

7 MAY 2025

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination April-May 2025

Semester: UG X Semester

Subject: Private International Law (Compulsory)

Time: 3 Hours

Marks: 100

Instructions:

1. Attempt any five questions.
2. Each question is of 20 marks.

Q.1) Ravi and Rohit were the candidates for the provincial election held in March 2025. Ravi won the election. Furious at his defeat, Rohit filed a petition claiming that Ravi was not an Indian citizen and, hence ineligible to contest the election. The petition states that Ravi is Italian by birth, still domiciled there, and his marriage with an Indian citizen does not make him an Indian eligible to contest the election. Rohit is required to prove Italian law before the Indian court. Advise him on the rules of proving, pleading, and excluding foreign law in India.

(Marks 20)

Q.2) Pitbullah Khan, a French national, dies intestate in Singapore, where he had lived since the age of five. His legal heirs are domicile of India, who are contesting for their share in his property. The property dispute is submitted before the Jodhpur's court. You are the judicial magistrate before whom the matter is posted. Does the Jodhpur's court has jurisdiction on this matter? How would you decide the applicable law in this matter? Will you use the doctrine of renvoi? Decide.

(Marks 20)

Q.3) Jairam Singh and Meena Bai were married to each other in 2014 in India and after that went to Ontario. The couple has a son Kush who was born in Ontario in 2016, After 6 years of marriage Meena Bai brought Kush to Jodhpur for the education of child. Jairam Singh filed as petition for divorce and custody of child in court of Ontario claiming that Meena Bai had wrongfully taken the child to India. He obtained an interim order of custody of child from the court of Ontario, Meena Bai filed a petition before Jodhpur High court for restraining Jairam Singh from taking away the child and 'contending that Ontario court has no jurisdiction to grant the custody of the child'. You have been approached by Meena Bai seeking legal advice. Advise her with the help of judicial trend relating to inter-country child abduction before the decisions in the *Surya Vadanam v State of Tamil Nadu (2015)* and those after.

(Marks 20)



Q.4) State the relevant rules of private international law in the following situations:

a. Hari Prakash was born in New Delhi, India. He went to France on a job assignment. He fell in love with France. He found France to be lesser polluted and having a better climatic conditions. He decided to settle there permanently. He also purchases land and a house there. Hari's wife was still in India. He comes to India to take her wife along with him. On their way to the airport, they met with an accident and died. The couple died intestate. Their legal heirs want to have their shares in properties located in India and abroad.

They seek your advice on private international law rules related to properties. Give suggestions on applicable law.

b. A (a manufacturer in India) has infringed a geographical indication by manufacturing wine by the name of 'Champagne' (a form of wine made from grapes grown in the area by the same name in France). The infringement occurred in India. What will be the applicable law? The parties to the dispute seek your advice on private international law rules related to the infringement of IPR in this case. Give suggestions on applicable law.

(Marks 20= 10*2)

Q.5) In India, the rules to determine the applicable law for disputes arising from a contractual obligation with a foreign element have been developed by the judicial decisions. The decisions suggest that party autonomy plays an important role in identifying the proper law of contract. Is party autonomy absolute? Discuss with the help of relevant case-laws.

(Marks 20)

Q.6) Write short notes on *any two*:

- a. Recognition of Foreign Divorce Decree in India
- b. Applicability of Double Actionability Rule in Non-contractual Obligations
- c. Unification of Rules of Private International Law in the Globalised World

(Marks 20=10*2)

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Q.1) a. Morris observed that 'a person may be domiciled in a country that is not his home, and may even be homeless, while still possessing domicile'. The connecting factor of domicile has always played a dominant role in conflict of laws. Do you agree? Explain the concept of domicile of origin and domicile of choice as settled through case-laws in India.

b) Where is X domiciled in following cases? Justify your answer.

(i) X had Indian domicile of origin. He shifted with his wife to Sweden for a job. After two years he got the Swedish citizenship. X returned to India after four years of stay to work in the Swedish company's Indian office at Bombay. Thereafter X got a job in Sydney, Australia. He went there along with family on sponsorship permit. 'X' lost his job after 6 months and family returned to India on tourist visa whereas X stayed back in Australia. The family refused to go back to Sydney again even though "X" got another job there.

(ii) X lost his parents in the violence that occurred during the recent Israel-Palestine conflict. The humanitarian agency took X to the state of Germany to provide him with relief and care. X's father was of Russian origin while his mother was born in Afghanistan.

(Marks 20=10+5*2)

Q.2) Parvati Patel, a Hindu female married Jignesh Patel a Hindu male at Ahmedabad in accordance with Hindu rites, in 2014. Immediately after marriage, couple went to New York and stayed together for four years at New York. They were blessed with two children, the first in 2015 and the second child in 2017. After the birth of second child, Parvati came back to India in 2019 and admitted the first child in the Delhi Public School, Ahmedabad. In 2020, Jignesh moved to Pittsburgh where he stayed for four months and filed the petition of divorce in Pittsburgh. According to the law of Pittsburgh if a person is resident for 90 days in the state, he/she can file a petition for dissolution of marriage. Parvati sent her reply under protest and did not submit to the jurisdiction of court. The court of Pittsburgh granted *ex-parte* decree of dissolution of marriage to Jignesh. Jignesh married Meena Shah immediately after the passing of decree. Parvati wants to file a case of bigamy. She has approached you for legal advice.



Argue the case for her explaining the law relating to recognition and enforcement of foreign divorce decrees in India. Refer to judicial precedents.

(Marks 20)

Q.3) a. The principle of comity of courts should not be jettisoned except for extraordinary and compelling reasons. Critically evaluate the legal principles applied by the Honourable Supreme Court of India in cases of intercountry child abductions as laid down in *Surya Vadanam v. State of Tamil Nadu* (2015).

b. Discuss the grounds for disqualification of a foreign judgment from recognition or enforcement in India.

(Marks 20=10*2)

Q.4) The three stage approach to ascertain the proper law of contract has supplanted an approach which involved the application of presumptions. These presumptions were that the law of the place where the contract was formed (*lex loci contractus*) was the proper law, except in cases where the performance of the contract occurred entirely in another place, in which the law of that place (*lex loci solutionis*) would apply. The significance of these presumptions at common law is now minimal. Critically analyse the current approach of ascertaining the proper law of contract as has been developed by the judicial decisions in India.

(Marks 20)

Q.5) Discuss the theoretical model for choice of applicable law in the case of tort. Do you consider the double actionability rule which is applied under the common law system including India is still relevant to determine the position of choice of law in tortious claims? Discuss with the help of decided cases.

(Marks 20)

Q.6) Write short notes on *any two*:

- a. Characterisation and doctrine of Double Renvoi
- b. Proving Foreign Laws in Indian Courts
- c. Forum non conveniens

(Marks 20=10*2)