

10.4 Course – IV, Hons-VIII: Private International Law

Objectives:

The field of Conflict of Laws, also known as Private International Law, is concerned with those problems arising from disputes implicating the laws of more than one State. Now-a-days the activities of the individuals and corporate entities transcend national frontiers. These transnational activities may have contact points in several different countries and if the national courts in each of them were to exercise jurisdiction and apply their national law to such activities, then there would be chaos. The role of private international law is to avoid this state of affairs. The objective of this course is to study the basic principles governing conflict of laws in their application to various situations. The following syllabus prepared with this perspective will be spread over a period of one semester.

Course Outcomes:

On successful completion of the course, the student will be able to-

1. Analyse the foundational principles of private international law,.
2. Apply private international law rules to family law issues.
3. Analyse the impact of private international law from comparative and international perspectives, and in the context of social and cultural diversity.
4. To explain the grounds of exclusion of recognition of foreign judgments in India.

Contents:

Unit I

Introduction to Private International Law, Origin, Development, Subject matter and theories of Private International Law, Distinction between Private and Public International Law, Domicile, Jurisdiction of the courts.

Unit II

Application and exclusion of foreign law, Meaning, theories and process of Characterization, Doctrine of Renvoi, theories of Renvoi: Mutual disclaimer theory, Partial Renvoi and Foreign Court Theory

Unit III

Family law matters: Material and formal validity of marriage under Indian and English Law and the choice of law; Matrimonial causes; dissolution of marriage, grounds of divorce, restitution of conjugal rights, Choice of law and the jurisdiction of the courts in Matrimonial causes.

Unit IV

Adoption: essential conditions of adoption under Indian and English law, Recognition of foreign adoption, Choice of law and jurisdiction of the courts. Guardianship and custody under Indian and English Law.

Unit V

Basis and conditions of recognition of foreign judgments, recognition of foreign judgments and awards under Indian and English law, direct execution of foreign decrees.

Prescribed books:

1. R. H. Graveson, Conflict of Laws, 5thEdn., London, Sweet and Maxwell Publication, 1965
2. G. C. Cheshire, J. Fawcett &Ors., Private International Law, 14thEdn., New York, Oxford University Press, 2008
3. ParasDiwan and PeeyushiDiwan, Private International Law, 4thEdn., New Delhi, Deep and Deep Publication, 1998
4. A. Setalvad, Conflict of Laws, Delhi, Lexis Nexis Publication, 2007
5. D. H. Vernon, L. Weinburg&Ors., Conflict of Laws – cases, materials & problems, 2nd Edn., New Jersey, Lexis Nexis, 2003.