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**Nationality, including Statelessness – Analysis of Changes in Nationality Legislation
of States since 1930 – Memorandum Prepared by Mr. Ivan S. Kerno, Expert of the
International Law Commission.**

Topic:
Nationality including statelessness

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NATIONALITY INCLUDING STATELESSNESS

Analysis of Changes in Nationality Legislation of States
since 1930 (Keyed to the Hague Convention on Certain
Questions relating to the Conflict of Nationality Laws
and the Hague Protocol relating to a Certain Case of
Statelessness)

Memorandum prepared by

Ivan S. Kerno
Expert of the International Law Commission

Note. During the fourth session of the International Law Commission it was stated that "the 1930 Convention was one of the most significant international instruments, because it ... had also been followed by a definite trend towards the amendment of national laws" (A/CN.4/SR.160, paragraph 23). The following study proposes to give the members of the Commission information in this respect.

ANALYSIS OF CHANGES IN NATIONALITY
LEGISLATION OF STATES SINCE 1930

The Hague Convention on Certain Questions relating to the Conflict of Nationality Laws was signed but not ratified by the following States:

CHILE	ITALY
COLOMBIA	JAPAN
CUBA	LATVIA
CZECHOSLOVAKIA	LUXEMBOURG
DENMARK	MEXICO
EGYPT	PERU
ESTONIA	PORTUGAL
FRANCE	EL SALVADOR
FREE CITY OF DANZIG	SPAIN
GERMANY	SWITZERLAND
GREECE	UNION OF SOUTH AFRICA
HUNGARY	URUGUAY
ICELAND	YUGOSLAVIA
IRELAND	

and is in force between.^{1/}

AUSTRALIA	MONACO
BELGIUM	NETHERLANDS
BRAZIL	NORWAY
BURMA	POLAND
CANADA	SWEDEN
CHINA	UNITED KINGDOM
INDIA	

Of these, Belgium and Brazil excluded article 16, Brazil excluded article 17.

The Hague Protocol relating to a Certain Case of Statelessness was signed but not ratified by the following States.

BELGIUM	GREECE
CANADA	IRELAND
COLOMBIA	JAPAN
CUBA	LATVIA
CZECHOSLOVAKIA	LUXEMBOURG
DENMARK	MEXICO
EGYPT	PERU
ESTONIA	PORTUGAL
FRANCE	SPAIN
FREE CITY OF DANZIG	URUGUAY

^{1/} On the basis of article 4 of the Schedule to the Indian Independence (International Arrangements) Order, 1947, Pakistan considers itself also a party to the Convention on Certain Questions relating to the Conflict of Nationality Laws, signed at The Hague on 12 April 1930.

and is in force between:^{1/}

AUSTRALIA
BRAZIL
BURMA
CHILE
CHINA
INDIA

NETHERLANDS
POLAND
EL SALVADOR
UNITED KINGDOM
UNION OF SOUTH AFRICA

Of the States whose law was studied, the following have revised their nationality laws or other laws relating to nationality since 1930.

AFGHANISTAN	*EL SALVADOR	PERU
*ALBANIA	FINLAND	PHILIPPINES
*AUSTRALIA	*FRANCE	*POLAND
*AUSTRIA	*GREECE	*ROMANIA
*BELGIUM	*GUATEMALA	*SAAR
*BOLIVIA	HONDURAS	*SWEDEN
*BRAZIL	*HUNGARY	*SWITZERLAND
*BURMA	ICELAND	*SYRIA
*CANADA	*INDIA	*UNION OF SOUTH AFRICA
*COLOMBIA	*JAPAN	*UNION OF SOVIET SOCIALIST REPUBLICS
*COSTA RICA	*ISRAEL	*UNITED KINGDOM
*CUBA	*LIBYA	*UNITED STATES OF AMERICA
*CZECHOSLOVAKIA	*MEXICO	*URUGUAY
*DENMARK	*MONACO	*VENEZUELA
*DOMINICAN REPUBLIC	*NICARAGUA	*YUGOSLAVIA
*ECUADOR	*NORWAY	
*EGYPT	*PAKISTAN	

*post-war change

The following States have specifically noted that their new laws accord with the Hague Convention of 1930:

DENMARK (E/1869/Add.18)
NORWAY (E/2164/Add.1)
SWEDEN (E/1869/Add.9)

Mr. Lauterpacht pointed out in the Commission that the United Kingdom enacted legislation with respect to the nationality of married women after the Hague Conference (A/CN.4/SR.157, par. 11).

^{1/} On the basis of article 4 of the Schedule to the Indian Independence (International Arrangements) Order, 1947, Pakistan considers itself also a party to the Protocol relating to a Certain Case of Statelessness, signed at The Hague, 10 April 1930.

N.B.: Due to the difficulty in finding and checking earlier laws, the lists are not all equally complete, and it is possible that a State listed as adopting a rule post-1930 may have had some similar provision before then.

The topics of legitimation, recognition and adoption are not covered herein due to the sparsity of information in earlier laws.

* * *

(1) Foundlings shall be considered as nationals of the State in which they are found (Hague Convention, article 14):

<u>Pre-1930:</u>	*ALBANIA	ITALY
	AUSTRIA	MEXICO
	BELGIUM	NETHERLANDS
	BULGARIA	NORWAY
	CZECHOSLOVAKIA	PERU
	DENMARK	ROMANIA
	EGYPT	SWEDEN
	GERMANY	SWITZERLAND
	HUNGARY	UNITED STATES OF AMERICA
		URUGUAY

*present status unknown.

<u>In laws since 1930.</u>	COSTA RICA	NICARAGUA
	FINLAND	SAAR
	FRANCE	SYRIA
	GUATEMALA	YUGOSLAVIA
	ICELAND	

(2) A child of stateless parents, unknown parents or parents of unknown nationality is given that of the State where born (Hague Convention, articles 14 and 15, and Protocol):

<u>Pre-1930:</u>	*ALBANIA	EGYPT	MONACO
	AUSTRIA	FRANCE	NETHERLANDS
	BELGIUM	GREECE	POLAND
	BULGARIA	HUNGARY	*SPAIN
	CHINA	ITALY	SYRIA
	COSTA RICA	JAPAN	TURKEY
	CZECHOSLOVAKIA	LEBANON	YUGOSLAVIA

*present status unknown.

<u>In laws since 1930:</u>	DENMARK	NORWAY
	ECUADOR	ROMANIA
	FINLAND	SWEDEN
	IRAN	SWITZERLAND
	ISRAEL	

(3) Loss of nationality by a father does not affect the child or does so only if the child has or obtains another nationality:

<u>Pre-1930.</u>	AUSTRALIA	JAPAN
	BELGIUM	NETHERLANDS
	CANADA	EL SALVADOR
	CHINA	SIAM
	EGYPT	SWEDEN
	ICELAND	UNION OF SOUTH AFRICA
	ITALY	UNITED KINGDOM
<u>In laws since 1930:</u>	AUSTRIA	GERMANY (cf. Bonn Constitution)
	BULGARIA	MEXICO
	BURMA	NORWAY
	COSTA RICA	SAAR
	CZECHOSLOVAKIA	SYRIA
	DENMARK	
	FRANCE	

(loss still appears possible in. Greece, Hungary, Israel, Poland, Switzerland, Turkey, Union of South Africa, USSR, Yugoslavia)

(4) National wife marrying alien not affected or loses nationality only upon acquisition of other (Hague Convention, article 8):

<u>Pre-1930:</u>	ARGENTINA	ECUADOR	POLAND
	BELGIUM	EGYPT	PORTUGAL
	BRAZIL	FINLAND	ROMANIA
	BULGARIA	FRANCE	EL SALVADOR
	CANADA	GREECE	SIAM
	CHILE	GUATEMALA	SWEDEN
	CHINA	ITALY	SYRIA
	COLOMBIA	JAPAN	TURKEY
	COSTA RICA	LEBANON	UNITED STATES OF AMERICA
	CUBA	MEXICO	UNION OF SOVIET SOCIALIST REPUBLICS
	DENMARK	MONACO	URUGUAY
	DOMINICAN REPUBLIC	NICARAGUA	VENEZUELA
		PANAMA	

<u>In laws since 1930:</u>	AUSTRALIA	NETHERLANDS
	BURMA	NEW ZEALAND
	CZECHOSLOVAKIA	SAAR
	GERMANY (cf. Bonn Constitution)	SWITZERLAND
	HONDURAS	UNION OF SOUTH AFRICA
		UNITED KINGDOM

(5) Loss of nationality by husband does not affect wife or does so only if she possesses other nationality or consents (Hague Convention, articles 9 and 10):

<u>Pre-1930:</u>	ARGENTINA	DOMINICAN REPUBLIC	MEXICO
	AUSTRIA	EGYPT	MONACO
	BELGIUM	FRANCE	PARAGUAY
	BRAZIL	GUATEMALA	EL SALVADOR
	BULGARIA	ICELAND	UNION OF SOVIET
	CHILE	ITALY	SOCIALIST REPUBLICS
	CHINA	JAPAN	UNITED STATES OF AMERICA
	COSTA RICA	LUXEMBOURG	URUGUAY
			VENEZUELA

In laws since
1930:

CZECHOSLOVAKIA
FINLAND
GERMANY
(cf. Bonn Constitution)
SAAR
SWITZERLAND
YUGOSLAVIA

(6) Countries having the Diplomatic Exception (Hague Convention, article 12):

<u>Pre-1930:</u>	ARGENTINA	HONDURAS
	AUSTRALIA	*HUNGARY
	*AUSTRIA	*NETHERLANDS
	*BELGIUM	NICARAGUA
	BRAZIL	*NORWAY
	BULGARIA	*POLAND
	CHILE	*SWEDEN
	CZECHOSLOVAKIA	*SWITZERLAND
	DOMINICAN REPUBLIC	**TURKEY
	FINLAND	UNION OF SOUTH AFRICA
	FRANCE	UNITED KINGDOM
	GERMANY	UNITED STATES OF AMERICA
	GUATEMALA	

*Note selves to be "sanguinis" countries so explicit exemption not needed.
**Apparently omitted from law of 1929.

In laws since
1930.

CANADA
PAKISTAN

(7) Expatriation only permitted on assurance of acquisition of other nationality (Hague Convention, article 7):

<u>Pre-1930</u>	BULGARIA (permission)	ITALY
	CHINA (permission)	SIAM
	GREECE (permission)	SWEDEN
		TURKEY (permission)

<u>In laws since</u>		
<u>1930.</u>	DENMARK	POLAND
	FINLAND	SAAR
	ICELAND	SWEDEN
	ISRAEL (permission)	SWITZERLAND
	NORWAY	SYRIA (permission)

- Sources.
- (1) Nationality Laws of States.
 - (2) Bases of Discussion, League of Nations Doc. C.73.M.38.1929 V.
 - (3) League of Nations Doc. A.19.1931.V.
 - (4) Sandifer, Laws Relating to Nationality, 29 American Journal of International Law 248.
 - (5) Harvard Draft Convention on Nationality, American Journal of International Law, Spec. Supp. 1929.
 - (6) Samore, Statelessness as a Consequence of the Conflict of Nationality Laws, 45 American Journal of International Law 476.
