan mereka—dalam kasus ketika kewarganegaraan suami, karena hukum Negara suami, dipaksakan kepada istri. Di sisi lain, wanita asing yang menikah dengan pria Iran, meskipun dipaksa menerima kewarganegaraan Iran, menghadapi lebih sedikit batasan akibat pernikahan. Setelah Perceraian, mereka tidak dipaksa untuk menerima kewarganegaraan, tidak seperti ketika pernikahan dirayakan, atau menolak kewarganegaraan Iran mereka. Mereka dapat memilih apakah akan tetap menjadi warga negara Iran atau memulihkan kewarganegaraan asli mereka.

Kata Kunci: pernikahan, wanita Iran, wanita asing pria Iran, pria asing, kebangsaan

INTRODUCTION

Since Iranian women are, and have been, more vulnerable than their male counterparts, the Iranian legislator has set out some conditions to protect the interests of Iranian women married to foreign men. For this reason, acquiring a marriage permit issued by Iranian officials is absolutely compulsory in case of marriage between Iranian women and foreign men. Apart from safeguarding the interests of women, the necessity of issuing a marriage permit by Iranian officials in case of such marriages has a political aspect too. Because firstly, such a marriage, according to the laws of the husband's State, may lead to the nationality of the husband being forced upon his wife. As a result, the woman will lose her Iranian nationality. And secondly, nationality, politically speaking, should be monitored and controlled by States (Amini & Amini, 2019).

Such an absolute restriction is applied as a means 1) to protect Iranian women; 2) to ensure a secure future for them; 3) to enable the State to understand the nature and details of foreign presence in Iranian households; 4) to prevent serious complications resulting from marriage to foreign nationals, and 5) enable the legislator to make women more prudent in respect to their marriage with foreign nationals. This way, a marriage permit is issued when some of the conditions laid down to guarantee women's interests are met. Notwithstanding, Iranian men face very few obstacles in marrying foreign women except in cases where Article 106 of the Civil Code applies. This Article covers civil servants, especially the employees of the Iranian Foreign Ministry (Hanley, 2016). The reason behind such limitations is that marriages of such nature may present political threats.

Some previous studies viz Asanjarani, Guzmán-González, & Etemadi (2021), who researched Divorce between Iranian women and Chilean men, Asanjarani et al. (2021) Examine post-divorce regret among Iranian women. And Jaber et al. (2022) This study aims to find out the divorce process of Iranian couples, one of which is the woman as the initiator of the Divorce. Of the many studies on Divorce in Iran, no one has examined the impact of marriage on citizenship due to marrying a foreigner. So this research can cover the lack of research on this phenomenon. When this phenomenon becomes one of the issues in the government, various kinds of rules are made to maintain the identity of the nationality of its citizens.

RESEARCH METHOD

This research begins by choosing to identify the Divorce of a woman from a man outside Iran cases and discussing them through focus group discussions by Hennink (2013). A literature study from Hart (1998) and interviews were used to obtain data. From the perspective of legal research, solving a legal problem requires a legal approach as a basis for compiling appropriate, logical and accurate legal arguments. This research is an empirical normative research that studies the purpose of the law, the value of justice, the application of legal rules, legal concepts, and legal norms. Empirical normative legal research can also be a process of finding legal principles, principles and doctrines to answer legal problems. It can also be said that legal research is carried out to produce arguments, theories, or concepts as recipes or answers to the problems faced. The approaches used in this study are statutory, historical approaches, interpretation approaches, and case approaches.

RESULT AND DISCUSSION

Effects of marriage between Iranian women and foreign men

The Iranian legislator distinguishes the cases where an Iranian woman marries a foreign man and those where Iranian men marry foreign women. In the former case, the wife's change, or retention, of nationality is subject to the law of the husband's State. In contrast, in the latter case, the legislator enforces the unity of nationality principle (Bredbenner, 2018). Also, when such marriages are dissolved, several effects ensue. As a whole, in cases of marriage between Iranian women with foreign men, two distinct periods could be observed in the Iranian legislation. The first period dates back to when Iranian women lost their nationality upon marriage with foreign men, acquiring their husbands' nationality. In the second period, however, the principle of relative independence of nationality is pursued. In this case, marriage per se does not affect a woman's nationality unless the husband's State dictates otherwise. The latter procedure is maintained in Article 987 of the Iranian Civil Code. In what follows, these two periods are examined before examining and discussing the current State of affairs.

Two statutory periods

The first period (imposition of nationality period)

In this period, marriage with foreign men caused Iranian women to lose their Iranian nationality on an unconditional basis and acquire the nationality of their husbands' States. In other words, once a marriage was celebrated, the wife acquired her husband's nationality even if the marriage, according to the laws of the husband's State, was not consequential in changing the wife's Iranian nationality. In this regard, an extant of Naser al-Din Shah's decree, dating 1890, tells that all Iranian women can recover their Iranian nationality upon the death of their husbands. The content of this manuscript, though referring to Iranian women whose husbands passed away, clearly implies that, at the time, Iranian women had lost their Iranian nationality upon marriage with foreign nationals, having had to acquire their husbands' nationality. Later, on August 15, 1906, a statute was passed in 15 articles known as Qanoon-names (literally, the letter of the law).

The second period (period of relative independence of nationality)

During this period, marriage between Iranian women with foreign men was basically of no import to women's nationality, not forcing her to change her nationality and not making her acquire her husband's. As a result, Iranian women could retain their Iranian nationality after marriage. Retaining Iranian nationality, however, was contingent on the husband's State's law: whether it forced its nationality on her or not. If it did —i.e., the husband's nationality was forced on the wife— she lost her Iranian nationality and acquired the foreign nationality of her husband (Moghissi, 2016). Article 12 of the Nationality Act, ratified on September 7 1929, refers to this issue: "Iranian women married to foreign nationals shall retain their Iranian nationality unless the husband's State forces the nationality thereof on women upon marriage."

Current State of affairs

In this section, we will go on the current State of Iranian laws regarding marriages between Iranian women and foreign men, and vice versa. Furthermore, the effects that the termination of each type of this marriage would result in will be investigated.

Effects of marriage between Iranian women and foreign men in the current situation

In our current situation, the provisions laid down in Article 12 of the September 1929 Nationality Act regarding marriage to foreign men are precisely replicated in Article 987 of the Iranian Civil Code. Article 987 specifies: "Iranian women married to foreign nationals shall retain their Iranian nationality unless the husband's State forces the nationality thereof on women upon marriage." Thus, in the current laws of Iran, the principle of relative independence of nationality governs marriages between Iranian women with men of double nationality. Employing this system, the Iranian legislator implies concern over Iranian women's dual nationality or statelessness. That being so, two different modes are predicted regarding the Iranian women's independence of nationality system. The first mode occurs when the State to which the foreign husband is a subject forces its nationality on women upon marriage. In such cases, a woman who has already acquired a marriage permit from the government will lose her Iranian nationality, acquiring the nationality of her husband. Therefore, in cases where the wife is forced to acquire her husband's nationality due to the laws of the husband's State, the Iranian nationality laws follow the principle of the unity of nationality within the family (Barzegarkouchaksaraei, 2017). The second mode happens when the laws of the husband's country do not force nationality on women upon marriage, and the Iranian wife can opt for her Iranian nationality or her husband's (Bredbenner, 2018). This way, the husband's nationality does not affect the wife's, and her Iranian nationality remains intact. It is noteworthy that the Iranian legislator, one way or another, attempts to consider the requirements and interests related to marital life in such marriages as it acknowledges, in Article 987(1), the wife's right to choose or reject her husband's nationality. This way, the wife changes her nationality with her full knowledge [of probable consequences]. The procedure is devised to prevent Iranian women from becoming stateless and protect their citizenship rights (Barzegarkouchaksaraei, 2017). The 987th Article's Clause is utilized in this way: women submit their application along with their reason(s) to the Iranian Ministry of Foreign Affairs, and then, following official approval, they will acquire their husbands' foreign nationality. The statute does not elaborate on which authority is to issue the approval. Considering the cases where an application for nationality renunciation is processed, some lawyers believe the Cabinet should decide on the subject (Basedow, Rühl, Ferrari, & de Miguel Asensio, 2017). It is important to note that the provisions set out in the Clause of Article 987 specifying the conditions for removal from the country of those Iranians who have renounced their nationality do not apply to these women. Meaning, women forced to acquire their husbands' nationality or those who have applied to acquire their husbands' foreign nationality and the Ministry of Foreign Affairs grants their application in accordance with Article 987(1), are not required to leave the country (in the same manner that the individuals who have renounced their Iranian nationality are required to leave the Iranian soil).

Therefore, the Iranian legislator accepts the principle of spouses' relative independence of nationality concerning Iranian women married to foreign nationals, offering Iranian women different options. As mentioned, about women who marry foreign men, an option is to apply the principle of nationality unity in cases where the laws of the husband's State impose nationality upon the wife. Given the current situation and the large number of marriages taken place between Iranian women and Afghan men, a case can be made that 1) buying into this principle will result in a number of adverse consequences, stateless children included —as a result of family abandonment on the part of the father (Barzegarkouchaksaraei, 2017); 2) as for today, this principle is not competent enough to address the needs and requirements of Iranian women; 3) this system simply leaves the fate of Iranian women at the mercy of foreign laws; 4) it can lead to a considerable number of Iranians having their nationalities

transferred to other countries without taking into consideration the interests of the Iranian society; and 5) such an approach is in contrast with Article 41 of the Iranian Constitution which specifies: "Iranian nationality is an inalienable right of every Iranian which cannot be denied of him/her by the State unless required otherwise by the person in question, or in cases where the individual acquires the nationality of another State." This principle rejects the practice of nationality stripping based on forced nationality. Therefore, forcing the nationality of another country upon an Iranian cannot become the basis upon which to strip Iranians of their nationality. This is why some countries, including France, accept women's French nationality, even after marriage to foreigners, to protect the rights of their female subjects (Alpes & Spire, 2014). Accordingly, this Article should be rectified to become in line with the Constitution, especially considering that the Constitution —ratified and enacted 1979— was passed years later than the Iranian Civil Code ratified in 1921.

It should be noted that many of the problems which may inflict Iranian families are the result of unfamiliarity with the laws and regulations of the country on the part of Iranian women. For this reason, the Iranian legislator has devised a special permit for marriage with foreign nationals issuable by the government. Also, consulting Iran's consulates and acquiring a permit issued by them can enormously reduce the problems of Iranian women whose marriage has taken place abroad. Iranian women, inside or outside the country, must note that once a marriage is celebrated and the nationality of their husbands is forced upon them, they will be deprived of any political support by the Iranian government. Consequently, their children will also be denied Iranian birth certificates as, according to Iranian nationality laws, nationality is transmitted by paternity (paternal *jus sanguinis*). Although nationality is a matter of public law, currently subject to political interests and social necessities in determining its criteria, it should not escape our notice that, on a closer examination, nationality and the change of it may bring about some effects and consequences for a woman and, accordingly, for her family and marital life (Amini & Amini, 2019). This being so, a case can be made in favour of keeping Iranian women's nationality and arguing for the principle of multiple nationalities within the family to protect Iranian women unless these women renounce their Iranian nationality and acquire their husbands' nationality out of their own volition.

Here, a question may be raised: "What happens to the foreign nationality of an Iranian woman married to a foreign husband who then becomes a naturalized Iranian?" Simply put, can an Iranian woman who has lost her nationality due to her marriage to a foreign man recover her Iranian nationality? In response to this question, a case can be made that, by extension, according to Article 984 of the Civil Code, Iranian nationality will be forced upon the wife except in cases where she has submitted the written application, stipulated in Article 984, to the Ministry of Foreign Affairs within one year. To elaborate on Article 984, it is noteworthy that this Article employs the principle of unity of nationality in the family concerning the wife and children of a naturalized Iranian man. Asserting this principle is the first part of the Article which states: "The wife and minor children of a man who, according to the act hereof, have acquired Iranian nationality will be recognized as Iranian nationals" (Basedow et al., 2017). Second, although the first part of the Article imposes the husband's nationality on his wife and children, the second part incorporates a way out to alleviate the effects of nationality unity within the family, stating: "Women may submit, within one year following the official naturalization of their husbands, their application to the Ministry of Foreign Affairs to acquire the former nationality of their husbands. This period for minor children is one year after they reach the full age of 18. Moreover, a certificate stipulated in Article 977 shall be attached to the application form of children, irrespective of their sex."

Another question to be raised here is: "What would be the nationality of an Iranian woman married to a man with dual nationality, one of which is Iranian nationality, or both are the nationalities of foreign

countries?" In cases where the husband is of dual nationality, one of which is Iranian, the Iranian nationality is accorded higher priority in determining his Iranian wife's nationality. Therefore, Iranian laws do not acknowledge the foreign nationality of the husband as having any effect on this matter (Vermeer-Künzli, 2013). This is because, first, the legislator aims to protect the rights of Iranian women married to foreign nationals and, second, according to Article 989 of the Civil Code, all States have a right to determine their nationals and decide on whether to accept their subjects' second nationality (Moghissi, 2016). Also, in cases of marriage between an Iranian woman and a man with two foreign nationalities, the husband's dominant and effective nationality is considered forced upon his wife. It should be noted that in this case, the rights and liabilities of the wife will be determined based on her husband's dominant and effective nationality.

Effects of losing Iranian nationality on the rights of Iranian women

As discussed below, Iranian women who lose their nationality due to marriage to foreign nationals will experience several changes and limitations concerning their rights.

Financial and inheritance rights

Iranian women who willingly or forcefully lose their nationality as an outcome of their marriage to foreign men are no longer entitled to the rights and privileges accorded to Iranians, as they are considered alien individuals residing in Iranian society. Thus, they encounter changes concerning their immovable property in Iran (Siehr, 2015). Regarding the rights of Iranian women to immovable property, Article 987(2) of the 1924 Civil Code was extremely severe (Shaw, 2017):

Iranian women who acquire foreign nationality by marriage are not entitled to have immovable property except what is in their possession when marriage is celebrated. These properties cannot be transferred to their heirs.

After the 1982 Amendment, this Clause took the following form: "Iranian women who acquire foreign nationality by marriage are not entitled to immovable property if such possession leads to foreign economic domination." The entity to decide on the subject is a committee comprised of representatives from the Ministries of Foreign Affairs and Security. Provisions stipulated in Article 988 and the Clause thereof on removal out of the country of the Iranians who have renounced their nationality are not applicable to women mentioned here." This Clause 1) is based on what has come to be known as the principle of "no means of overcoming" (*nafy-e-sabil*, meaning that disbelievers shall not be given means of overcoming the believers) [in Islamic jurisdiction] which is also asserted in the Iranian Constitution; 2) the phrase "foreign economic domination" quoted in the 1982 Amendment, some lawyers hold, is ambiguous, requires interpretation, may potentially lead to discrimination, and is problematic in terms of determining its instances (Siehr, 2015); 3) the 1982 Amendment, though keeping some limitations in respect to the immovable property of women who lose their Iranian nationality because of marriage, removes the provision which stipulated that immovable property cannot be transferred to foreign heirs; and 4) the Amendment leaves out these Iranian women from the provision which stipulated the removal out of the country of those individuals who renounce Iranian nationality (Van Calster, 2016).

In addition to these limitations, some believe Iranian laws seriously restrict the inheritance rights of Iranian women married to foreign nationals, even going as far as depriving them of their rights to take their inherited property as defined according to Iranian law (Amini & Amini, 2019). These commentators, however, do not seem to be right in their general decree as, according to Article 967, inheritance is subject

to the laws of the State to which the decedent is a national. Therefore, in cases where the deceased husband is a foreigner, the wife may claim her share of inheritance according to the law of her husband's State, which may well exceed her share as determined according to Iranian law.

Limitations in maternal rights and the freedom to choose a marriage partner

Article 964 of the Iranian Civil Code stipulates: "Relations between parents and their children are subject to the law of the country of the father unless the only certain parentage of the child is that of its mother, in which case the relations between the two follow the laws of the country of the mother." This, in some cases, leads to the violation of the maternal rights of Iranian women married to foreign nationals. This violation, however, is not all-encompassing — i.e., it does not adversely affect the rights of Iranian women in each and all cases — because, first, the fact that relations between parents and children become subject to the law of the country of the father does not necessarily mean that the maternal rights of Iranian women are compromised. Secondly, according to the legal regimes in many countries, fathers are afforded fewer prerogatives than are accorded to fathers in Iran. Thereby, mothers enjoy a wider range of provisions and authority about their children's affairs (Moghadam, 2013).

Moreover, it should be noted that according to Article 961(2) of the Iranian Civil Code, foreign nationals are subject to the law of their own country with respect to the "rights concerning personal status which are not accepted by the law of the Government of the foreign national." As a result, Iranian courts will not grant a right to a foreign national to which they are not entitled in his/her own country. For instance, custody is a personal status. In the case of foreign fathers, personal status is subject to the laws of the father's country. Consequently, Iranian courts will not accord custody in a case where the laws of the father's country refuse to grant custody (Mir-Hosseini, 1986), leading to complications regarding child custody. Put together, these laws indicate that since the relations between parents and children are subject to the laws of the father's country, the relation between women married to foreign men and their children is determined according to the laws of the husband's country.

Limitations also restrain Iranian women in terms of choosing their marriage partner. For instance, an Iranian woman has no option but to take an Iranian man as a husband if she intends for her children to be Iranian (Arevalo-Ramirez & Maclean, 2020). This is because, on the one hand, marriage to a foreign man may cause the mother to lose her Iranian nationality and, on the other hand, children born out of such marriages are subject to the laws of the country of the foreign father as their mother, by her marriage, has lost her Iranian nationality (in cases where the laws of the country of the husband are forced upon the wife). As a result, these women are unable to transfer their Iranian nationality to their children, for they are no longer considered Iranian nationals unless their case becomes subject to the provision laid down in Article 976(4), which stipulates: "Persons born in Iran of foreign parents, one of whom was also born in Iran, are considered to be Iranian subjects." Therefore, in cases where either of the parents (whether the mother or father) and their child are born in Iran, the child can acquire Iranian nationality, provided both parents are non-Iranian. However, the child is subject to the law of the country of the husband anyway by Article 963 of the Iranian Civil Code, which specifies: "If husband and wife are not nationals of the same country, their personal and financial relations with one another will be subject to the laws of the country of the husband" (White, Martin, & Adamsons, 2018). Additionally, even if the child, by Article 976(4), acquires Iranian nationality, this is of no consequence to their relations with the parents. Thus, such a child, though Iranian, is still subject to the laws of the country of the husband concerning the rules governing the parent's relations to the child's affairs, custody included.

As an ultimate solution, it is suggested that Iranian women who marry foreign husbands and can opt for a nationality choose not to renounce their Iranian nationality to receive, albeit on a basic and minimum level, protection from Iranian laws.

Dissolution of marriage between Iranian women and foreign men

Marriage may terminate, not being a perpetual contract, for various reasons. This is why Article 987 of the Civil Code asserts:

But in any case, an Iranian woman marrying a foreign national after the death of the husband or after Divorce or separation will recover her original nationality together with all rights and privileges appertaining to it by the mere submission of an application to the Ministry of Foreign Affairs, to which should be annexed a certificate of the death of her husband or the document establishing the separation (Mikdashi, 2014).

The legislator is vesting women with the option to recover [their nationality] if they so desire. In such cases, there is no limitation or prerequisite to women recovering their Iranian nationality (Ra'eesi, 2007, p. 96). Also, once they recover their Iranian nationality, these women will re-acquire their rights and privileges, whereas the limitations concerning their immovable property will be lifted (Bayefsky, 2017). Furthermore, the children born to these women may, upon reaching 18 years of age, apply for Iranian nationality in compliance with the Act on the Determination of the Nationality of the Children by Iranian Women and Foreign Men. Granting Iranian nationality to these children, it should be noted, is not the result of applying *jus sanguinis* existing between the mother and the child. Still, it is a means set out by the Act to protect the children of Iranian mothers who, for whatever reasons, are devoid of an identity.

Effects of marriage between foreign women and Iranian men

Referring to foreign women married to Iranian men and their change of nationality is Article 976(6), which specifies: "Every woman of foreign nationality who marries an Iranian man is considered to be an Iranian subject." Accordingly, upon the celebration of marriage between a foreign woman and an Iranian man, her nationality will change into the Iranian nationality of her husband. In other words, the foreign woman is considered an Iranian before the Iranian legislator due to her marriage. Important to note this change of nationality is carried out irrespective of the laws of the wife's country. So whether the wife's country sanctions the change of nationality or refuses to acknowledge her marriage to an alien man to be effective in her nationality, continuing to recognize her as its national, the wife is considered an Iranian subject by the laws of Iran. In the former case, the wife has only one nationality, namely the Iranian one (Yassari, 2017). while in the latter case, both the wife's country and Iran recognize her as their national irrespective of the other country's method of handling the case. Also, international laws recognize the dual nationality of such women. Dual nationality, however, may lead to some complications for spouses. For instance, if a dispute arises in Iranian courts regarding the effects of marriage, the Iranian judge may deem the case subject to Iranian law and rule accordingly on the basis that the wife is an Iranian (Barzegarkouchaksaraei, 2017). On the other hand, a judge in the wife's country may have a different opinion based on the rules held in the country in question. Additionally, relations of the wife with her Iranian husband concerning their children are subject to Iranian laws as relations of this nature, according to Iranian law, are subject to the laws of the husband's country.

Therefore, the Iranian Civil Code explicitly recognizes the principle of the unity of nationality regarding Iranian men married to foreign women. Also, the [Iranian] nationality imposed on foreign

women is final and compulsory, not dependent on other conditions (Mousourakis, 2015). Therefore, considering the current situation where the unity of nationality is applied, the Iran government is responsible for providing political support for these women. Regarding the imposition of Iranian nationality on these women, a case can be made as follows: 1) it is not clear whether these women are eligible for Iranian nationality; 2) imposing Iranian nationality without observing the requisites of such a process may result in some undeniably adverse effects; 3) forcing Iranian nationality is, one way or another, in contrast to Article 42 of the Iranian Constitution on the optional aspect of the Iranian nationality acquisition; and 4) it may be the case that foreign women are not willing for Iranian nationality to be imposed upon them.

For Iranian nationality to be accorded to foreign women married to Iranian men on Iranian soil, the marriage doesn't need to have been celebrated on Iranian soil (Aghajanian & Thompson, 2013) because the sheer fact that the husband is Iranian and the wife is a foreign national suffices for the bestowal of Iranian nationality to the wife even if their marriage is taken place outside the country. For the acquisition of Iranian nationality, however, the existence of a "legal" marriage is a prerequisite. Thus, marriage must be legally taken place, and the wife's identity documents must be verified and registered in an Iranian consulate in compliance with Article 993 of the Iranian Civil Code (Malakouti & Talebi, 2018).

In cases where a husband abandons his Iranian nationality during the marriage, some lawyers believe this change of nationality does not affect his wife, allowing her to retain her Iranian nationality unless the leave for renouncing the Iranian nationality given to the husband by the government includes the wife as well by Article 988 of the Civil Code (Alikarami, 2019). Apparently, as a result of the husband's abandonment of his Iranian nationality, his wife should be stripped of her Iranian nationality because, firstly, she has acquired her Iranian nationality by the principle of the unity of nationality and, secondly, she has become an Iranian national through naturalization as a result of her marriage to an Iranian man.

And ultimately, some lawyers argue, the unity of the nationality system can be interpreted so as not to impact the nationality of either spouse. In the meantime, it can be declared that the spouses' unity of nationality means that both spouses are subjects of one State whose laws govern the relations between the couple (Barzegarkouchaksaraei, 2017). Such an argument does not seem to be in harmony with the principle of the unity of nationality and related articles of the Iranian Civil Code. All in all, the numerous problems resulting from the application of the principle of the unity of nationality concerning marriages between foreign women and Iranian men make it reasonable to apply the principle of multiple nationalities —considering that the financial and personal relations of spouses are already governed by the laws of the husband's country, namely Iran.

Marriage to Iranian men: Effects on the rights of foreign (naturalized Iranian) women

Apparently, according to Article 982 of the Civil Code, foreign women who have become Iranian nationals as a result of their marriage to Iranian men may, as is the case with naturalization, enjoy all the civil and political rights vested to Iranians except for the rights reserved for the following individuals stipulated in Article 982:

1. Presidency or vice-presidency
2. Membership in the Council of Guardians and chief of the Judiciary
3. Ministry, deputy ministry, the position of governor-general and governorship
4. Membership of the Islamic Consultative Assembly (the Iranian Parliament)
5. Membership in provincial, district councils, or municipal councils

6. Entry into the service of the Ministry of Foreign Affairs, or attaining any diplomatic position or being appointed on diplomatic delegations
7. Judgeship
8. The highest rank in the Army, the Revolutionary Guard and the police
9. Holding important information and security positions

Therefore, in cases where a foreign woman, by virtue of her marriage to an Iranian man, remains an "Iranian" for the rest of her life, she will always be deprived of a portion of the political rights existing in her country, a fact which is against the Constitution and human rights. Concerning other civil and political rights available for Iranians, these women are entitled to them as well, for they have become Iranian nationals (Yassari, 2017). Of these rights is the right to movable and immovable property (ownership and acquisition), inheritance and the right to reside in Iran, to name a few.

Termination of marriage: Effects on the nationality of foreign (naturalized Iranian) women

Foreign women who have acquired Iranian nationality may encounter some changes regarding their Iranian nationality due to the dissolution of their marriage —due to Divorce or the death of the husband (Byram, 2013). Contrary to the time when marriage is celebrated, however, this time, the law does not force Iranian nationality upon the wife, giving her the option to choose between remaining an Iranian or recovering her original nationality. Therefore, a foreign (naturalized Iranian) woman may, following the dissolution of her marriage, apply to recover her original nationality by notifying the Ministry of Foreign Affairs. A petition for recovery of nationality can be filed once the Divorce comes through or after the husband's death (Saljooqi, 2010). However, when the husband has passed away, leaving minor children —i.e., children under 18— the legislator prevents the wife from recovering her original nationality until the children come of age. According to Article 1171 of the Civil Code, the legislator aims to protect minor Iranian children under the custody of their mother. The rationale is that once the mother recovers her original nationality, she may leave the country, taking her Iranian children with her or leaving the children uncared for in Iran, both of which are detrimental to the interests of children and society (Bredbenner, 2018). Accordingly, Article 986 of the Civil Code states:

A non-Iranian wife who may have acquired Iranian nationality by marriage can revert to her former nationality after Divorce or the death of her husband, provided that she informs the Ministry of Foreign Affairs in writing of the facts. But a widow with children from her former husband cannot take advantage of this right so long as her children have not attained 18.

If the woman recovers her original nationality, she will lose her Iranian nationality. As a result, her rights to her immovable property in Iran, whether purchased by herself or inherited, experienced several changes (Saljooqi, 2010). On this issue, Article 986 of the Civil Code adds:

In any case, a woman who may acquire foreign nationality, according to the Article hereof, cannot possess properties except within limits fixed for foreign nationals (Durham Jr & Scharffs, 2019). If she possesses landed properties more than those allowed in the case of foreign nationals, or if subsequently, she comes into possession by inheritance of landed properties exceeding that limit, she must, one way or another, transfer to Iranian nationals the surplus amount of landed properties within one year from the date of her renunciation of Iranian nationality or within one year from the date of her acquiring the inherited property. In case of failure, the properties in question will be sold under the supervision of the local Public Prosecutor, and the proceeds will be paid to her after the deduction of the expenses of sale.

Eventually, one can argue that a whole change of nationality due to marriage is mandatory according to Iranian law. Also, the Iranian legislator recognizes this change of nationality as an effect of marriage. Therefore, following a divorce or death of a husband, foreign women, in most cases, may recover their original nationality and, consequently, their forfeited rights.

CONCLUSION

National unity for spouses, in accordance with known principles of private international law, aims to promote domestic unity. A large number of foreign nationals in Iran is a large number of Iranian expatriates. On the other hand, the resulting marriages between Iranian and foreign nationals are all very challenging to the principle of spouses. National unity in Iranian law. Therefore, it seems that the legislator ought to, in some cases, acknowledge the principle of multiple nationalities. The Iranian legislator employs a dichotomous approach in dealing with the principle of spouses' unity of nationality. Article 976(6) of the Civil Code specifies: "Every woman of foreign nationality who marries an Iranian husband is considered an Iranian", irrespective of her will. Therefore, foreign women will automatically acquire Iranian nationality upon marriage to Iranian men. In such cases, according to the Iranian nationality of foreign women, on a definite basis, the legislator employs the principle of the unity of nationality. As the Iranian nationality is forced upon foreign women, such provision can lead to complications for these women.

On the other hand, Article 987 of the Civil Code takes a different approach regarding marriages between Iranian women and foreign men: "Iranian women married to foreign nationals shall retain their Iranian nationality unless the husband's State forces the nationality thereof on women upon marriage." Thus, an Iranian woman will lose her Iranian nationality if the law of her husband's State forces the husband's nationality on the wife upon marriage. As a result, these women will be treated as aliens in Iran. However, all the matters discussed above will occur if the legal procedure for marriage is taken place according to Iranian law; otherwise, such marriages are not recognized by the Iranian government, not affecting the nationalities of foreign and Iranian men and women. It is noteworthy that the Iranian legislator ought to set out new laws to protect and support Iranian women, as women are more vulnerable and suffer greater damage than men in cases of family breakdown. While steps have been taken to address these problems in Iran, the laws are yet to be perfect, especially regarding marriage between Iranian women and foreign men.

REFERENCES

- Aghajanian, A., & Thompson, V. (2013). Female headed households in Iran (1976–2006). *Marriage & Family Review*, 49(2), 115–134.
- Alikarami, L. (2019). *Women and Equality in Iran: Law, Society and Activism*. Bloomsbury Publishing.
- Alpes, M. J., & Spire, A. (2014). Dealing with law in migration control: The powers of street-level bureaucrats at French consulates. *Social & Legal Studies*, 23(2), 261–274.
- Amini, M., & Amini, Z. (2019). Nationality of Children born From Marriage of Iranian Women to Non-Iranian Men. *Private Law*, 16(2), 435–462.
- Arevalo-Ramirez, W., & Maclean, R. J. B. (2020). Dual nationality and International Law in times of globalization. Challenges and opportunities for consular assistance and diplomatic protection in recent cases. *Braz. J. Int'l L.*, 17, 288.
- Asanjarani, F., Guzmán-González, M., & Etemadi, O. (2021). Adjustment to divorce among Iranian and Chilean women: An exploratory study. *Mental Health, Religion & Culture*, 24(1), 23–36.

- Barzegarkouchaksaraei, S. (2017). Nationality, Migration and Post-Marriage in Legal Systems of Different Countries. *International Journal of Multicultural and Multireligious Understanding*, 4(6), 16–23.
- Basedow, J., Rühl, G., Ferrari, F., & de Miguel Asensio, P. A. (2017). *Encyclopedia of private international law* (Vol. 1). Edward Elgar Publishing Cheltenham.
- Bayefsky, A. F. (2017). The Principle of Equality Ornon-Discrimination in International Law. In *Equality and Non-Discrimination under International Law* (pp. 71–104). Routledge.
- Bredbenner, C. L. (2018). *A nationality of her own: Women, marriage, and the law of citizenship*. University of California Press.
- Byram, M. (2013). Foreign language teaching and intercultural citizenship. *Iranian Journal of Language Teaching Research*, 1(3), 53–62.
- Durham Jr, W. C., & Scharffs, B. G. (2019). *Law and religion: National, international, and comparative perspectives*. Wolters Kluwer.
- Hanley, W. (2016). What Ottoman Nationality Was and Was Not. *Journal of the Ottoman and Turkish Studies Association*, 3(2), 277–298.
- Hennink, M. M. (2013). *Focus group discussions*. Oxford University Press.
- Jaberi, S., Etemadi, O., Fatehizade, M., & Rabbani Khorasgani, A. (2022). Iranian women's divorce style: a qualitative study. *Family Process*, 61(1), 436–450.
- Malakouti, M. S., & Talebi, A. T. (2018). The issue of identity in children without identity card: a grounded theory study from Tehran, Iran. *Journal of Human Rights and Social Work*, 3(2), 62–71.
- Mikdashi, M. (2014). *Religious Conversion and Dawa Secularism: Two Practices of Citizenship in Lebanon*. Columbia University.
- Mir-Hosseini, Z. (1986). Divorce in Islamic Law and in Practice: The Case of Iran. *Cambridge Anthropology*, 41–69.
- Moghadam, V. M. (2013). Feminism and family law in Iran: The struggle for women's economic citizenship in the Islamic Republic. In *Women in the middle East and North Africa* (pp. 114–128). Routledge.
- Moghissi, H. (2016). *Populism and feminism in Iran: Women's struggle in a male-defined revolutionary movement*. Springer.
- Mousourakis, G. (2015). *Roman law and the origins of the civil law tradition*. Springer.
- Saljooqi, M. (2010). *The requirements of private international law* (12th ed.). Tehran: Mizan Press.
- Shaw, M. N. (2017). *International law*. Cambridge university press.
- Siehr, K. (2015). Private international law and the difficult problem to return illegally exported cultural property. *Uniform Law Review*, 20(4), 503–515.
- Van Calster, G. (2016). *European private international law*. Bloomsbury Publishing.
- Vermeer-Künzli, A. (2013). Nationality and Diplomatic Protection: a reappraisal. In *The changing role of nationality in international law* (pp. 76–95). Routledge.
- White, J. M., Martin, T. F., & Adamsons, K. (2018). *Family theories: An introduction*. Sage Publications.
- Yassari, N. (2017). Iran. In *Encyclopedia of Private International Law* (pp. 2174–2182). Edward Elgar Publishing.

Statutes

The Civil Code of the Islamic Republic of Iran ratified in ...

The Constitution of the Islamic Republic of Iran ratified in ...

The Single Article of the Act on the Determination of the Nationality of the Children by Iranian Women and Foreign Men ratified in 2006