

## RESOLUTION

Resolution No: 5/2000

### FEMINISM AND INTERNATIONAL LAW

The 69th Conference of the International Law Association, held in London, United Kingdom, 25-29 July 2000:

**HAVING CONSIDERED** the Final Report on Women's Equality and Nationality in International Law by the Committee on Feminism and International Law;

**THANKS** the Chair, Rapporteur and Members of the Committee for their outstanding work;

**ADOPTS** the recommendations, as revised at the Conference, contained in the Final Report:

1. The rules of states on nationality should be based on the following principles of international law:
  - a. the right of everyone to a nationality;
  - b. the avoidance of statelessness; and
  - c. nondiscrimination on the basis of sex.

These principles are incorporated in the European Convention on Nationality.

2. The principle of nondiscrimination on the basis of sex should require, as in article 1 of the *Convention on the Elimination of All Forms of Discrimination Against Women*, the elimination of any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, on a basis of equality of men and women, of their nationality and the rights associated with that nationality.
3. In designating the personal relationships that form the basis for preferential treatment under immigration and nationality rules, states should not discriminate on the grounds of sex, sexual orientation, culture, marital status or any combination thereof.

4. As provided for in article 9(1) of the *Convention on the Elimination of All Forms of Discrimination Against Women* and other international human rights treaties, states should grant women equal rights with men to acquire, change or retain their nationality. In particular,
  - a. states should ensure that neither marriage to a foreign national nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of her husband; and
  - b. the recommended prohibition in (a) on forcing upon a woman the nationality of her husband should extend to requiring states to ensure that any incentives for a woman to acquire the nationality of her husband or partner do not effectively deny her right to choose her nationality.
5. In the case of a family of mixed nationality living in a state of which one or more, but not all, of its members is a national,
  - a. the state in which the family is living should recognize the right of the non-national family members to enjoy equal treatment with nationals in relation to certain civil rights and social, economic and cultural rights, including the right of residence and right to work; or
  - b. the states involved should recognize
    - i. the right of each spouse or partner to acquire, after a short waiting period, the nationality of the other spouse or partner without losing his or her own nationality; and
    - ii. the right of the children to acquire and keep the nationality of both parents.
6. Where a state facilitates the acquisition of nationality by the spouse or partner of a national, the state should ensure that the method of facilitation does not subject the foreign spouse or partner to the risk of abuse by the national spouse or partner.
7. As provided for in article 9(2) of the *Convention on the Elimination of All Forms of Discrimination Against Women* and other international human rights treaties, states should grant women equal rights with men with respect to the nationality of their children. In a case where a child's parents are of different nationalities, each parent should have the right to transmit her or his nationality to the child, even if this would result in the child's holding dual nationality.

8. States should provide effective remedies for individuals who have lost or been denied that state's nationality due to discrimination on the basis of sex, whether that discrimination is on the basis of the individual's sex or as a result of the individual's relationship to a spouse, partner or parent.
9. States should develop and implement mechanisms for studying the effect of the administration of their rules of nationality on women and ensuring that nondiscrimination in the rules of nationality is not compromised by the administration of these rules. This might involve, for example, the provision of gender-sensitivity training for those involved in the administration of the state's rules on nationality.
10. Women should have effective representation in all reforms to nationality law, whether at the domestic or international level.

**RECOMMENDS** to the Executive Council that the Committee on Feminism and International Law be continued and begin work on women and migration with a view to presenting a preliminary report on this subject at the next Conference.