

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Private International Law
Semester-VII (Batch: 2013-18)

End Semester Examination: October-2016

Date: 26th October, 2016

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 any thing 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.

Attempt **any four** parts from **Part-A** to **Part-E**. **Part-F** is compulsory.

Marks

Part-A

- Q.1 Write notes on the following: (4+3+3=10)
- (a) Most Significant Relationship (MSR) in Private International Law.
 - (b) Is Foreign Law a question of fact or question of law?
 - (c) Double Actionability Rule

Part-B

- Q.2 Referring to *Sondur Gopal v. Sondur Rajini*, (2013) 7 SCC 426, answer the following questions: (4+4+2=10)
- (a) Illustrate with facts of case, the issue before the Supreme Court of India to determine the 'domicile' in the present case.
 - (b) Which approach did Supreme Court of India followed in the instant case for Revival of Domicile of Origin, American Court's approach or English Court's approach? Differentiate between American Court's approach and English Court's approach with case laws on the Revival of Domicile of Origin?
 - (c) What is domicile of married woman? Explain position of law in England and India. What was held in the instant case for the domicile of married woman?

Part-C

- Q.3 What is Jurisdiction? Why should the law of a country impose any limits on the jurisdiction of its courts? What purpose might be served by such limits? State reasons for your answer. (03)
- Q.4 What is *Spiliada* test? Explain. (02)
- Q.5 What is Anti-suit Injunction? When can Indian Court grant an Anti-suit Injunction? Compare Indian Courts approach with English Courts approach in granting Anti-suit Injunction. (05)

Part-D

- Q.6 How Supreme Court of India has interpreted “public policy of India” doctrine for the purposes of section 48(2)(b) of Arbitration and Conciliation Act? Explain. (05)
- Q.7 “No court of a country will enforce directly or indirectly foreign penal laws of other country”. Elucidate. (05)

Part-E

- Q.8 Why the Supreme Court of India, in *Satya v. Teja* allowed marriage to limp? *Ogden v. Ogden* was an English case of limping marriage? Differentiate between these two cases. (07)
- Q.9 Explain the difference between section 13 and section 44A of the Civil Procedure Code. On which theoretical basis of Private International Law, these two sections are based? (03)

Part-F

- Q.10 The Government of India intends to sign the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction which is a multilateral treaty, seeking to protect the children from the harmful effects of abduction and retention across international boundaries by providing a procedure to bring about their prompt return. (7+3=10)

To ratify the above mentioned convention, the Government of India has also drafted a bill i.e. the Child Abduction Bill, 2016. This bill has been referred to you for a legal advice on the following points:

- (a) Whether judicial precedents on Child removal in India are in disagreement with the Hague Convention? Review the cases to justify your agreement or disagreement.
- (b) Whether India should sign the Hague Convention on Child Abduction and enact the Child Abduction Bill 2016? Do you agree or disagree? Justify your advice in the backdrop of Articles of Hague convention. Would you like to suggest any protective measures that India should additionally enact in the legislation based on the review of Apex court judgements?

Write a legal opinion for Government of India.
