

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Private International Law  
Semester-VII (Batch: 2012-17)

End Semester Examination: Oct-Nov. 2015



Date: 28<sup>th</sup> October, 2015

Duration: 3 hours

Max. Marks: 50

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write anything on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- Bare Act is not allowed.

**Marks**

**Part - A**

- Q.1 Decide the following by applying the principles of private international law and relevant judicial decisions (06)

Aishwarya and Vivek got married in 2000 at Bhopal. After three months of their marriage, they both left for Canada and later acquired Canadian citizenship in 2002. Son Aryan, was born to them in the year 2005. After 8 years, in 2013, Aishwarya came to India for spending vacation with her parents along with Aryan and never returns back. In the year 2014, she filed a divorce petition in the Family Court of Bhopal for divorce and custody of the child. Vivek also approached court of Canada for custody of Aryan stating that Aishwarya had wrongfully taken Aryan to India and thereby received an ex-parte interim order of repatriation of Aryan to Canada. Aishwarya did not comply with orders of court of Canada. Vivek filed a writ of habeas corpus at High Court of Madhya Pradesh at Jabalpur and prayed before the Hon'ble Court to repatriate the child to foreign court. His petition also states that Indian Court has no jurisdiction to decide on the custody of the child and accordingly court of Canada should decide upon the custody of a child who is neither an Indian citizen nor domiciled in India and is born to parents who are Canadian citizens.

**Part - B**

- Q.2 Answer *any four* of the following questions: (4x7 =28)

- (a) The effect of refusing recognition is limping marriage. Critically examine this statement with relevant statutory provisions and case laws in India
- (b) Distinguish between
  - (i) Public International Law and Private International Law
  - (ii) Domicile of Origin and Domicile of Choice
- (c) When an Indian Court can issue Anti suit injunctions for restraining foreign proceedings? Discuss.
- (d) It is argued that Choice of Law provision was made for the exclusive application of the appropriate foreign law rather than concurrent application with *lex fori*. The central role of the *lex fori* was seen at being at variance with the fundamental

principles of private international law when there was an application of Double actionability principle. Elucidate.

- (e) Explain the proper law of contract in Private International Law.

**Part - C**

Q.3 Analyze *any four* of the following:

(4x4  
=16)

- (a) *Adams v Cape Industries plc* and Jurisdiction over foreign company
- (b) Parental Consent and Characterization
- (c) *Brook v Brook* and marriage
- (d) Recognition and finality of judgment
- (e) Forum Non Convenience and Jurisdiction

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