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Dual Nationality, Dominant Nationality and Federal Diversity Jurisdiction

NOTES

DUAL NATIONALITY, DOMINANT NATIONALITY AND FEDERAL DIVERSITY JURISDICTION

A dual national is a citizen of two or more nations.[1] Dual nationality exists because sovereign nations use different methods to confer nationality.[2] A person may become a dual national at birth,[3] or at any time

[1] Under dual nationality theory, an individual may simultaneously possess the rights and responsibilities of citizenship in more than one nation. *See* Kawakita v. United States, 343 U.S. 717, 734 (1952).

Nationality and citizenship are often used synonomously and refer to a person's relationship to a particular state. The term nationality, in its most proper use, is more inclusive than the term citizenship. Citizens possess the entire spectrum of civil and political rights allowed by the state. A national, however, may be an individual who does not have the full rights of citizenship, but who owes allegiance to the state and who is entitled to protection by the state. 3 G.H. HACKWORTH, DIGEST ON INTERNATIONAL LAW § 220 (1942) [hereinafter cited as HACKWORTH]; *see* 8 U.S.C. § 1481(c) (1976); Note, *Towards a Solution of the Dual Nationality Problem*, 23 TEMP. L.Q. 399, 399 (1950) [hereinafter cited as *A Solution of the Dual Nationality Problem*].

[2] Kawakita v. United States, 343 U.S. 717, 734 (1952).

Under the doctrine of *jus soli*, nationality is based on the place of birth. Under the doctrine of *jus sanguinis*, nationality is based upon descent. *See* Flournoy, *Dual Nationality and Election*, 30 YALE L.J. 545, 546 (1921) [hereinafter cited as Flournoy]; Orfield, *The Legal Effects of Dual Nationality*, 17 GEO. WASH. L. REV. 427, 432-33 (1949) [hereinafter cited as Orfield]; Scott, *Nationality: Jus Soli or Jus Sanguinis*, 24 AM. J. OF INT'L L. 58, 59-63 (1930) [hereinafter cited as Scott]; Note, *Some Problems of Dual Nationality*, 28 ST. JOHN'S L. REV. 63, 64 (1953) [hereinafter cited as *Problems of Dual Nationality*]; HACKWORTH, *supra* note 1, §§ 221, 222. *Jus soli* is a newer doctrine than *jus sanguinis* and probably originated in feudal times when a person born within a territory owed fealty to the lord. *See* Flournoy, *supra* at 546. *Jus sanguinis* may have originated in ancient times when tribal bloodlines were more important than the place of birth. *Id.*

Originally, the Constitution contained the words "natural born citizen" but did not set forth guidelines to confer citizenship. *See* U.S. CONST. art. II, § 1, cl. 4; Flournoy, *supra*, at 550-54 (citing Inglis v. Trustees of Sailors Snug Harbor, 8 U.S. (3 Pet.) 99, 106 (1810)); Murray v. Schooner Charming Betsy, 6 U.S. (2 Cranch) 64, 65-68 (1804). The fourteenth amendment to the Constitution incorporates the doctrine of *jus soli* and, therefore, every person born in the United States is an American citizen. U.S. CONST. amend. XIV, § 1; *see* HACKWORTH, *supra* note 1, § 221. The United States also confers nationality based on descent. *See* Flournoy, *supra*, at 550-54; HACKWORTH, *supra* note 1, § 222. Therefore, every child born outside the territorial limits of the United States to parents, one of whom is an American citizen, acquires American citizenship. HACKWORTH, *supra* note 1, § 222.

Domestic law determines nationality. Perkins v. Elg, 307 U.S. 325, 329 (1939). Thus, in the absence of specific international treaties or agreements between nations that govern the granting of nationality, courts do not invoke international law to determine nationality. *Id.* Nationality is a concept of international law in that each nation's nationality laws will be recognized by other nations to the extent that these laws are consistent with international nationality customs and principles. *See* Russell, *Dual Nationality in Practice-Some Bizzare Results*, 4 INT'L LAW. 756, 762 (1970) [hereinafter cited as Russell] (citing THE HAGUE CONVENTION ON CONFLICT OF NATIONALITY LAWS, art. I (1930)).

[3] Dual nationality may arise at birth if two nations confer citizenship on a person

thereafter.[4] Dual nationality causes problems for the dual national's sovereigns in areas such as taxation,[5] military service,[6] national security,[7] and international responsibility for harmful conduct to aliens.[8] Dual nationality also causes severe problems for individual dual nationals who are subjected to competing claims by more than one nation.[9] The United States has recognized the undesirability of dual nationality,[10] and has attempted to limit the incidence of dual nationality.[11] Nevertheless, dual nationality will persist as long as sovereign nations confer

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simultaneously. The first nation will confer nationality under the doctrine of *jus soli* on a person born within the territorial limits of that nation. The second nation will confer citizenship on the same person under the doctrine of *jus sanguinis* because the person's ancestors were citizens of the second nation. *See* Orfield, *supra* note 2, at 432-37. When the doctrines of *jus soli* and *jus sanguinis* are used simultaneously, unfortunate results can occur. For example, if a married couple who are citizens of country A are on a cruise and stop at a port in country B, a child born to the couple while they are in country B will acquire the B citizenship if country B follows the doctrine of *jus soli*. *See id.* at 434. *See also* Russell, *supra* note 2, at 757-61. One commentator notes that the war of 1812 was fought because the British impressed naturalized American citizens, who were former British subjects, in the British military service. The British still considered the naturalized Americans to be British citizens and subject to military service. *Id.* at 756.

[4] A person acquires dual nationality subsequent to birth usually as a result of naturalization. For example, a person may become a citizen of the United States by his own naturalization, or by the naturalization of his parents. If his original nation of citizenship does not recognize his expatriation or his renunciation of his original citizenship, the person becomes a dual national. Sadat v. Mertes, 615 F.2d 1176, 1184 n.10 (7th Cir. 1980) (citing Tomasicchio v. Acheson, 98 F. Supp. 166, 169 (D.D.C. 1951)); *see* Orfield, *supra* note 2, at 437-42; *Problems of Dual Nationality, supra* note 2, at 64.

[5] *See* Cook v. Tait, 265 U.S. 47, 53-56 (1924).

[6] *See* Kawakita v. United States, 343 U.S. 717, 720-34 (1952).

[7] *See* Hirabayashi v. United States, 320 U.S. 81, 97-99 (1943); Warsoff, *Citizenship in the State of Israel*, 33 N.Y.U.L. REV. 857, 860-61 (1958).

[8] *See* Sadat v. Mertes, 615 F.2d 1176, 1183-88 (7th Cir. 1980).

[9] A dual national may be taxed by both his states of citizenship. Both nations may require the dual national to perform military service. During times of crisis, both nations may question the dual national's loyalty. During periods of war, the dual national may be forced to support one nation of citizenship and thus, aggrieve the other. The aggrieved nation may react by seizing the dual national's property, or finding him guilty of treason. *See* Orfield, *supra* note 2, at 428; *A Solution of the Dual Nationality Problem, supra* note 1, at 400.

[10] The United States has officially recognized that dual nationality is undesirable. *See* Savorgnan v. United States, 338 U.S. 491, 500 (1950); Sadat v. Mertes, 615 F.2d 1176, 1184 (7th Cir. 1980). Consequently, the Supreme Court's statements in Kawakita v. United States, 343 U.S. 717, 734 (1952), that appear to approve of dual nationality, have puzzled at least one commentator. *See* Note, *Expatriating the Dual National*, 68 YALE L.J. 1167, 1173 n.38 (1950) [hereinafter cited as *Expatriating the Dual National*].

[11] The United States has attempted to limit the incidence of dual nationality through the expatriation theory. An individual expatriates himself when he completely severs his relationship with a particular nation. *See Problems of Dual Nationality, supra* note 2, at 65; HACKWORTH, *supra* note 1, §§ 220, 242. Although the common law prohibited expatriation without the sovereign's prior consent, in 1868 Congress declared that all people have an inherent right to expatriate. *See* Mandoli v. Acheson, 344 U.S. 133, 135 (1952); Savorgnan v. United States, 338 U.S. 491, 498 (1949). By allowing an individual to voluntarily expatriate, Congress set the stage for future attempts by the United States to limit the incidence of dual nationality.

nationality independently[12] and do not formulate an international system of granting nationality.[13]

Since dual nationality will continue until an international system of nationality is created, courts have focused on how to solve the problems that dual nationality creates.[14] International judicial tribunals have developed and applied the doctrine of dominant nationality to settle conflicts between two or more nations that have a claim upon a dual national.[15] In *Sadat v. Mertes*,[16] for the first time in American civil law, the Seventh Circuit introduced a qualified form of the international doctrine of dominant nationality.[17] The *Sadat* court used qualified dominant nationality theory to determine whether an Egyptian/American dual national could rely on his Egyptian nationality to sue in federal court under the alienage jurisdiction statute, 28 U.S.C. § 1332(a)(2).[18]

International judicial tribunals use the doctrine of dominant nationality to determine whether, under international law, a nation that injures a dual national will be responsible for the injurious conduct.[19] A na-

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The Expatriation Act of 1907 stated that a person lost his American citizenship if he became a naturalized citizen in a foreign nation, took an oath of allegiance to a foreign nation, or, if the person was a woman, married a foreigner. *See* 34 Stat. 1228, 8 U.S.C. § 6 (1907). In 1940, Congress expanded the grounds for expatriation in the Nationality Act of 1940. *See* 54 Stat. 1174, 8 U.S.C. § 1001 (1940). The Nationality Act of 1940 also contained two provisions addressed specifically to dual nationals. *See Expatriating the Dual National*, *supra* note 10, at 1169 n.11. The Immigration and Nationality Act of 1952 also contains a section devoted solely to dual nationals. *See* 8 U.S.C. § 1482 (1976); Wasserman, *The Voluntary Abandonment of United States Citizenship*, 2 IMM. & NAT. L. REV. 537, 539 (1979).

The United States has attempted to limit the incidence of dual nationality by limiting the application of nationality *jus sanguinis*. *See Expatriating the Dual National*, *supra* note 10, at 1169 n.11; *A Solution of the Dual Nationality Problem*, *supra* note 1, at 400-01. The United States has also attempted to limit dual nationality by treaty. *See Expatriating the Dual National*, *supra* note 10, at 1169 n.11.

[12] The United States government and domestic courts have recognized that dual nationality will persist. *See* Rogers v. Bellei, 401 U.S. 815, 827 (1971); Kawakita v. United States, 343 U.S. 717, 734 (1952); Sadat v. Mertes, 615 F.2d 1176, 1185 (7th Cir. 1980).

[13] According to one commentator, the doctrine of *jus soli* should be the basis of an international system of nationality. *See* Scott, *supra* note 2, at 64.

[14] *See* notes 5-9 *supra*.

[15] *See* text accompanying notes 19-33 *infra*.

[16] 615 F.2d 1176 (7th Cir. 1980).

[17] *See* text accompanying notes 34-38 *infra*.

[18] 28 U.S.C. § 1332(a)(2) (1976). *See* 615 F.2d at 1184-88; text accompanying notes 42, 70, 71 *infra*.

[19] *See, e.g.*, Mergé Claim, 22 I.L.R. 443, 450-56 (Italian-American Conciliation Comm'n. 1955); Liechtenstein v. Guatemala (Nottebohn Case), [1955] I.C.J. 4, 22; Drummond's Case, 12 Eng. Rep. 492, 500 (1834).

A nation is responsible under international law for injurious conduct to an alien if the alien is subject to the jurisdiction of the nation which causes the injury. *See* RESTATEMENT (SECOND OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 164 (1965) [hereinafter cited as RESTATEMENT OF FOREIGN RELATIONS]. International responsibility for injurious conduct to aliens exist to protect individuals who live or travel in foreign nations, and to further social and economic relations between nations. *See* Sohn and Baxter, *Responsibility of States for Injuries to the Economic Interests of Aliens*, 55 AM. J. INT'L L. 545, 546 (1961).

tion may, for example, injure a person by seizing his property.[20] If the person is a citizen of only the injury-causing state, he has no recourse against the state under international law on the theory of injurious conduct against an alien.[21] If the person, however, is a dual national, he may petition his second nation of citizenship to bring a claim in an international judicial forum on the theory of injurious conduct against an alien.[22] The dual national's second nation of citizenship will allege that the injury-causing state should treat the dual national as an alien because the dual national is a citizen of the second nation.[23] In response, the injury-causing state will claim the dual national as a citizen and deny responsibility under international law for injurious conduct against an alien.[24]

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[20] *See* Drummond's Case, 12 Eng. Rep. 492, 496-500 (1834). Drummond was a dual English/French national. The French government seized his property. Drummond asked the British government to bring a claim against France under the 1814 Treaty of Paris which authorized the settlement of claims by British citizens against France. The international tribunal denied Drummond's claim because Drummond's dominant nationality was French. The international tribunal stated that the decisive factor was that Drummond was domiciled in France at the time the claim arose. France, therefore, was merely exercising its authority over one of its citizens. *Id.*

According to the American Law Institute, wrongful conduct under international law includes conduct that is inconsistent with the international standard of justice, or conduct that violates an international agreement. RESTATEMENT OF FOREIGN RELATIONS, *supra* note 19, § 165. The Permanent Court of International Justice and the Permanent Court of Arbitration have both recognized the international standard. *Id.* at § 165 n.1. The Permanent Court of International Justice stated that the international standard prohibits those actions against an alien that are wrongful under international law principles. *Id.*

[21] The question of international responsibility for injurious conduct to aliens is separate and distinct from the question of state treatment of its own citizens under international law. RESTATEMENT OF FOREIGN RELATIONS, *supra* note 19, § 165 Comment h. Many commentators feel that states are bound under international law to respect the basic human rights of all individuals, whether they are citizens or aliens. *Id.* Although an individual who is not a dual national cannot bring a claim against his nation on the theory of injurious conduct to an alien, the individual is not precluded from seeking relief against his nation based on a violation of human rights. *Cf.* Filartiga v. Pena-Irala, No. 79-6090, slip op. at 6 (2d Cir. June 30, 1980) (torture by government official of a citizen violates international law).

[22] *See* notes 20-21 *supra*. Although a nation is responsible under international law for injurious conduct to an alien, *see* note 19 *supra*, a nation is generally not responsible for injurious conduct against a dual national, even if the same conduct would make the nation liable under international law for injurious conduct to an alien. 615 F.2d at 1187; RESTATEMENT OF FOREIGN RELATIONS, *supra* note 19, § 171 Comment c. The rationale underlying the general rule of non-responsibility for injurious conduct to dual nationals is that a foreign government cannot complain about how another nation treats one of its citizens, even if the person is a citizen of the foreign nation. 615 F.2d at 1187; *see* note 25 *infra*.

[23] *See, e.g.*, Mergé Claim, 22 I.L.R. 443, 444-56 (Italian-American Conciliation Comm'n. 1955); Liechtenstein v. Guatemala (Nottebohn Case), [1955] I.C.J. 4, 17-23; Drummond's Case, 12 Eng. Rep. 492, 496-500 (1834). *See also* Griffin, *The Right to a Single Nationality*, 40 TEMP. L. Q. 57, 60-64 (1966) [hereinafter cited as Griffin]; Rode, *Dual Nationality and the Doctrine of Dominant Nationality*, 53 AM. J. INT'L L. 139, 140-43 (1959) [hereinafter cited as Rode].

[24] *See* note 23 *supra*.

International judicial tribunals usually settle questions of international responsibility that involve dual nationals by invoking the doctrine of dominant nationality.[25] Under the doctrine, a court must determine which of the dual national's citizenships is dominant.[26] Although courts usually determine dominant nationality by focusing on the dual national's domicile or habitual residence,[27] these factors are not controlling.[28] Courts also consider the special circumstances of each case.[29]

Under international dominant nationality theory, if a dual national's relationship to the injury-causing state is remote or tenuous, the injury-causing state should be responsible under international law for injurious conduct to an alien.[30] If, however, the dual national's relationship to the injury-causing state is dominant[31] over his relationship to his second state of citizenship, the injury-causing state may treat the dual national as its own citizen.[32] The injury-causing state, consequently, will not be responsible under international law for injurious conduct against an alien.[33]

The doctrine of dominant nationality has been qualified to allow a nation, in one important situation, to treat a dual national as a citizen regardless of his dominant nationality.[34] If a nation determines that a dual national has maintained voluntarily his domestic citizenship,[35] even if the domestic citizenship is not dominant,[36] the domestic nation may treat the dual national as a citizen.[37] Relying on the voluntary

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[25] The doctrine of dominant nationality is an exception to the general rule of non-responsibility under international law for injurious conduct to dual nationals. 615 F.2d at 1187; RESTATEMENT OF FOREIGN RELATIONS, *supra* note 19, § 171.

[26] *See* note 23 *supra*.

[27] *Id.*; *see* note 20 *supra*.

[28] 615 F.2d at 1187; Liechtenstein v. Guatamala (Nottebohn Case), [1955] I.C.J. 4, 22.

[29] 615 F.2d at 1187; Liechtenstein v. Guatamala (Nottebohn Case), [1955] I.C.J. 4, 22. In order to determine dominant nationality, the international judicial tribunal may consider such factors as the dual national's family ties, his participation in public life, his center of interest, his personal attachment for a certain nation, and any other factors that the tribunal considers important. Liechtenstein v. Guatamala, [1955] I.C.J. at 22.

[30] *See* note 23 *supra*.

[31] *See* text accompanying notes 27-29 *supra*.

[32] *See* note 23 *supra*.

[33] *Id.*

[34] The American Law Institute has qualified the doctrine of dominant nationality. RESTATEMENT OF FOREIGN RELATIONS, *supra* note 19, § 171(c), Comment e. The RESTATEMENT OF FOREIGN RELATIONS reflects the opinions of a private organization, and is not an official United States document. The American Law Institute intended the qualified doctrine of dominant nationality to operate in an international context. *See id.* The qualification, however, is not useful in an international context. *See* note 81 *infra*. Although the American Law Institute did not intend the qualification to enable a domestic court to extract dominant nationality theory from international law and apply the doctrine to a domestic case, the qualification yields this result. *See* text accompanying notes 82-90 *infra*.

[35] United States courts resolve nationality questions by referring to the Immigration and Nationality Act of 1952. *See* 8 U.S.C. §§ 1481-1489 (1976).

[36] *See* text accompanying notes 26-29 *supra*.

[37] RESTATEMENT OF FOREIGN RELATIONS, *supra* note 19, § 171(c); *see* 615 F.2d at 1187-88.

maintenance qualification, the *Sadat* court extracted the doctrine of dominant nationality from international law[38] and applied the doctrine to a domestic case.[39]

In *Sadat*, an Egyptian/American dual national was involved in an automobile accident.[40] The dual national brought a negligence action in federal district court seeking damages for injuries allegedly caused by the operators of the other vehicle. The plaintiff alleged that the district court had subject matter jurisdiction under the alienage jurisdiction statute, 28 U.S.C. § 1332(a)(2).[41] The alienage jurisdiction statute gives the federal district courts subject matter jurisdiction in suits between citizens of the United States, and citizens or subjects of foreign nations.[42] The district court dismissed the complaint for lack of subject matter jurisdiction.[43] The court held that a dual national cannot rely on his foreign nationality to sue in federal court under the alienage jurisdiction statute.[44] On appeal to the Seventh Circuit, the plaintiff alleged that the district court had jurisdiction because he was a citizen of a foreign state

[38] *See* note 81 *infra*.

[39] 615 F.2d at 1187-88.

[40] 615 F.2d at 1178. The plaintiff in *Sadat* was born in Egypt and acquired Egyptian nationality *jus soli*. *Id.* In 1973, the plaintiff became a naturalized citizen of the United States with the permission of the Egyptian government. *Id.*

[41] *Id.* The plaintiff in *Sadat* alleged that both operators of the other vehicle involved in the accident were negligent and sought one million dollars in damages. *Id.* The insurers of both automobiles involved in the accident were joined as defendants. *Id.* The defendant's complaint joined the General Casualty Company of Wisconsin as a third-party defendant. *Id.* At the time the plaintiff filed his complaint, he was residing in Egypt after having left employment in Lebanon. *Id.*

[42] 28 U.S.C. § 1332(a)(2) (1976); *see* note 72 *infra*. In order to determine federal district court jurisdiction, courts focus on the litigants' status at the time the complaint is filed. 615 F.2d at 1180 (citing Smith v. Sperling, 354 U.S. 91, 93 n.1 (1957)). The *Sadat* plaintiff averred that at the time he filed the complaint, he was a citizen of Egypt and a citizen of the United States. 615 F.2d at 1178. The defendants were citizens of Wisconsin and/or Connecticut. *Id.* The plaintiff alleged that as an Egyptian citizen, he could sue in federal district court under 28 U.S.C. § 1332(a)(2) (1976). 615 F.2d at 1178.

The plaintiff also alleged subject matter jurisdiction under diversity of citizenship. 615 F.2d at 1178. *See* 28 U.S.C. § 1332(a)(1) (1976). The federal district courts have subject matter jurisdiction based on diversity of citizenship in suits between citizens of different states of the United States. 615 F.2d at 1178.

[43] 615 F.2d at 1178.

[44] *Id.* The district court held that the plaintiff in *Sadat* failed to meet the diversity requirements of 28 U.S.C. § 1332(a)(2) on two grounds. Sadat v. Mertes, 464 F. Supp. 1311, 1313 (E.D. Wis. 1979), *aff'd*, 615 F.2d 1176 (7th Cir. 1980). First, the *Sadat* plaintiff was a naturalized American citizen who completely renounced his former allegiance to Egypt. *Id.* Therefore, even if Egypt did not recognize the renunciation, the plaintiff's waiver of his Egyptian citizenship controlled the determination of the diversity requirements under 28 U.S.C. § 1332(a)(2) (1976). 464 F. Supp. at 1313.

Second, the district court noted that a holding which allows a naturalized American dual national to rely on his foreign citizenship to sue in federal court could provide naturalized American citizens with almost unlimited access to federal courts. 464 F. Supp. at 1313. As a result, naturalized American citizens would be in a favored position over native-born American citizens. *Id.*; *see* note 96 *infra*. The district court concluded that such a result would defeat the purposes of diversity jurisdiction. 464 F. Supp. at 1313. The

within the meaning of the alienage jurisdiction statute.[45] The Seventh Circuit affirmed the district court's decision[46] and held that the plaintiff was not a citizen of Egypt for the purpose of federal diversity jurisdiction.[47]

The *Sadat* court relied on the voluntary maintenance qualification of the doctrine of dominant nationality[48] to determine whether the plaintiff was a citizen of a foreign nation within the meaning of the alienage jurisdiction statute. Initially, the court noted that an American dual national with a dominant foreign nationality met the diversity requirements of 28 U.S.C. § 1332(a)(2).[49] Nevertheless, the court concluded that although the plaintiff was domiciled in Egypt at the time he filed his complaint,[50] the plaintiff's dominant nationality was not Egyptian.[51]

The *Sadat* court focused on the plaintiff's actions subsequent to his naturalization as an American citizen and concluded that the plaintiff's Egyptian nationality was not dominant.[52] The court noted that the plaintiff swore his sole allegiance to the United States,[53] renounced his foreign citizenship,[54] did not obtain employment in Egypt that could have jeopardized his American citizenship,[55] voted in the 1976 presidential election,[56] and registered with the United States Embassy while in

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district court, however, did not discuss the purposes of diversity jurisdiction in this context. *See id.*

The district court further held that the plaintiff was domiciled in Egypt at the time he filed the complaint. *Id.* Therefore, the plaintiff was not a citizen of an American state at the time he filed the complaint and consequently, the district court did not have subject matter jurisdiction under 28 U.S.C. § 1332(a)(1) (1976). 464 F. Supp. at 1313.

[45] 615 F.2d at 1178. In addition to alleging jurisdiction under 28 U.S.C. § 1332(a)(2) (1976), the *Sadat* plaintiff's appeal to the Seventh Circuit challenged the district court's holding that the plaintiff was not a citizen of a state and therefore, could not sue under 28 U.S.C. § 1332(a)(1) (1976). 615 F.2d at 1178; *see* note 44 *supra*. The plaintiff also alleged that the defendants should be estopped from raising a subject matter jurisdiction objection because the statute of limitations had run on the plaintiff's cause of action. 615 F.2d at 1188. If the Seventh Circuit had sustained any of the plaintiff's challenges, the district court's judgment would have been reversed. *Id.* at 1177.

[46] 615 F.2d at 1182-88.

[47] *Id.*; *see* text accompanying notes 47-59 *infra*.

[48] *See* text accompanying notes 34-38 *supra*.

[49] 615 F.2d at 1187. The *Sadat* court recognized the general rule of non-responsibility under international law for injuries to dual nationals. *Id.*; *see* note 22 *supra*. The court further recognized that the doctrine of dominant nationality is an exception to the general rule of non-responsibility. 615 F.2d at 1187; *see* note 25 *supra*.

[50] *See* text accompanying notes 27-29 *supra*.

[51] 615 F.2d at 1187; *see* text accompanying notes 98-103 *infra*.

[52] 615 F.2d at 1188.

[53] *Id.*; *see* 8 U.S.C. § 1448(a)(1) (1976).

[54] 615 F.2d at 1188; *see* 8 U.S.C. § 1448(a)(2) (1976).

[55] 615 F.2d at 1188. A naturalized, or native-born American citizen, loses his American citizenship if he accepts, serves in, or performs the duties of any government position, or office of a foreign state of which he is a citizen. 8 U.S.C. § 1481(a)(4)(A) (1976).

[56] 615 F.2d at 1188. A naturalized or native-born American citizen loses his American citizenship if he votes in a political election in a foreign country. 8 U.S.C. § 1481(a)(5) (1976).

Egypt.[57] The *Sadat* court interpreted the plaintiff's actions as demonstrating his intent to maintain voluntarily his American citizenship.[58] The court, therefore, treated the plaintiff as an American citizen for the purpose of determining whether he could sue in federal district court under the alienage jurisdiction statute[59] and barred him from obtaining a federal forum.[60]

Although the *Sadat* court's decision to bar the plaintiff from suing in federal court was correct, the court's reasoning was incomplete. The court never explained why the unqualified international doctrine of dominant nationality was not applicable in *Sadat*.[61] The court, moreover, did not explain how the qualified form of the doctrine of dominant nationality provides a flexible method of solving dual nationality problems that is consistent with the policies underlying alienage jurisdiction.[62]

The *Sadat* court's decision not to apply unqualified international dominant nationality theory[63] was correct. The doctrine of dominant nationality in international law is a bilateral concept designed to accommodate the interests of more than one nation.[64] The nations involved in an international dispute, consequently, agree to be bound by the international judicial tribunal's decision.[65] The Egyptian government was not involved in *Sadat*.[66] Therefore, the bilateral setting in which the doctrine

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[57] 615 F.2d at 1188.

[58] *Id.*

[59] *See* text accompanying note 42 *supra*; text accompanying note 72 *infra*.

[60] 615 F.2d at 1188. The *Sadat* court, in addition to barring the plaintiff from bringing suit in federal court under 28 U.S.C. § 1332(a)(2), *see* text accompanying notes 48-58 *supra*, also barred the plaintiff from suing in federal court under 28 U.S.C. § 1332(a)(1). *See* notes 42 & 44 *supra*. Section 1332(a)(1) requires that an individual be both a citizen of the United States, and a citizen of a state within the United States. 615 F.2d at 1182. The *Sadat* court affirmed the district court's ruling that the plaintiff was domiciled in Egypt at the time he filed his complaint and therefore, was not a citizen of a state as required by 28 U.S.C. § 1332(a)(1). *Id.* at 1180-82. The *Sadat* court also dismissed the plaintiff's claim that the defendants could not raise a subject matter jurisdiction objection because the statute of limitations had run on the plaintiff's cause of action. *Id.* at 1188. The court stated that federal subject matter jurisdiction which does not exist cannot be invoked by estoppel, and that an objection to subject matter jurisdiction may be raised at any stage of the proceeding. *Id.*

[61] *See* text accompanying notes 63-81 *infra*.

[62] *See* text accompanying notes 82-96 *infra*.

[63] *See* text accompanying notes 19-32 *supra*.

[64] *Id.*

[65] *See* note 23 *supra*. International judicial tribunals often use dominant nationality theory as a result of a treaty or agreement between two or more nations. Certain treaties authorize the nations party to the treaty to provide for a tribunal and to hear the claims. *See, e.g.*, Mergé Claim 22 I.L.R. 443, 445-48 (Italian-American Conciliation Comm'n. 1955) (1947 peace treaty with Italy authorized settlement of nationality conflicts); Drummond's Case, 12 Eng. Rep. 492, 494 (1834) (1814 Treaty of Paris authorized the settlement of dual national's claims). In the absence of an applicable treaty, the International Court of Justice may have jurisdiction. *See* Liechtenstein v. Guatamala (Nottebohn Case), [1953] I.C.J. 4, 4-5 In both situations, the international judicial tribunal has the cooperation and participation of both nations involved in the nationality dispute.

[66] *See* 615 F.2d at 1182-88.

of dominant nationality was intended to operate did not exist.[67] International dominant nationality theory was also inapplicable in *Sadat* because the doctrine's purpose is to determine whether a nation should be responsible under international law for injurious conduct against an alien.[68] In *Sadat*, the court faced a question of domestic federal court jurisdiction that included a nationality problem.[69] The *Sadat* court did not face the issue of international responsibility.[70]

Unqualified international dominant nationality theory is also inconsistent with the policies underlying alienage jurisdiction.[71] Alienage jurisdiction exists so that the United States will not offend foreign governments by forcing foreign citizens to litigate in our state courts.[72] In order to apply international dominant nationality theory, a federal court must independently and unilaterally determine the relative dominance of a foreign citizen's foreign and domestic nationalities.[73] In comparison, international dominant nationality theory is applicable in international disputes between two nations because both nations par-

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[67] *Id.* A domestic court could apply international dominant nationality theory in certain domestic cases when the interests of two or more jurisdictions are involved and thus, a bilateral setting exists. In a citizenship conflict between two American states, or between a state and the federal government, two jurisdictions would be directly involved. In such a situation, a court could apply international dominant nationality theory because the bilateral setting in which the doctrine was made to operate would exist. For example, American courts have applied international continental shelf theories to appropriate domestic cases where a bilateral setting existed. *See* United States v. Texas, 339 U.S. 707, 710-15 (1950); United States v. Louisiana, 339 U.S. 699, 702-06 (1950); United States v. California, 332 U.S. 19, 22-25 (1947).

[68] *See* text accompanying notes 19-33 *supra.*

[69] 615 F.2d at 1184-88.

[70] *Id.*

[71] *See* text accompanying note 72 *infra.*

[72] Diversity jurisdiction, which is available to citizens of different states, is based on the highly criticized belief that the state court system operates prejudicially against out-of-state litigants. 615 F.2d at 1182; *see* 28 U.S.C. § 1332(a)(1) (1976). Although alienage jurisdiction is based on similar fears, these fears are the result of more realistic concerns. 615 F.2d at 1182. Alienage jurisdiction is apparently based upon the absence of treaties between states within the United States, and foreign nations concerning the treatment and protection of foreigners, and the fear of offending foreign nations by forcing their citizens to litigate in a forum that is not national. 615 F.2d at 1182 (citing Blair Holdings Corp. v. Rubinstein, 133 F. Supp. 496, 500 (S.D.N.Y. 1955)); *see* note 96 *infra.*

[73] In *Sadat*, the Seventh Circuit focused on the plaintiff's actions subsequent to his naturalization as an American citizen, *see* text accompanying notes 52-58 *supra*, to determine the plaintiff's dominant nationality. 615 F.2d at 1187-88; *see* text accompanying notes 99-105 *infra.* The court did not rely on domicile even though the majority of courts have used domicile or habitual residence to determine dominant nationality. 615 F.2d at 1187-88; *see* text accompanying notes 27-29 *supra.* Therefore, *Sadat* illustrates how a domestic court can unilaterally determine dominant nationality without taking into account what the dual national's second nation of citizenship considers important in determining dominant nationality. In an international setting, however, both nations involved can present to the international judicial tribunal what each considers important in determining dominant nationality. *See* text accompanying notes 19-24 *supra.*

ticipate in the court's determination of dominant nationality and both nations agree to follow the international judicial tribunal's decision.[74] A domestic dispute normally does not involve a foreign government. In *Sadat*, for example, the Egyptian government did not participate in the Seventh Circuit's determination of dominant nationality,[75] and did not agree to be bound by the court's decision.[76] The *Sadat* court, therefore, could have offended the Egyptian government merely by using the international doctrine of dominant nationality. The court's determination of the plaintiff's dominant nationality, furthermore, could have offended the Egyptian government because the Seventh Circuit's decision affects an Egyptian citizen. Moreover, if a domestic court were to determine that a dual national's dominant nationality is domestic, the domestic court's decision means that the domestic nation cannot be held responsible under international law for injurious conduct to an alien.[77] Since international judicial tribunals should determine international responsibility,[78] the domestic court's dominant nationality determination may offend a foreign government. The *Sadat* court, therefore, correctly chose not to apply the unqualified form of the international doctrine of dominant nationality.[79]

The *Sadat* court properly applied the voluntary maintenance qualification of dominant nationality theory.[80] The qualified rule is applicable to dual nationality questions within a domestic jurisdiction[81] and is consis-

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[74] *See* text accompanying notes 19-33 *supra*.

[75] *See* 615 F.2d at 1187-88.

[76] *Id.*

[77] *See* text accompanying notes 19-24 *supra*.

[78] A state can claim international responsibility for injurious conduct against an alien if the alien is a national of that state. *See* RESTATEMENT OF FOREIGN RELATIONS LAW, *supra* note 19, § 174. Therefore, when the dual national is a citizen of the injury-causing state, the injury-causing state can claim responsibility under international law for the injurious conduct. *See id.* Nevertheless, the injury-causing state cannot effectively deny international responsibility because the dual national's second state of citizenship could bring a claim against the injury-causing state in an international judicial forum. *See id.*; note 65 *supra*.

[79] At least one commentator has stated that international dominant nationality theory is not applicable to dual nationality questions in domestic courts. *See* Rode, *supra* note 23, at 144-45.

International law is a part of American law. Skiriotes v. Florida, 313 U.S. 69, 72-73 (1941); The Paquete Habana, 175 U.S. 677, 700 (1900). An American court, however, should only apply international law when the prescribed law is appropriate. 313 U.S. at 73; 175 U.S. at 700. The *Sadat* court, therefore, properly refused to apply unqualified international dominant nationality theory. The *Sadat* court appropriately modified the bilateral international doctrine to apply to a unilateral domestic case. *See* text accompanying notes 82-109 *infra*.

[80] *See* text accompanying notes 34-39 *supra*.

[81] The qualified rule of dominant nationality theory is applicable to dual nationality questions within a domestic jurisdiction. *See* text accompanying notes 84-90 *infra*. However, the qualified rule may be less useful in an international setting. In an international dual nationality case, the international judicial tribunal considers the question of international responsibility for injurious conduct to an alien. *See* text accompanying notes 19-33 *supra*. The international tribunal must decide the dual national's dominant nationality to resolve

tent with the international comity policy underlying alienage jurisdiction.[82] A domestic court can use the qualified rule because the court can solve the dual nationality problem unilaterally by referring to domestic nationality law.[83] In a domestic dispute, the qualified rule yields two possible results that depend on whether the dual national has maintained voluntarily his domestic citizenship. If a nation determines that the dual national has maintained voluntarily his citizenship, the nation does not have to determine the dual national's dominant nationality,[84] and may treat him as a citizen. A foreign government should not be offended by the domestic court's decision in this situation because the dual national's voluntary maintenance of his domestic nationality would be the conclusive factor. Since the policy behind alienage jurisdiction is to avoid offending foreign governments,[85] the qualified rule yields one result that is consistent with this policy.

If, on the other hand, the domestic court determines that the dual national did not maintain voluntarily his domestic nationality, the dual national's foreign nationality probably would be dominant. As a result, the domestic court would treat the dual national as an alien for the purposes of federal jurisdiction.[86] A domestic court's treatment of a dual national as an alien should not offend a foreign government because such treatment implies that the domestic nation is responsible under international law for injurious conduct to the alien.[87] Therefore, whether or not the domestic court determines that the dual national maintained voluntarily his citizenship, the court's determination is consistent with the policies underlying alienage jurisdiction.[88]

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the problem because one nation will not agree to let another nation treat the dual national solely as a citizen, and thereby avoid international responsibility for injurious conduct to an alien. *See* text accompanying notes 19-24 *supra*. If an international tribunal used the qualified rule, a nation could escape international responsibility by determining that the dual national maintained voluntarily his domestic citizenship under that nation's domestic nationality laws. *See* text accompanying notes 34-39 *supra*. Nevertheless, the second nation involved could protest because the international court would have made the decision by referring to the other nation's domestic nationality law instead of referring to international standards of dominant nationality. Therefore, the international court would have to resolve the protest by determining dominant nationality based on international criteria, and not by relying on the other nation's domestic nationality law. In such a case the use of the qualification would not determine the outcome of the case. The international court may, however, use the dual national's voluntary maintenance of one nationality as a factor in its determination of dominant nationality. *See* text accompanying notes 27-29 *supra*. Consequently, unless the two nations involved have specifically agreed to use the qualified rule, *see* note 65 *supra*, the qualification may not be determinative in an international dominant nationality case.

[82] *See* text accompanying notes 70-71 *supra*.

[83] *See* note 35 *supra*.

[84] *See* text accompanying notes 34-49 *supra*.

[85] *See* text accompanying notes 70-71 *supra*.

[86] *See* text accompanying notes 34-49 *supra*.

[87] *Id.*

[88] *See* text accompanying notes 70-71 *supra*.

The *Sadat* court could have relied upon prior precedent[89] to apply a rigid rule that treats all dual nationals as American citizens for federal jurisdictional purposes.[90] The rigid rule is appealing because of its simplicity and predictability.[91] Arguably, the voluntary maintenance qualification of dominant nationality theory is too complex to apply,[92] and treats the dual national as an American citizen in the vast majority of cases.[93] The *Sadat* court, however, recognized that the rigid rule is in-

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[89] Although the *Sadat* court was the first circuit court to face the question of whether a dual national can use his foreign nationality to sue in federal district court under 28 U.S.C. § 1332(a)(2) (1976), two district courts, other than the district court in *Sadat*, have reached contrary results on the same question. In Aguirre v. Nagel, 270 F. Supp. 535 (E.D. Mich. 1967), the court allowed the dual national plaintiff to sue in federal district court under 28 U.S.C. § 1332(a)(2) because the plaintiff was a Mexican citizen *jus sanguinis*, even though she was an American citizen *jus soli*. 270 F. Supp. at 536; *see* notes 2-4 *supra*. The plaintiff could not sue under 28 U.S.C. § 1332(a)(1) because she resided in the same state as the defendant. 270 F. Supp. at 535. The *Aguirre* court reasoned that the plaintiff's situation fell within the exact language of 28 U.S.C. § 1332(a)(2). 270 F. Supp. at 536. In addition, the court noted that the absence of jurisdiction under 28 U.S.C. § 1332(a)(1) should not preclude jurisdiction under 28 U.S.C. § 1332(a)(2). 270 F. Supp. at 536.

The Seventh Circuit in *Sadat* criticized the *Aguirre* decision and indicated that the *Aguirre* court applied 28 U.S.C. § 1332(a)(2) literally, and completely ignored the policies underlying alienage jurisdiction. 615 F.2d at 1185-86; *see* note 72 *supra*. The district court in Raphael v. Hertzberg, 470 F. Supp. 984 (C.D. Cal. 1979), criticized the *Aguirre* decision on multiple grounds. The *Raphael* court indicated that the *Augirre* court violated the requirement of complete diversity because both the plaintiff and the defendant were citizens of the same state. *Id.* at 986 (citing Strawbridge v. Curtiss, 7 U.S. (3 Cranch) 267, 270 (1806)). The *Raphael* court also noted that the litigants would not be subjected to bias in state court because both litigants were citizens of the same state. 470 F. Supp. at 985. The *Raphael* court added that a foreign nation would not be offended if the plaintiff was relegated to state court because the plaintiff was an American citizen. *Id.* The court also indicated that the *Aguirre* decision favors naturalized citizens over native-born citizens by allowing naturalized citizens almost unlimited access to federal courts. *Id; see* note 96 *infra*. The *Raphael* court concluded that extending the coverage of 28 U.S.C. § 1332(a)(2) to allow the plaintiff to sue in federal court would not be wise in light of the increasing criticism of the concept of diversity jurisdiction. 470 F. Supp. at 985. *But see* note 96 *infra*. Therefore, the *Raphael* court stated a rigid rule that treats dual nationals as American citizens for federal jurisdictional purposes. 470 F. Supp. at 986. The district court in *Sadat* reached the same conclusion as the *Raphael* court. Sadat v. Mertes, 464 F. Supp. 1311, 1313-14 (E.D. Wis. 1979), *aff'd*, 615 F.2d 1176 (7th Cir. 1980).

[90] *See* note 91 *infra*. The *Sadat* court acknowledged that at least one commentator would treat all dual nationals as American citizens for federal jurisdictional purposes. 615 F.2d at 1187 (citing Currie, *The Federal Courts and the American Law Institute*, 36 U. CHI. L. REV. 1, 10 n.50 (1968)). The rigid rule that requires courts to treat all dual nationals as American citizens for federal jurisdictional purposes is based on the idea that a foreign government will rarely become offended if the United States treats American dual nationals as American citizens. *Id. But see* text accompanying note 95 *infra*.

[91] *See* Currie, *The Federal Courts and the America Law Institute*, 36 U. CHI. L. REV. 1, 10 n.50 (1968).

[92] *See* text accompanying note 103 *infra*.

[93] The *Sadat* court acknowledged that in the majority of cases an American court will not offend a foreign government by treating a dual national as an American. 615 F.2d at 1187.

consistent with the policy of international comity that underlies alienage jurisdiction[94] since forcing a dual national to litigate in state court may offend a foreign government.[95] Although the rigid rule requires courts to treat the dual national as an American citizen in all cases, the qualified rule of dominant nationality theory is flexible. The qualified rule also promotes judicial economy because a court using the rule will invoke federal jurisdiction in a manner consistent with the policy underlying alienage jurisdiction.[96]

Although the qualified rule is vastly different from the unqualified international dominant nationality theory,[97] the qualified rule is an excellent tool for determining whether a dual national should be allowed to

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[94] *See* text accompanying notes 70-71 *supra*.

[95] Although the *Sadat* court acknowledged that in most cases a foreign government will not be offended when an American court treats an American dual national as an American citizen for jurisdictional purposes, *see* text accompanying note 94 *supra*, the *Sadat* court was obviously concerned with those cases where an American court should allow an American dual national to obtain a federal forum. 615 F.2d at 1186. Therefore, the *Sadat* court chose to set a precedent that allows a court to treat an American dual national as a foreign citizen for federal jurisdictional purposes when such treatment is necessary to effectuate the international comity policy underlying alienage jurisdiction. 615 F.2d at 1187-88; *see* text accompanying notes 70-71 *supra*.

[96] Although the *Sadat* court rejected the rigid rule that treats all American dual nationals as American citizens for federal jurisdictional purposes, the *Sadat* court also rejected a precedent that would allow American dual nationals almost unlimited access to federal district courts. 615 F.2d at 1187-88; *see* note 44 *supra*. In *Sadat*, the plaintiff was an American/Egyptian dual national who resided in Egypt at the time he filed his complaint in federal court. 615 F.2d at 1178-80. The plaintiff in *Sadat* could not sue in federal district court under 28 U.S.C. § 1332(a)(1) because he was not a citizen of an American state. *See* notes 44 & 60 *supra*. Therefore, the plaintiff attempted to sue in federal court under 28 U.S.C. § 1332(a)(2). *See* text accompanying notes 40-47 *supra*. Nevertheless, a similarly situated native-born American could not sue under 28 U.S.C. § 1332(a)(1) because he would not be a citizen of a state. *See* notes 44 & 60 *supra*. Furthermore, the native-born American could not sue under 28 U.S.C. § 1332(a)(2) because he would not be a dual national and, therefore, could not rely on a foreign citizenship. If the *Sadat* court had allowed the plaintiff to sue in federal district court under 28 U.S.C. § 1332(a)(2), the court would have set a precedent affording naturalized American dual nationals almost unlimited access to federal courts. Such a precedent would favor naturalized Americans over native-born Americans. The *Sadat* court obviously agreed with the *Raphael* court that the policies underlying alienage jurisdiction do not support such a result. *See* note 91 *supra*. Nevertheless, the *Raphael* court incorrectly concluded that this result would expand diversity jurisdiction in light of the increasing criticism of the concept of diversity citizenship. *See* 470 F. Supp. at 986. Alienage jurisdiction is not attacked by those commentators who criticize diversity jurisdiction. *See* Rowe, *Abolishing Diversity Jurisdiction: Positive Side Effects and Potential for Further Reforms*, 92 HARV. L. REV. 963, 967-68 (1979) [hereinafter cited as Rowe]; Shapiro, *Federal Diversity Jurisdiction: A Survey and a Proposal*, 91 HARV. L. REV. 317, 347-50 (1977) [hereinafter cited as Shapiro]. Therefore, even the commentators who advocate eliminating diversity jurisdiction in suits between citizens of different states recognize that alienage jurisdiction should be retained because alienage jurisdiction maintains international comity and does not burden the federal dockets. *See* 615 F.2d at 1182-83; Rowe, at 967-68; Shapiro, at 347-50.

[97] *See* note 83 *supra*.

enter federal court under the alienage jurisdiction statute. The *Sadat* opinion, however, failed to consider the procedural problems that the qualified rule creates.[98] Consequently, the *Sadat* court erred by determining the plaintiff's dominant nationality.

The *Sadat* court held that the plaintiff's dominant nationality was not Egyptian.[99] Under the qualified rule of dominant nationality theory, a nation may treat a dual national as a citizen if that nation determines that the dual national maintained voluntarily his citizenship.[100] The *Sadat* court determined that the plaintiff had maintained voluntarily his American citizenship.[101] The court, therefore, did not have to determine which of the plaintiff's nationalities was dominant.[102] By determining the plaintiff's dominant nationality, the *Sadat* court could have offended the Egyptian government, and thereby have violated the policy underlying alienage jurisdiction.[103] In addition to violating the international comity policy underlying alienage jurisdiction,[104] a domestic court that determines a dual national's dominant nationality when such a determination is inappropriate is actually applying unqualified international dominant nationality theory, which is not applicable in a domestic case.[105]

Domestic courts that rely on the qualified rule, therefore, should follow a strict format. First, the court should determine whether the dual national has maintained voluntarily his citizenship.[106] If the dual na-

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[98] The *Sadat* court erred by attempting to determine the plaintiff's dominant nationality. *See* text accompanying notes 99-103 *infra*. The *Sadat* court also erred by stating that the plaintiff's dominant nationality was not Egyptian. The Seventh Circuit did not state that the plaintiff's dominant nationality was American. 615 F.2d at 1187-88. Courts have used dominant nationality theory exclusively to determine which of a dual national's citizenships is dominant. *See* note 23 *supra*. If a court cannot state that one of the dual nationals' citizenships is dominant, the doctrine of dominant nationality should not be used to resolve the case. *See* text accompanying notes 19-33 *supra*. Therefore, a court should either state that one of the dual national's citizenships is dominant, or state that since neither is dominant, the theory of dominant nationality cannot determine the outcome of the case.

Two possible explanations exist as to why the *Sadat* court stated that the plaintiff's dominant nationality was not Egyptian. First, the *Sadat* court may have been trying to illustrate how the qualified rule of dominant nationality theory can apply even if the dual national's dominant nationality is unascertainable. *See* text accompanying notes 34-38 *supra*. Since the qualified rule allows a domestic court to treat the dual national as a citizen if he has maintained voluntarily his domestic citizenship, the qualified rule applies even if the plaintiff's dominant nationality is foreign, or cannot be determined. *Id.* Second, the *Sadat* court could have been attempting to reinforce the decision to treat the plaintiff as an American citizen for federal jurisdictional purposes by showing that the plaintiff's dominant nationality was not Egyptian.

[99] 615 F.2d at 1187-88.

[100] *See* text accompanying notes 34-38 *supra*.

[101] 615 F.2d at 1188.

[102] *See* text accompanying notes 34-38 *supra*.

[103] *See* text accompanying notes 64-81 *supra*.

[104] *Id.*

[105] *See* text accompanying notes 63-70 *supra*.

[106] *See* text accompanying notes 34-38 *supra*.

tional has maintained voluntarily his domestic citizenship, the court may treat the dual national as a citizen for purposes of federal jurisdiction.[107] If the domestic court determines that the dual national did not maintain voluntarily his domestic citizenship, the court should determine the dual national's dominant nationality.[108] If the dual national's dominant nationality is foreign,[109] the court should treat the dual national as an alien for purposes of federal jurisdiction.[110] If, however, the court determines that the dual national's dominant nationality is domestic, the court should then decide whether treating the dual national as a citizen will offend the dual national's foreign government.[111] If allowing the dual national access to a federal forum would effectuate the international comity policy which underlies alienage jurisdiction, the court should treat the dual national as an alien.[112] However, if relegation of the dual national to state court would not offend the foreign government, the court should treat the dual national as a citizen.[113]

The *Sadat* court properly applied the qualified rule of dominant nationality theory instead of the international doctrine of dominant nationality. The qualified rule is flexible and allows the court to render decisions that are consistent with the policies underlying alienage jurisdiction. The qualified rule, when properly applied, is simple to use and is an excellent method of solving dual nationality problems in domestic courts.

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[107] *Id.*
[108] *Id.*
[109] *See* text accompanying notes 30-33 *supra.*
[110] *Id.*
[111] *See* text accompanying notes 64-103 *supra.*
[112] *See* text accompanying notes 70-71 *supra.*
[113] *Id.*