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**COURSE: CONFLICT OF LAWS**

**COURSE CODE: LPI 406**

**ASSIGNMENT QUESTION: EXPLAIN THE “TERM” LIMPING MARRIAGE, IDENTIFY THE WAYS, AT COMMON LAW, BY WHICH THE INCIDENCE OF LIMPING MARRIAGE HAS BEEN REDUCED AND EXPLAIN SUCCINTLY, MUTATION OR CONVERSION OF MARRIAGE IN CONFLICT OF LAWS.**

**INTRODUCTION**

This write up explains the term limping marriage, and goes further to state ways in which it is reduced. The second part of this write up deals with the mutation or conversion of marriage in conflict of laws stating and explain the concepts as seen below.

1. **What is limping marriage?**

 The term limping marriage has been described, to be an unfortunate result of the conflict of laws. It is a situation whereby a person who is regarded as married in one country is not in another. This phenomenon has been regarded as a **“scandal”** in which a man and a woman are held to be man and wife in one country and strangers in another. This concept can also be seen in the face of non-recognition of foreign decree of marriage, by the law of a forum. In the case of padolecchia v padolecchia the decree of divorce, obtained by a man in Mexico was not recognised in Italy where he was domiciled, when he contracted another marriage and later petitioned for nullity of the second marriage it was held that he lacked capacity to enter into the second marriage as the first was still subsisting.

**Ways at common law by which the incidence of limping marriage has been reduced.**

Some ways in which limping marriages has been reduced are; the test of substantial connection; that is the court looks at the real and substantial connection for the foreign decree to be considered, as the parties have to show real or substantial connection with the foreign country as stated in the case of Indyka v indyka. Also it has been reduced by the enforcement and recognition of foreign judgements, by the laws of a forum either by recognising and enforcing it based on reciprocity or based on instituting a fresh proceeding in that court.

1. **Explain succinctly mutation or conversion in conflict of laws**

 Mutation or conversion of marriage in the conflict of laws can be seen as the transforming or converting of potentially polygamous marriages to a monogamous one and vice versa. As the common law definition of marriage states in Hyde v Hyde that “marriage is the voluntary union for life of one man and one woman to the exclusion of all others”. Courts have declined to grant matrimonial relief in respect of polygamous marriage. Before now it has been clearly stated or up held that the nature or character of marriage is determine, by the place of celebration that is the lex loci celebrationis. In recent times it has been conceded that the character of, marriage may be changed from polygamous to monogamous marriage. In the case of **Cheni v** **Cheni** mutation was recognise.

In the case of **Ali v Ali** his lordship Cumming Bruce j decided that a marriage potentially polygamous at its inspection may be subsequently impressed, with a monogamous character as to found the jurisdiction of the English court. This was stated relying on **chei v chei**, in this particular case there was a consideration whether the acquisition of an English domicile, had the effect of impressing a monogamous character on the potentially polygamous marriage. It further stated to the effect that the change of domicile may alter the nature of a union. It was also stated in this case that the intention on the part of the husband to acquire domicile may be sufficient to effect a conversion to monogamy. In recent years a rule has developed that, monogamous character may be impressed upon a polygamous marriage by a change in circumstances surrounding the marriage. In the case of **Cheni v Cheni** the learned judge cited two instances in which a potentially polygamous union may assume the characteristics of a monogamous marriage, it could be either by domicile, religion or by the act or legislation of a state even before the events giving rise to the proceedings.

 In the recent case of **Parkasho v Singh** four issues, for consideration were raised and these issues gives us an adequate understanding of mutation or conversion in the conflict of laws. These issues are as follows; can a marriage be converted from one category to another that is from the category of potentially polygamous marriages to that of monogamous marriages?, if such a transmutation can take place, what is the proper time to consider the nature of the union in other to ascertain jurisdiction?, can the relevant change be effected by legislation?. Affirmative answers were giving by the learned judge to the three issues and answering the second it was stated that the proper time is the date of the proceedings. The principle that only the lex loci celebrationis determines the character of marriage has been displaced with the recognition of other factors.

**CONCLUSION**

In conclusion, limping marriage is a result of conflict of laws and various international laws and various method have been used to reduce it as stated in the write up above. Also concept of the mutation and conversion of marriage in conflict of laws are also been discussed above.