

# PRIVATE INTERNATIONAL LAW 1

## 1. **Distinction between private and public international law**

- Public international law regulates relations between states while private international law (conflict of laws) deals with relations between persons.

## 2. **SOURCES OF PRIVATE INTERNATIONAL LAW:**

- THERE IS NO SPECIFIC /PARTICULAR INSTRUMENTATION
- Regulated by particular laws of the state ie divorce
- Apply relevant private international law principles and get an applicable law.

## 3. **SCOPE OF PRIVATE INTERNATIONAL LAW**

- Concerned with relationship between private entities and how they relate.

## 4. **PRINCIPLES APPLIED IN CONFLICT OF LAWS.**

- DOMICILE:WHAT IS IT? TYPES OF DOMICILE? HOW IS IT RELEVANT?
- This is the legal system assigned to a particular individual.
- Take note of the difference between nationality, citizenship and domicile.
- Nationality is the origin, social, reciprocal.
- Citizenship denotes belonging in a certain state. It is the legal status.

4.1 There are 2 determining factors for domicile:

- ACT(ACTION)-of moving to a particular country.
- MIND -Corresponding state of mind to reside permanently or for a long time.

## 5. **TYPES OF DOMICILE**

- **Domicile of origin**-It can be abandoned in favor of a chosen domicile. System of law given to an individual by operation of law

# Essays In Private International Law

**James Nafziger, Symeon Symeonides**



## **Essays In Private International Law:**

**Essays in Private International Law** Peter Machin North, 1993 This work consists of nine essays in the broad field of private international law some originally delivered as lectures others written as law journal articles The author draws on his experience as a Law Commissioner in European Community negotiations in Brussels and in providing advice to the government on private international law matters Where appropriate the essays include new introductions examining major developments which have occurred since they were originally written *Essays on International Law* Graeme Baber, 2017-01-06 This book contains ten writings on different aspects of international law each of them cross referenced in instances in which information in one is relevant to points made in another The first essay considers the character of the subject and its relation to other entities of relevance to it such as its compatibility with national law and its relation to maritime law The second one considers different types of legal instruments in settings of international law and explains how to read a multilateral convention using the Convention for the International Sale of Goods as an example The third part discusses the characteristics of a state and the concept of recognition the fourth reviews the various roles that institutions take in international law concentrating in particular on major regional organisations and the fifth explores the extent to which the World Trade Organisation and the General Agreement on Tariffs and Trade provide for developing countries Essay Six summarises the framework for international labour law and investigates its contents and workings then the seventh considers which countries predominate in the running of international institutions The eighth paper explores how regional entities might co operate with international institutions in the harmonisation of the law and the ninth one investigates the place of negotiation as a method of international dispute resolution Finally the tenth essay considers the past present and future of international law and reviews especially the role of language **Private International Law and the Internet** Dan Jerker B. Svantesson, 2016-03-22 In this the third edition of Private International Law and the Internet Professor Dan Svantesson provides a detailed and insightful account of what is emerging as the most crucial current issue in private international law that is how the Internet affects and is affected by the four fundamental questions When should a lawsuit be entertained by the courts Which state's law should be applied When should a court that can entertain a lawsuit decline to do so And will a judgment rendered in one country be recognized and enforced in another He identifies and investigates twelve characteristics of Internet communication that are relevant to these questions and then proceeds with a detailed discussion of what is required of modern private international law rules Professor Svantesson's approach focuses on several issues that have far reaching practical consequences in the Internet context including the following cross border defamation cross border business contracts cross border consumer contracts and cross border intellectual property issues A wide survey of private international law solutions encompasses insightful and timely analyses of relevant laws adopted in a variety of countries including Australia England Hong Kong the United States Germany Sweden and China as well as in a range of

international instruments There is also a chapter on advances in geo identification technology and its special value for legal practice The book concludes with two model international conventions one on cross border defamation and one on cross border contracts as well as a set of practical check lists to guide legal practitioners faced with cross border matters within the discussed fields Professor Svantesson s book brings together a wealth of research findings in the overlapping disciplines of law and technology that will be of particular utility to practitioners and academics working in this new and rapidly changing field His thoughtful analysis of the interplay of the developing Internet and private international law will also be of great value as will the tools he offers with which to anticipate the future Private International Law and the Internet provides a remarkable stimulus to continue working towards globally acceptable rules on jurisdiction applicable law and recognition and enforcement of judgments for communication via the Internet

**Reform and Development of Private International Law** Peter Machin North, J. J. Fawcett, 2002 This collection of essays by his friends and colleagues honours Sir Peter North s remarkable career and outstanding contribution to private international law It takes as its theme the reform and development of private international law reflecting the three different levels at which the development and reform of private international law takes place Robin Morse discusses the creeping codification of private international law Trevor Hartley draws attention to an area of private international law that relating to matrimonial property which is entirely judge made Joost Blom shows how quickly the judges in this case in the Supreme Court of Canada can develop private international law once they set their mind to it Sir Lawrence Collins discusses the concept of comity in modern private international law Writers too have had their part to play in the development of private international law this is the subject of the contribution by Ole Lando Kurt Siehr looks at the impact of international instruments on national private international law and the problems that this throws up A number of contributors discuss various aspects of the ever growing Europeanization of private international law Ian Fletcher focuses on the EC Regulation on Insolvency Proceedings and its impact upon established law and practice in England and Wales Paul Beaumont examines questions of legal basis and external competence and the best way for the UK and Europe to be represented in issues of private international law globally as well as offering a technical analysis of the contract provision of the Brussels I Regulation Hans Ulrich Jessurun d Oliveira examines the uneasy relationship between the European Union and private international law and the movement towards eroding the latter Peter Nygh compares declining jurisdiction under the Brussels I Regulation and the preliminary draft Hague Judgments Convention Other contributors have concentrated on aspects of the reform of private international law on a world wide basis Jonathan Harris discusses the Hague Convention on the Law Applicable to Trusts and on their Recognition 1985 in his examination of the trust in private international law Not surprisingly there is much discussion in this book of the ambitious project that has been absorbing the Hague Conference for nearly ten years namely a Hague Convention on Jurisdiction and Foreign Judgments in Civil and Commercial Matters David McClean discusses the history of the project and

if it does fail a possible way forward Ron Brand suggests a more modest goal at the Hague Conference namely a choice of court plus recognition convention Whatever the fate of the Hague Judgments Convention the work undertaken at the Hague can still be used in the future It can inform the discussion of what we should do in intellectual property cases in private international law which is the subject of James Fawcett's contribution

**Essays in International Litigation for Lord Collins** Jonathan Harris, Campbell McLachlan, Paul David Mora, 2022 This collection is in honour of the remarkable career of Lord Collins The book offers a set of unique insights into the conduct of cross border litigation the judicial role in international cases the shape of English private international law the conduct of international arbitration and the interface with public international law

*International Courts and the Development of International Law* Nerina Boschiero, Tullio Scovazzi, Cesare Pitea, Chiara Ragni, 2013-03-15 This book contains a collection of essays by leading experts linked to the outstanding characteristics of the scholar in honour of whom it is published Tullio Treves who combines his academic background with his practical experiences of a negotiator of international treaties and a judge of an international tribunal It covers international public and private law related to international courts and the development of international law Under Article 38 of its Statute the International Court of Justice can apply judicial decisions only as a subsidiary means for the determination of rules of law However there are many reasons to believe that international courts and tribunals do play quite an important role in the progressive development of international law There are a number of decisions which are inevitably recalled as the first step or a decisive step in the process of the formation of a new rule of customary international law In these cases can the judge be considered as a subsidiary of others Are these cases compatible with the common belief that a judge cannot create law Is this a peculiarity of international law which is characterized by the existence of several courts but the lack of a legislator Do decisions by different courts lead to the consequence of a fragmented international law This volume provides the reader with an elaboration of various questions linked to the legislative role of courts In their choices of subjects some contributors have taken into account the general aspects of the development of international rules through court decisions or specific sectors of international law such as human rights international crimes international economic law environmental law and the law of the sea Others have chosen the subject of the rules on jurisdiction and procedure of international courts The question of the courts role in the development of areas of law different from public international law namely private international law and European Union law has also been considered The information and views contained in this book will be of great value to academics students judges practitioners and all others interested in the public and private international law aspects of the link between international courts and the development of international law

*Indian Private International Law* Stellina Jolly, Saloni Khanderia, 2021-10-07 This book provides an authoritative account of the evolution and application of private international law principles in India in civil commercial and family matters Through a structured evaluation of the legislative and judicial decisions the authors examine the private international law in the Republic and

whether it conforms to international standards and best practices as adopted in major jurisdictions such as the European Union the United Kingdom the United States India s BRICS partners Brazil Russia China and South Africa and other common law systems such as Australia Canada New Zealand and Nepal Divided into 13 chapters the book provides a contextualised understanding of legal transformation on key aspects of the Indian conflict of law rules on jurisdiction applicable law and the recognition and enforcement of foreign judgments or arbitral awards Particularly fascinating in this regard is the discussion and focus on both traditional and contemporary areas of private international law including marriage divorce contractual concerns the fourth industrial revolution product liability e commerce intellectual property child custody surrogacy and the complicated interface of Sharia in the conflict of law framework The book deliberates the nuanced perspective of endorsing the Hague Conference on Private International Law instruments favouring enhanced uniformity and predictability in matters of choice of court applicable law and the recognition and enforcement of foreign judgments The book s international and comparative focus makes it eminently resourceful for legislators the judges of Indian courts and other interested parties such as lawyers and litigants when they are confronted with cross border disputes that involve an examination of India s private international law The book also provides a comprehensive understanding of Indian private international law which will be useful for academics and researchers looking for an in depth discussion on the subject

*Private International Law* Symeon C. Symeonides, 2021-11-08 This book compares the two golden ages of private international law PIL the first is the era of Story and Savigny in the nineteenth century while the second comprises the last fifty years The period between 1970 and 2020 has been one of rapid changes and dense legislative responses exemplified by the adoption of over one hundred national PIL codifications and almost as many international or regional conventions and regulations These instruments provide a rich source for this book s incisive and instructive comparisons and a fertile ground for a reliable assessment of the progress of PIL as a discipline This book skillfully uncovers and meticulously documents the gradual and largely unnoticed transition of PIL from the idealism of the nineteenth century to the pragmatic eclecticism and pluralism of the twenty first century

**Select Essays on Private International Law** Lakshmi Jambholkar, 2011 **Essays on Private Law** Ian F.G. Baxter, 1966-12-15 This book contains a series of essays on conflict laws including jurisdiction of the courts choice of law renvoi property recognition of family status and recognition of foreign corporations It is not a text book but an analysis and criticism of existing principles with recommendations for reform and for a different approach to the subject In general an approach is advocated that will be simpler and less abstract and doctrinaire than at present and better integrated with the ordinary laws of the forum The recommendations made could be thought of as principles on which to build a reform of conflict of laws or a model code The first two chapters deal with jurisdiction and choice of law two distinct topics with different considerations of policy which have not always been kept distinct by judges and text writers The third chapter considers certain questions of legal interpretation mainly in the construction of money obligations expressed in a foreign

currency This shows a working out of the problems of contract analysis and interpretation which are dealt with more generally in other chapters Another chapter discusses property law a branch of the law which has been influenced historically by the doctrine of situs and the recognition of status in family law and in corporation law The concluding chapter draws together the main results of the preceding discussion and states from basic principles one of which is that there is a need for greater unity between the conflict rules and the general law and for allowing where appropriate the influence of legal systems other than that of the forum Professor Baxter's discussion clearly shows that the complexity of current legal theory can lead to unjust rulings in the courts and his case for greater simplification is argued compellingly

**International Litigation and the Quest for Reasonableness** Andreas F. Lowenfeld, 1996 This is an innovative and provocative book by one of America's leading writers on private and public international law Practitioners as well as students and scholars will be fascinated by the author's distillation of a lifetime of experience as a lawyer arbitrator government official and teacher in presenting recent developments in litigation of controversies across national boundaries

**Law and Justice in a Multistate World: Essays in Honor of Arthur T. von Mehren** James Nafziger, Symeon Symeonides, 2022-06-08 For over half a century Arthur T von Mehren has been a luminary in the fields of comparative law private international law and legal education Here fifty eight of the world's leading scholars and jurists honor his work and outstanding contributions to the advance of knowledge and reform The volume is divided into four illuminating sections Part I Jurisdiction Judgment Part II Choice of Law Part III International Arbitration Part IV Comparative European Law Published under the Transnational Publishers imprint

**Electronic Commerce and International Private Law** Lorna E. Gillies, 2016-04-29 Electronic Commerce and International Private Law examines the maximization of consumer protection via the consumer's jurisdiction and law It discusses the proposition that a new connecting factor be used to improve the efficiency of juridical protection for consumers who contract with foreign sellers by electronic means and offers recommendations as to how to amend existing jurisdiction and choice of law rules to provide a basis for the consumer to sue in his own jurisdiction and for the law of the consumer's domicile to apply The book will be a valuable resource for academics students and practitioners working in the areas of international private law electronic commerce law and consumer law

*The Arrest of Ships in Private International Law* Verónica Ruiz Abou-Nigm, 2011-11-17 Analysing the arrest of ships in English and Scots law in the light of the international conventions in the field this book examines the protective security and jurisdictional functions of arrest within the three classical domains of private international law applicable law jurisdiction and the recognition and enforcement of foreign judgments

**Asian Yearbook of International Law, Volume 14 (2008)** B S Chimini, Miyoshi Masahiro, Li-Ann Thio, 2010-10-06 The Asian Yearbook of International Law is produced by the Foundation for the Development of International Law in Asia DILA and is a major refereed publication dedicated to international law issues as seen primarily from an Asian perspective The articles are written by experts from the region and elsewhere

**The**

**Nature and Enforcement of Choice of Court Agreements** Mukarrum Ahmed, 2017-10-05 PRAISE FOR THE BOOK This constitutes a work of impressive scholarship that will become a major reference point for future discourse on choice of court agreements Dr Ahmed advances a firm thesis in a lucid manner that will satisfy both academics and practitioners The discussion is supported by a monumental foundation of underpinning research Ahmed's monograph throughout shows clear understanding of underlying substantive laws and in Chapter 11 displays a refreshing willingness to engage in intelligent speculation on the implications of Brexit Professor David Milman University of Lancaster The book is an excellent attempt to understand the theoretical underpinnings of choice of court agreements in private international law Anyone with an interest in the theory and practice of choice of court agreements in particular in mechanisms for their enforcement should read this book They will find much of value by doing so Professor Paul Beaumont University of Aberdeen from the Series Editor's Preface This book examines the fundamental juridical nature classification and enforcement of choice of court agreements in international commercial litigation It is the first full length attempt to integrate the comparative and doctrinal analysis of choice of court agreements under the Brussels I Recast Regulation the Hague Convention on Choice of Court Agreements Hague Convention and the English common law jurisdictional regime into a theoretical framework In this regard the book analyses the impact of a multilateral and regulatory conception of private international law on the private law enforcement of choice of court agreements before the English courts In the process it both pre-empt and offers innovative solutions to issues that may arise under the jurisprudence of the emergent Brussels I Recast Regulation and the Hague Convention The need to understand the nature and enforcement of choice of court agreements before the English courts from the perspective of the EU private international law regime and the Hague Convention cannot be understated This important new study aims to fill an existing gap in the literature in relation to an account of choice of court agreements which explores and reconnects arguments drawn from international legal theory with legal practice However the scope of the work remains most relevant for cross border commercial lawyers interested in crafting pragmatic solutions to the conflicts of jurisdictions , [A Lawyer's Handbook for Enforcing Foreign Judgments in the United States and Abroad](#) Robert E. Lutz, 2007 Publisher Description **The Hague Judgments Convention and Commonwealth Model Law** Abubakri Yekini, 2021-08-12 This book undertakes a systematic analysis of the 2019 Hague Judgments Convention the 2005 Hague Choice of Court Convention 2005 and the 2017 Commonwealth Model Law on recognition and Enforcement of Foreign Judgments from a pragmatic perspective The book builds on the concept of pragmatism in private international law within the context of recognition and enforcement of judgments It demonstrates the practical application of legal pragmatism by setting up a toolbox pragmatic goals and methods that will assist courts and policymakers in developing an effective and efficient judgments enforcement scheme at national bilateral and multilateral levels Practitioners national courts policymakers academics students and litigants will benefit from the book's comparative approach using case law from the United Kingdom and other leading

Commonwealth States the United States and the Court of Justice of the European Union The book also provides interesting findings from the empirical research on the refusal of recognition and enforcement in the UK and the Commonwealth statutory registration schemes respectively     Preclassical Conflict of Laws Nikitas E. Hatzimihail, 2021-07-22 To better appreciate present day private international law and its future prospects and challenges we should consider the history and historiography of the field This book offers an original approach to the study of conflict of laws and legal history that exposes doctrinal lawyers to historical context and legal historians to the intricacies of legal doctrine The analysis is based on an in depth examination of Medieval and Early Modern conflict of laws focusing on the classic texts of Bartolus and Huber Combining theoretical insights textual analysis and historical perspectives the author presents the preclassical conflict of laws as a rich world of doctrines and policies theory and practice context and continuity This book challenges preconceptions and serves as an advanced introduction which illustrates the relevance of history in commanding private international law while aspiring to make private international law relevant for history

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