



American University of Armenia

Masters' thesis:

**Marriage – Steps For Obtaining
A Marriage License –One Foreign Spouse –
Citizenship Issue**

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2006

Abstract

By all means marry; if you get a good wife, you'll be happy. If you get a bad one, you'll become a philosopher¹. In contrast to the words of Socrates this paper argues that marriage with a foreigner is an issue affecting the identity of our nationality. Citizens of the Republic of Armenia while forming sham marriages with foreigners alter the initial identity of our nation and weaken our national policy. Therefore, this paper embodies inadequacies relating to the current laws of the Republic of Armenia are drawn to the attention and the implementation strategy regarding to the maintenance of our national identity is proposed.

¹ Socrates

When you realize you want
to spend the rest of your life
with somebody, you want the rest
of your life to start as soon as possible.

- Billy Crystal

1. Transaction description. Public policy/private interest clarification

1. This study concerns "the rest of the life" of those who decide to marry a foreigner. In the words of Joey Adams "Marriage is give and take. You had better give it to her or she will take it anyway". Marrying a foreigner is a transaction evoking different legal systems according to the place of transaction and the person concerned.

2. Marriage with a foreigner is important for both parties but particularly, according to the circumstances, it can be significant for the local one. God originated marriage as the basic way of giving and growing in love and together attaining salvation. We are not meant to live in isolation but to find and fulfill ourselves through the love of others (Gen 2:18 and 21-25).

Why is marriage with a foreigner an important transaction?

3. People are meant to marry because love unites them and if it is love that unites them, then they choose the path that is meant for them from Above and codified in the Constitution of the Republic of Armenia. Constitution of the Republic of Armenia routinely recognizes "family" as a fundamental principle guiding the society. But what is the purpose of marrying a foreigner besides exercising Constitutional and other rights conferred to us by God?

4. Different incentives and interests drive each party to make a choice to marry a person of other than his/her nationality besides love and the desire for unity. Deficiency in statistics in regard to each year concluding marriages between RA citizens with foreigners does not allow to depict the exact image of social needs prevailing in the Republic of Armenia. Local parties sometimes are motivated with the thought that they will have a better citizenship status than the current one. On the other hand, foreign parties are motivated to obtain Armenian citizenship because of the low tax rate on income for foreigners prevailing in the country. As Bob Monkhouse has once stated "Real happiness is when you marry a girl or a boy for love and find out later she is rich". Moreover, this type of marriages also boosts public policy of the country. According to the marriage of a local with a foreigner an economy of the republic flourishes because of the would-be investments by the foreigners. Afterwards, there will be a striking increase in population because the craving of every second person of the Republic of Armenia is to marry a foreign man or a woman.

5. For these reasons, it is crucial to elucidate for both parties the perplexed procedure of obtaining a marriage license with a person of other than his or her nationality for making it less a strenuous experience and more a favorable and profitable transaction.

2. Armenian Legal Framework

6. In the Republic of Armenia the legislative framework for marriage between a local and a foreign spouse consists mainly of the Law on the "Acts of Civil Status" of the Republic of Armenia adopted in December 08, 2004, Civil Code and Family Code.

7. In Article 24, paragraph 3 Civil Code defines marriage as an act of civil status subject to the state registration. Family Code prescribes in Article 141 that marriage with a foreigner should be done according to the norms set forth in the legislation of the Republic of Armenia. Acts of Civil Status consists mainly of the Family Code, Civil Code of the Republic of Armenia and international

treaties. In case there is an inconsistency between norms of the present Acts and the international treaty, the norms of international treaty should prevail (Article 2, Acts of Civil Status). Chapter three of the Acts of Civil Status – “*State Registry of Marriage*” embodies grounds for obtaining a marriage license, place of state registry of marriage, its procedure and manner, an application form, information filled in and contents of the license.

8. Joint application of both parties plays a ground for state registration. State registration of a marriage implements RACS (Registry of Acts of Civil Status) body. Application about marriage must be based on mutual consent and there must be no evidence prohibiting marriage between couples according to the Family Code. Following information must be embodied in the application form:

- a) name, surname, family name, nationality, birth place and time, citizenship of each person entering into marriage;
- b) selected surname by the couple after state registry of marriage;
- c) family condition;
- d) data of documents confirming individuality.

9. Ministry of Justice of the Republic of Armenia accepts applications and gives permission to the couple about registry of a marriage of a local spouse with a foreigner. In case one party cannot appear in RACS, the expression of the will of the later can be formulated with separate declarations and must be approved with signatures in a manner prescribed by law.

10. Acts of Civil Status in Articles 27-29 defines the norms of state registry, manner of recording of surnames by spouses during state registry, the content of recording of a marriage act². In Article 30 under the title the "Certificate of a marriage" information about citizenship is concluded.

3. Case studies

11. Inaccuracies arising out of the marriage of a local with a foreigner are among the most common lapses in our everyday life permitted by people and legal authorities. Though cases of this type do not go actually to the court according to the weak legal and enforcement system, the most cases involving inaccuracies are found to be in conflict with national and social pressing need.

12. In Armenia there is a loophole in the legal system of defining marriages of this type from artificial to natural ones. Most citizens of the Republic of Armenia marry foreigners for obtaining citizenship of another country. They marry based on the procedure set forth in the Acts of Civil Status and leave the country and there is none to check the reality of the marriage. For example, a girl of 18 years old married a US citizen of 40 years old and left the country for US to have the US citizenship. Another example of a thirty years old woman who married a US citizen solely for obtaining the US citizenship and later on facing a problem of divorce she was made to reveal her conceived motives behind getting married with a foreigner in order to seek ways to stay in US and thus to obtain US citizenship. Much more examples exist of the cases when young boys of the Republic of Armenia marry women of foreign nationalities for getting another than the citizenship of the Republic of Armenia. Hence, the mentioned cases show that population of the Republic of Armenia is decreasing day by day and fictitious marriages have their role in this decrease. Unfortunately, for the lack of statistic databases, evaluation of the current situation prevailing in Armenia in regard to the trend among citizens of the Republic of Armenia concerning the affection to marry foreigners will not be accurate. Thus the problem is in the aim of the citizens of the Republic of Armenia who leave Armenia to obtain other than citizenship of the Republic of Armenia and if it is impossible to depict the roots of the problem give a solution to decrease the flow from Armenia of its citizens.

4. Step-by-step description of the transaction

13. State registry of marriage of a local with a foreigner is executed in one of the Registry bodies of the ACS of the residence where one of the parties dwells. Parties have to pass the following procedure to obtain a marriage license:

1) They should file a common written application to the Registry of Acts of Civil Status where information about voluntarily of an engagement, the permitted age according to legislation of the Republic of Armenia, name, surname, birth date and place, citizenship and place of residence should be indicated. Moreover, the selected surname by a spouse after entry into marriage, their family status, and information certifying the personal identity of a couple should be designated in the application. The state registry of marriage shall be executed in three month after the day of submitting an application. If there are excusing conditions then state registry of a marriage based on the mutual application of a couple can be executed in one month. In that case, the state registry of marriage shall be executed on a date defined by parties in the mutual application but not sooner than three days after submitting the application. The list of excusing conditions shall approve the Ministry of Justice of the Republic of Armenia.

2) People entering into marriage shall sign the common application to certify the validity of the transaction as well as mutual consideration. Registry body of ACS can prolong the date of state registry but no more than one month.

3) Couple shall submit additional documents with the application. Documents must contain information about personal identity of couple, if one of the couple has been married before, if yes, then also documents relating termination of the marriage.

4) If one of the couple cannot be present to submit a mutual application to the Registry body of the ACS, then he/she must formulate his/her will and consent in statements and these statements must be executed in a manner prescribed by law. If one of the parties cannot be present because of serious illness and other conditions set forth in law, the state registry of marriage can be executed at

home, and other institutions. If one of the couple is in detention or other freedom restriction units, then the executive of Registry body of ACS shall implement the transaction based on the consent of the executive of appropriate foundation of crime implementing body. In all other cases the state registry of marriage shall be performed in the presence of both parties entering into marriage.

5) State registry of marriage upon the will and consent of the couple can be performed festively.

6) In the content of the *marriage act* the following information should be provided like: surname of the spouses (before the marriage and after the marriage) name, family name of the spouses; nationality; birth place and date; citizenship; place of residence; family status (window, divorced, not married before); initials of documents certifying personal identity of spouses and their signatures; date and number of marriage act and the place state registry of the couple (entitlement of the Registry of ACS); names, surnames and signatures of persons witnessing and certifying marriage of the couple; given certificate's series, number and other important information.

7) Ministry of Justice of the Republic of Armenia shall give a permission and approval to the couple to obtain a marriage license.

8) After all these procedure the couple shall be granted with the marriage license. In the marriage license the following information shall be contained:

- a) names, surnames (before marriage and after marriage) and family names of each of the spouses; nationality of the spouses, birth place and time of each of them and citizenship;
- b) time and number of marriage act;
- c) the place of state registry of marriage (name of Registry of ACS);
- d) time of granting a marriage license.

14. As we have followed, after passing the above mentioned procedure couple can gain the status of a spouse and enjoy being married with a foreigner.

5. International Best Practice (IBP)

15. This section of the study is devoted to the international best practice in regard to marriage and citizenship acquisition procedures as set forth in the laws of Italy, Japan and United States. Comparison will be drawn as to which country's rules are more relaxed to allow those whose answer to the question is "love" to find themselves in the "correct" houses.

Countries with civil law jurisdictions like Italy and Japan in analogy with the common law ones like the United States impose general requirements. It cannot be distinguishable whether civil law jurisdictions require less procedural rules for a spouse to obtain marriage license and citizenship than common law systems. For example, in Italy the procedure of obtaining Italian citizenship through marriage is easy and effortless while several states of the United States like Alabama, Colorado, the District of Columbia, Iowa, Kansas, Montana, New Hampshire, Oklahoma, Rhode Island, South Carolina, Texas, and Utah recognize common law marriages, which are *marriages by habit* without civil registry requirement and are legal before the law. On the other hand, Japan has the most perplexed procedure for granting marriage license and citizenship.

16. In 2002 for the first time in the United States Fiancé (e) Visa (K-1) and Marriage to a US Citizen was introduced. Marrying a US citizen is a multi-step procedure. The US citizen first needs to file Form I-130 (Petition for Alien Relative) application with USCIS in the United States on behalf of his/her fiancé(e) with an Affidavit of Support³ to begin immigration procedures. Afterwards, the Fiancé (e) is called to take an interview at the Consulate and if he/she succeeds with the interview a K-1 visa will be issued to him/her to enter the United States. After the entry to

³ Affidavit of Support is the document required only in the United States where the financial status of the US citizen is indicated. The US citizen must show in Affidavit of Support that his/her household income is sufficient to support family at 125% or more above the U.S. poverty level.

the United States the couple must marry within 90 days period and the alien citizen must immediately file an application form I-485 with USCIS to adjust his/her status to legal Permanent Residency (Green Card). Permanent Residency status will be granted to the alien resident on 'conditional' status for two years.

17. In the age of globalization, Italy applies different rules to "Community" foreigners, citizens of countries belonging to the European Union, compared to "non-Community" citizens. Community foreigners are subjected to the same procedural rules as Italians, in contrast to them, marriage of non-Community citizens with Italians and EU citizens are regulated under Title IV of the "Right of Family Union and protection of minors" (*Diritto all'unità familiare e tutela dei minori*), particularly by Articles 28, 29 and 30.

18. In Italy, under the provisions of the law the marriage of a non-Community citizen with an Italian does not require that multi-step procedure like the United States law does. Marriage of an Italian citizen with an alien citizen is confined to the made declarations of the couple about their intention to marry with the presence of two adult witnesses before the Civil Registrar (*Ufficiale di Stato Civile*) of the city or town they choose for their own and the submittal of the necessary documents. Under the requirement of necessary documents are included documents certifying a person's identity, birth certificate and a no-objection to marriage certificate, proof of a condition as a single or a legally divorced. The procedure of announcement of the marriage posted at the city hall for two consecutive Sundays prior to the marriage ceremony is something distinguishable from the matrimony systems of the United States and Japan. On the fourth day following the second Sunday when the announcement is posted, the marriage can take place. Italy like the United States recognizes either a civil, in the "eyes of the law", marriage or a religious, in the "eyes of God" marriage. During religious ceremony in Italy a Roman Catholic priest can register the marriage with the *Ufficiale di Stato Civile* and require no more separate civil ceremony. But if the ceremony

conducts a non-Roman Catholic clergymen a prior civil ceremony before performing a religious ceremony should have taken place in order to ensure the legality of the marriage.

19. However, the United States like Italy does not recognize religious marriages where the priest can perform the role of a state agent. During religious ceremony in the United States a "civil" ceremony must takes place during which signing a register will be enough to consider the couple married in the "eyes of the law".

20. Japan does not specify any rules in regard to bringing the alien resident into Japan for marriage purposes. Alien Registration Law only envisages provisions dealing with aliens already landed in Japan⁴. Foreign nationals marrying Japanese must undergo procedures envisaged by law and submit necessary documents. Japan recognizes only civil registry marriages. The only place the couple can get legally married in Japan is at a ward or city office. The distinguishing thing in the Japanese matrimony system is *koseki* (Family Registration) when the spouses notify municipal official about their marriage and get their *koseki*. In the resident Japan's *koseki* a non-Japanese is listed as a spouse but the head remains the Japanese. The *jyuminhyou* in Japan is the Residence Registration which non-Japanese spouses may not obtain⁵. In Japan one cannot acquire Japanese citizenship through marrying Japanese. Citizenship in Japan is regulated by the Nationality Act of May 4, 1950 according to which a non-Japanese spouse will be subjected to the same procedural rules as alien residents under the different categories⁶. The spouse of the Japan citizen instead of *jyuminhyou* will hold an alien registration card. The main criterion for submitting an application to acquire

⁴ Articles 1, 3 of the Latest Amendment: Law No.134 of 1999

⁵ <http://www.crnjapan.com/references/en/jyuminhyou.html>

⁶ Alien Registration Law, Law No.125 of 1952 Latest Amendment: Law No.134 of 1999 <http://www.moj.go.jp/ENGLISH/IB/ib-54.html>

Japanese citizenship is 5 years' residence in the territory of Japan. Acquisition of citizenship in Japan resembles the Scotts proverb "Don't marry for money. You can borrow it cheaper".

21. Application for acquisition of Italian citizenship by marriage to an Italian citizen is based upon Article 5 of the Italian Law on Nationality as amended February 5, 1992. Person who marries an Italian national is eligible for citizenship unless he/she has been involved in any criminal proceedings. Application for acquisition of Italian citizenship must be performed either through the "Prefettura" in Italy if the couple determines their six months' residence in Italy in cohabitation or through the appropriate Consulate after three years of uninterrupted marriage abroad. The Ministry of Interiors within 2 years period determines either to grant citizenship or deny it.

22. In the United States there is a second check on the marriage after 2 years residence of an alien spouse⁷. After 2 years' conditional residence in the United States both of the spouses will need to file another application of the Form I-751 (Petition to Remove the Conditions on Residence) to get unconditional Green Card for the alien spouse. The application must be filed during 90 days before expiration of the second anniversary of the conditional residence (Green Card). Only after 3 years of permanent dwelling in the United States the alien spouse of the US citizen can apply for acquisition of US citizenship. National authorities before granting the status of US residency check every tiny detail regarding the life of a couple to get assured on the reality of the marriage. For that reason they call spouses to appear for a personal interview at the district office where they live⁸⁹.

23. Italy has adopted rules to put in conformity with family values and hence made entry of alien citizens into the country without hindrances and acquisition of Italian citizenship facile. Policy behind Italian family laws in regard to marriage of alien citizens with Italians highly comply with the policy of "having right to marry" as set form in the Convention for the Protection of Human

⁷ <http://www.uscis.gov/graphics/howdoi/fiance.htm>

⁸ <http://www.800citizen.com/freesw.html>

⁹ <http://www.800citizen.com/statesInfo.html>

Rights and Fundamental Freedoms, Article 12¹⁰. Italy specifies under its domestic law the permissible age for marriage and other conditions similar to those of other states. The only condition that an alien citizen must satisfy for entry into marriage with an Italian citizen is the absence of any criminal record. Italian laws of citizenship convince the fulfillment of requisites set force in European Convention on Nationality (hereinafter "Convention"), Article 5¹¹. The Convention obliges Contracting Parties to facilitate acquisition of its citizenship by spouses of its citizens¹². Indeed, a foreigner can obtain Italian citizenship as soon as after being married to an Italy citizen for as much as six months.

24. Japan accommodated more discriminatory rules against foreign spouses who apply for the protection and respect of the same rights as enjoy Japanese citizens. Rules regulating marriage with a foreigner are not discriminatory themselves, discrimination starts after the marriage when the foreign spouse remains as a "remark" in his/her spouse's *koseki*. Japan undertook its obligation under the Convention literally and interpreted the provisions prescribed in Article 6¹³ to "facilitate" the acquisition of nationality by spouses of nationals to the extent it was in compliance with its domestic policy.

25. United States enacted policy to protect the security of its nation against fraudulent acquisition of US citizenship through marriage.

6. Procedure Evaluation

26. "Never doubt that a small group of thoughtful citizens can change the world. Indeed, it is the only thing that ever has" Margaret Mead. Countries like Italy, Japan, the United States and the Republic of

¹⁰"Men and women of marriageable age have the right to marry and found a family, according to the national laws governing the exercise of this right". Convention for the Protection of Human Rights and Fundamental Freedoms, Article 12

¹¹ "Each State Party shall be guided by the principle of non-discrimination between its nationals, whether they are nationals by birth or have acquired its nationality subsequently ". European Convention On Nationality, Article 5, European Treaty Series - No. 166

¹² "Citizenship and State Succession", Science and Technique of Democracy, No. 2, Vilnius (Lithuania) 16-17 May, 1997

¹³ <http://www1.umn.edu/humanrts/euro/ets166.html>

Armenia adopted rules accordingly to accommodate entry of the thoughtful citizens into their countries.

27. Republic of Armenia committed itself to the policy that "*a small group of thoughtful citizens can change the world*" and did not consider about that "Citizenship is what makes a republic; monarchies can get along without it"¹⁴ idiom.

28. Procedural rules of the law on "Acts of Civil Status" and Citizenship of the Republic of Armenia reflect the policy stated above. Family Code of the Republic of Armenia, however, envisages some limitations in regard to the capacity and intention of the couple preparing to marry. For example, Article 20 of the Family Code of the Republic of Armenia (hereinafter "Code") states that the court can invalidate the marriage if it was not entered in good faith by one of the spouses. Article 21 of the Code confers the authority to declare about the fakeness of the marriage to one of the spouses and claim that he/she was unaware about the other spouse's deceitful intention while entering into marriage. Nevertheless, the court has yet no cases reported on invalidation of marriage on the basis of fraud. Therefore, the cry of reality urges to enact stricter provisions for the protection of innocent victims from entry into sham marriages with fraudulent couples. Afterall, the provisions of the Code have been adopted to ensure the unity of the family based on mutual love and respect. By concluding sham marriages one thus puts at risk the integrity of society of Armenian nature and undermines the values unifying it.

29. The procedure of acquisition of citizenship of the Republic of Armenia resembles to that of Italy besides six months' waiting period requirement which law of the Republic of Armenia does not mandate. Republic of Armenia enacted laws to make easy acquisition of citizenship of the Republic of Armenia through marriage. For that reason policy of the Republic of Armenia on acquiring citizenship is foreign to Japanese and US policy makers but is the one that takes into

¹⁴ Mark Twain

account the needs of the Republic of Armenia; the needs for family unity and population increase. However that policy does not curtail the number of sham marriages concluded each year for the departure from Armenia of a citizen of the Republic of Armenia.

7. Recommendations for reform

30. "To put the world right in order, we must first put the nation in order; to put the nation in order, we must first put the family in order; to put the family in order, we must first cultivate our personal life; we must first set our hearts right."¹⁵

PREAMBLE

31. Recognizing family as an intrinsic social value and placing marriage by love as the only prerequisite for deserving the right to have a family, each of us undertakes to respect the rights of the others and ensure the honest desire of his/her part to enter into marriage by love and comply with the norms stipulated by law.

32. As it was stated above, the Code and Acts of Civil Status of the Republic of Armenia call for abiding with the principles of the law and provisions therein which prescribe norms that pave the way for couples to make their unifications on the basis of love.

33. These norms are so intensively enshrined in the concept of the law that they sometimes overweigh the craving of our nation for patriotism. Armenian population according to the statistics for July, 2006 was estimated to comprise 2,976,372 people out of per 1,000 population 5.72 migrated¹⁶.

34. The intention behind migration is naturalization with other nations, mostly with developed ones and the shortest means of naturalization, though admitting sadly, is through marriage with a foreign

¹⁵ Confucius

¹⁶ http://www.theodora.com/wfbccurrent/armenia/armenia_people.html

citizen. As the rules of other countries are strict pertaining to granting a visa for visiting their country, foreigners visit Armenia and marry citizens of the Republic of Armenia to facilitate their entry to their countries. This deal is most often concluded by money, so afterwards neither of the spouses will complain about the fakeness of the marriage.

35. The new provision must be introduced to the Code and Acts on Civil Status which should make merely impossible the performance of sham marriages and cut migration of population and call for alien citizens to obtain citizenship of the Republic of Armenia.

On Making Amendments to the Law of the Republic of Armenia

" Family Code of the Republic of Armenia"

Article 1. To add paragraph five to the Article 10 and edit the text with the following context:

"e) between those individuals who have failed to prove national authorities that they are entering into marriage in a good faith."

36. This paragraph of Article 10 will put the state under the positive obligation to draft the procedure of "proving" to national authorities that a performing marriage is not a sham. New provisions hence will need to be introduced in the Acts of Civil Status. According to those provisions the foreign spouse will be required to show at least three months' residence in the Republic of Armenia. The couple then will be required to pass the interview separately during which they shall bring with them the common pictures taken together. Moreover, they will be asked questions like the time of the day they were together, how many times approximately they spent together, at what hours they were talking to each other by phone, names of the distant relatives of each other, what was the most favored cloth of the partner, what was their favorite place to visit, how many places they were together and what were those places, etc.

37. Taking into consideration the condition of the state budget the bodies of the RACS will conduct the interview.

38. In this way the possibility of "love at first sight" will vanish¹⁷ and the couple will not repeat the words of a man who said, "I never knew what real happiness was until I got married; by then it was too late."

39. For the prevention of similar situations couple when submitting the mutual application to the RACS body, shall be required to present:

On Making Amendments to the Law of the Republic of Armenia

"Acts of Civil Status"

Article 1. To edit Article 26 paragraph 6 with the following context:

"In the Republic of Armenia Ministry of Justice of the Republic of Armenia permits the registry of marriages of alien citizens, stateless persons, citizens of the Republic of Armenia permanently residing in the foreign country between them and with the citizens of the Republic of Armenia after they file applications concerning the registry of the marriage *with a document certifying the absence of any criminal records from the countries of origin and permanent residency.*"

40. The document certifying the absence of any offence of criminal nature secures the couple entering into a sham marriage from paying too high a price for acquisition of other citizenship. Moreover, if the foreign citizen intends to stay in Armenia and obtain the citizenship of the Republic of Armenia with this provision the state of the Republic of Armenia ensures the security of its nation from unnecessary attacks by foreign criminals and precludes integration of criminals

¹⁷ "My wife and I were happy for twenty years. Then we met." Rodney Dangerfield

into the Armenian society and merger of Armenian homogeneous population with heterogeneous criminals.

41. However, these newly introduced provisions confer the authority of decision-making solely to the bodies of RACS thus opening the room for corruption. Once the corruption originates in a system, the provisions of the law will remain unenforced and the effect of the policy unaccomplished. Implementation of supervision over RACS bodies can be performed only by impartial and disinterested bodies. No NGO or other organizations are authorized to deal with this procedure. The responsible institution for registering marriages is and remains administration of RACS operating within the Ministry of Justice of the Republic of Armenia. For that reason it is hardly conceivable whether the Ministry of Justice will assign new task to the other bodies within the Ministry and award a chance to them to involve in the prospective corruptive system. The only thing that remains with the introduction of the newly "adopted" provisions is to rely on the faith of the RACS bodies and hope that they will not pervert the authority once conferred to them. After all, family is the mirror of society.

42. The provisions concerning acquiring of citizenship of the Republic of Armenia by a foreigner through marrying a citizen of the Republic of Armenia must remain unchanged. There is no need to make the procedure of acquiring the citizenship of the Republic of Armenia burdensome. The only condition the foreign spouse must satisfy is to present the document that he/she is under no criminal charge of any country either previously or in the present.

43. Making it strenuous a procedure for renouncing the citizenship of the Republic of Armenia may cause violation of Article 8 of the Convention¹⁸, which stipulates each state party to undertake not to hinder renunciation from its nationality of a citizen upon his/her wish and at the same time under

¹⁸ European Convention on Nationality

1. Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless.
2. However, a State Party may provide in its internal law that renunciation may be effected only by nationals who are habitually resident abroad.

paragraph 2 emphasizes that renunciation of its nationality may be granted to a citizen only if he/she has resided abroad "habitually". The Convention leaves room for interpretation the requirement "habitually" and leaves margin of appreciation to High Contracting States to set standards in their domestic law in accordance with their policies. However, a conflict may arise in connection with Article 6 paragraphs 3, 4 of the Convention¹⁹ if state authorities of the Republic of Armenia entitle citizens of the Republic of Armenia to keep its citizenry for more than 3 years after the marriage with a foreigner because Article 6 deems it critical that spouses of foreigners be granted citizenship of their spouses within reasonable time limits (much less than ten years). The United States adopted rules requiring 3 years residency in the United States to grant an alien resident spouse with US citizenship. Japan enacted laws requiring 5 years of residency in Japan for naturalization; Italy requires only 6 months residency in Italy and 3 years residency abroad.

44. If laws of the Republic of Armenia exceed 3 years requirement of residency abroad of citizens of the Republic of Armenia married to foreigners for renouncing its citizens from the nationality then discrimination within foreign boundaries against the citizens of the Republic of Armenia may begin. For example, a Russian citizen having been married to a US citizen and residing there for 3 years will be granted a US citizenship according to the laws of the United States while a citizen of the Republic of Armenia will not.

45. If national authorities adopt a rule requiring residency abroad of an Armenian national for less than 2 years for renunciation purposes then the rule will not pursue any legitimate aim because if the laws of the United States require 3 years of residency in the territory of the United States, then

¹⁹ 3. Each State Party shall provide in its internal law for the possibility of naturalisation of persons lawfully and habitually resident on its territory. In establishing the conditions for naturalisation, it shall not provide for a period of residence exceeding ten years before the lodging of an application.

4. Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons:

a) spouses of its nationals;

renunciation after 2 years of a citizen of the Republic of Armenia may lead again to the violation of Convention for making the citizen of the Republic of Armenia stateless²⁰.

46. In any case introducing any provision to the law "on Nationality "of the Republic of Armenia will be pointless and in vain contradict either provisions of the Convention or the policy of the domestic law which provides as prerogative that the Republic of Armenia is obliged to ensure that its citizens are not discriminated in foreign territories.

8. Conclusion

47. One of the most crucial and fatal decisions in everyone's life is a decision to marry.

48. This paper depicted the future in regard to citizenship issues for those "decision makers" who choose to marry foreigners. The required procedures for obtaining a marriage license and a citizenship in the Republic of Armenia were compared with such developed countries' procedures as the United States, Japan and Italy. This study revealed that in contrast to the United States and Japan the most favorable rules exist in the Republic of Armenia and in Italy in regard to marriage and citizenship acquisition procedures: just a few steps to prepare and present all the relevant documents to the bodies of RACS and Civil Registrar respectively and be granted with a marriage license. Contrary to the rules of the Republic of Armenia and Italy are the rules of Japan and the United States. In Japan foreign citizens even after marrying a Japanese citizen remain as "remarks" for their spouses. United States adopted rules not to contradict the very inception of our mankind and permit only marriages that are recognized by God, that is, marriages based on love.

²⁰ "Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless."
Article 8, European Convention on Nationality

This paper includes in it a proposal draft for the legal reform in the Republic of Armenia and its implementation strategy to adjust the Armenian legal system with its national policy to marry for love.

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