

KOREAN-AMERICAN DUAL CITIZENSHIP SUMMARY

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The Korean dual citizenship law overreaches and sparks outrage among Korean-Americans and international couples in the U.S. According to the Korean Personal Principle: A child is considered a dual citizen of South Korea if one parent is a Korean national at the time of the child's birth regardless of where the child was born and whether he or she was registered in the Korean Family Registry.

Prior to 1998, if your father was a Korean national you obtained Korean citizenship regardless of where you were born. However, if you never registered your birth your Korean citizenship was automatically revoked if you did not choose your Korean nationality. In 1998, Korea changed the law so that any child born to either a Korean father or a Korean mother would obtain Korean citizenship.

In 2005, the South Korean National Assembly revised the Korean Nationality Law to prevent draft dodgers and discourage anchor babies born in other countries. However, this law unfairly includes males who were born outside of South Korea without registering their birth and have no intention of ever living in South Korea.

According to the revised 2005 law, males born outside of South Korea have a duty to renounce their South Korean citizenship by March 31st of the year they turn 18 even if their birth was never registered with the Korean government. If you do not fulfill your duty to renounce by the deadline, the law imposes Korean military duty on you. If that occurs, you cannot renounce your citizenship until you turn 38 years old, unless you complete your military duties before then.

This law retroactively applied to men born after May 24, 1983, if their father was a Korean national at the time of their birth. It is unconstitutional because this retroactive application did not give proper notice to those affected and imposed the duty of military service on individuals who hold no rights in the country.

For women born to a Korean father after May 5, 1988, they become a dual citizen if they do not renounce their citizenship by age 22. Women born after June 13, 1998, to either a Korean father or a Korean mother must renounce their citizenship by age 22.

Most Koreans living around the world are not aware of this law. Most of them have missed this deadline and question why they have a duty to renounce. To renounce your citizenship, you must first register your birth with the Korean government. Once registered, you may then begin the renunciation process. This may take over

one year and requires more than fifteen (15) pieces of documentation, which is unduly burdensome.

As of 2022, if you miss the due date (March 31st of the year you turn 18), you may apply for an exceptional nationality revocation permit through the Ministry of Justice. To do so, you must first register your birth with the Korean government and submit the required documentation for renunciation. In addition, you must also show:

- (1) proof of justifiable reasons for missing the due date;
- (2) significant restrictions or disadvantages in obtaining employment due to your dual citizenship; and
- (3) the military duty performance would be unfair in light of your circumstances.

This is an even more complicated process and if you are not able to show sufficient damage/harm, you will likely be denied. The new system is not a remedy but remains a restriction on Korean Americans.

The process causes confusion and frustration since the children are disadvantaged when applying for certain jobs such as with the U.S. federal government or U.S. military. For example, the application for a U.S. Navy Nuclear Submarine position specifically states that “No Dual Citizens can apply.” Another example is the application for Fulbright Scholarships sponsored by the U.S. State Department. It clearly states that if you want to apply to study in South Korea under the scholarship, you cannot be a Korean dual citizen.

Not only does it cause problems with federal employment, but also in the private sector as well. Certain private sector jobs require U.S. security clearance. When applying for a security clearance, there is a specific question asking whether you have ever held dual citizenship with another country. Second generation Korean Americans are now struggling as to how to answer that question since they were not aware that they held dual citizenship from birth.

Additionally, when visiting Korea dual citizens must use a Korean passport. A Korean American dual citizen would not be eligible for an international visa if they wanted to apply for a job/internship or wish to study in Korea. Many scholarships offered to international students are also not available for dual citizens (e.g., Fulbright).

As described above, the Korean nationality law is unconstitutional and places extremely burdensome requirements on Korean Americans. Requiring those born outside of South Korea to first register their birth with the Korean Family Registry leaves evidence of “the tag of dual citizenship.” American fathers/mothers have no knowledge of this Korean nationality law and never receive any notice from the Korean government about renunciation.

To make matters worse, when these men and women have their own children, their children will be considered Korean nationals subject to the same concerns. The Korean nationality law has created an unnecessary chain of Korean dual citizenship. This Korean law is unfair and unconstitutional, and that is why it is important to educate the American public on implications of the Korean Nationality Act. Therefore, the Korean government should return to the automatic revocation system they had in previously had in place.