Determining the Matrimonial Property Regime in an International Marriage: A U.S. Perspective

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By Cheryl L. Hepfer

International marriages can create complex questions about which country's laws govern the spouses' property rights. A couple may marry in one country, live in another, and acquire assets across several jurisdictions. In such cases, the place of marriage alone does not necessarily determine the applicable matrimonial property regime.

In the United States, matrimonial property is primarily governed by state law, rather than a single federal regime. States generally follow either a community property or equitable distribution system.

Therefore, the first step is to identify the court hearing the dispute and examine that state's choice-of-law rules. Those rules determine whether the court will apply its own law or the law of another state or country.

Factors that may be relevant include the spouses' domicile, matrimonial residence, the place where property is acquired, the location of the property, and the parties' intentions.

After identifying the potentially applicable law, the assets must be classified. Property may be treated as separate property or marital/community property depending on the governing law.

Important questions include:

- Was the asset acquired before or during the marriage
- Where were the spouses domiciled when it was acquired
- Where is the asset located
- Was it inherited or received as a gift
- Was separate property mixed with marital funds
- Is there a prenuptial or postnuptial agreement

Real estate can require particular attention because the law of the property's location may have a significant role.

In a **community-property state**, qualifying property acquired during marriage is generally treated as belonging to the marital community, subject to state-specific exceptions.

In an **equitable-distribution state**, marital property is divided according to principles of fairness rather than necessarily divided equally.

Some community-property states also recognize concepts such as quasi-community property, which can affect property acquired while the spouses were living elsewhere.

A valid prenuptial or postnuptial agreement can significantly affect the analysis. Such an agreement may specify how property will be characterized and may contain a choice-of-law provision.

However, the agreement must satisfy applicable requirements for validity and enforceability. In an international marriage, it is therefore important to consider not only where the agreement was signed, but also which jurisdiction's laws may govern it.

Determining the matrimonial property regime in an international marriage is essentially a choice-of-law and property-classification exercise. The place of marriage is only one consideration. Domicile, the matrimonial home, the location and timing of asset acquisition, applicable state conflict-of-laws rules, and marital agreements may all influence the result.

Because U.S. matrimonial-property law varies significantly from state to state, an international couple should identify the potentially applicable jurisdictions and obtain advice before assuming that one country's or state's property regime governs the entire marital estate.