CHAPTER 1. WHAT IS INTERNATIONAL FAMILY LAW?

§ 1:1	Scope
§ 1:2	Introducing international family law
§ 1:3	What international family law is and is not
§ 1:4	Collaboration function of international family lawyer
§ 1:5	Areas in which an international family lawyer works
§ 1:6	The role of the international family lawyer
§ 1:7	Checklist of issues to determine at very beginning of international divorce case
§ 1:8	Pitfalls resulting from failing to perceive international family law issues
§ 1:9	Securing advice from an international family lawyer
§ 1:10	International family lawyer as expert witness
§ 1:11	Qualities required to succeed as an international family lawyer

CHAPTER 2. RECOGNITION OF FOREIGN MARRIAGES

§ 2:1	Introduction
§ 2:2	Law of country where marriage occurred—Basic rule
§ 2:3	—Application of the rule
$\S~2:4$	Presumption of validity
§ 2:5	Partnership and cohabitation relationships
§ 2:6	Law of country of most significant relationship
§ 2:7	Public policy—Marriage between family members
§ 2:8	—Polygamous marriages
§ 2:9	—Same-sex marriages
8 2.10	—Other issues

CHAPTER 3. INTERNATIONAL PRENUPTIAL AGREEMENTS

I. INTRODUCTION

- § 3:1 Benefits of international prenuptial agreements§ 3:2 Basic issues concerning international prenuptial
 - agreements
- $\S~3:3~$ Drafting a prenuptial agreement for an international couple

§ 3:4 Prenuptial agreements for clients with extensive international contacts

II. PARTICULAR PROVISIONS IN INTERNATIONAL PRENUPTIAL AGREEMENTS

- § 3:5 Checklist of provisions of a good international prenuptial agreement
- § 3:6 Choice-of-law clause
- § 3:7 Choice-of-court clause

III. PRENUPTIAL AGREEMENT IN U.S. COURTS

- § 3:8 Overview
- § 3:9 Enforceability of a foreign country choice-of-law clause
- § 3:10 Which law will apply when there is no choice-of-law clause?: Overview
- § 3:11 Which law will apply when there is no choice-of-law clause?: Caselaw
- § 3:12 Islamic marriage contracts

IV. INTERNATIONAL VARIATIONS IN LAWS AND ATTITUDES ABOUT PRENUPTIAL AGREEMENTS

- § 3:13 Introduction
- § 3:14 Argentina
- § 3:15 Australia
- § 3:16 Austria
- § 3:17 Bahamas
- § 3:18 Belgium
- § 3:19 Brazil
- § 3:20 Canada
- § 3:21 China
- § 3:22 Denmark
- § 3:23 England and Wales
- § 3:24 Estonia
- § 3:25 Finland
- § 3:26 France
- § 3:27 Germany
- § 3:28 Greece
- § 3:29 Hong Kong
- § 3:30 Hungary
- § 3:31 India
- § 3:32 Indonesia
- § 3:33 Ireland
- § 3:34 Israel
- § 3:35 Italy

- § 3:36 Jamaica
- § 3:37 Japan
- § 3:38 Korea
- § 3:39 Luxemburg
- § 3:40 Malaysia
- § 3:41 The Netherlands
- § 3:42 New Zealand
- § 3:43 Norway
- § 3:44 Philippines
- § 3:45 Portugal
- § 3:46 Russia
- § 3:47 Scotland
- § 3:48 Singapore
- § 3:49 South Africa
- § 3:50 Spain
- § 3:51 Sweden
- § 3:52 Switzerland
- § 3:53 Taiwan
- § 3:54 Thailand
- § 3:55 Turkey

CHAPTER 4. INTERNATIONAL DIVORCE

I. INTRODUCTION TO INTERNATIONAL DIVORCE PLANNING

- § 4:1 International divorce planning
- § 4:2 Forum selection
- § 4:3 —Examples of appropriate forum selection
- § 4:4 Inappropriate forum selection
- § 4:5 Timing in international divorce planning

II. INTERNATIONAL DIVORCE PLANNING PROCESS

- § 4:6 Steps in the international divorce planning process
- § 4:7 Step one: Analyze the family's entire economic picture
- § 4:8 Step two: Consult with the client as to his or her goals
- § 4:9 Step three: Provide an initial analysis of the law in several different possibly appropriate jurisdictions
- § 4:10 Step four: Focus on a few jurisdictions
- § 4:11 Select the jurisdiction
- § 4:12 Advise as to the steps now to be taken

III. DIVORCE JURISDICTION

A. U.S. DIVORCE JURISDICTION

§ 4:13 Overview

INTERNATIONAL FAMILY LAW PRACTICE

- § 4:14 U.S. jurisdiction to grant a bare divorce
- § 4:15 New York jurisdiction to grant a bare divorce
- § 4:16 U.S. jurisdiction to handle the financial aspects of a divorce
- § 4:17 U.S. jurisdiction based on "tag" service
- § 4:18 U.S. jurisdiction based on minimum contacts
- § 4:19 —One spouse moves to a U.S. state without the other spouse
- § 4:20 —Both parties live overseas, one spouse moves to a U.S. state without the other spouse
- § 4:21 —Both parties live overseas, both move to U.S., one relocates overseas
- § 4:22 U.S. jurisdiction based on selection of law of U.S. state

B. JURISDICTIONAL RULES IN FOREIGN COUNTRIES

- § 4:23 Overview
- § 4:24 Antigua
- § 4:25 Argentina
- § 4:26 Australia
- § 4:27 Austria
- § 4:28 Belgium
- § 4:29 Bermuda
- § 4:30 Bulgaria
- § 4:31 Canada
- § 4:32 Chile
- § 4:33 Costa Rica
- § 4:34 Dominican Republic
- § 4:35 Ecuador
- § 4:36 El Salvador
- § 4:37 England and Wales
- § 4:38 European Union
- § 4:39 Finland
- § 4:40 Germany
- § 4:41 Gibraltar
- § 4:42 Greece
- § 4:43 Honduras
- § 4:44 Hong Kong
- § 4:45 India
- § 4:46 Italy
- § 4:47 Jamaica
- § 4:48 Japan
- § 4:49 Mexico
- § 4:50 Netherlands
- § 4:51 New Zealand
- § 4:52 Nicaragua

- § 4:53 Norway
- § 4:54 Pakistan
- § 4:55 Panama
- § 4:56 Singapore
- § 4:57 South Africa
- § 4:58 Spain
- § 4:59 Sweden
- § 4:60 Switzerland
- § 4:61 Taiwan

IV. STAYING OR DECLINING JURISDICTION

- § 4:62 Declining jurisdiction—U.S. courts—Forum non conveniens
- § 4:63 —Foreign courts
- § 4:64 Anti-suit injunction

V. GROUNDS FOR DIVORCE

A. IN GENERAL

§ 4:65 Grounds for divorce

B. GROUNDS FOR DIVORCE IN FOREIGN COUNTRIES

- § 4:66 Introduction
- § 4:67 Argentina
- § 4:68 Australia
- § 4:69 Canada
- § 4:70 China
- § 4:71 Denmark
- § 4:72 England and Wales
- § 4:73 France
- § 4:74 Germany
- § 4:75 Greece
- § 4:76 Hong Kong
- § 4:77 India
- § 4:78 Ireland
- § 4:79 Japan
- § 4:80 Korea (South)
- § 4:81 Malta
- § 4:82 Mexico
- § 4:83 Netherlands
- § 4:84 New Zealand
- § 4:85 Pakistan
- § 4:86 The Philippines
- § 4:87 Singapore divorce grounds

- § 4:88 Sweden § 4:89 Switzerland
- § 4:90 Thailand

VI. WHICH LAW APPLIES?

A. IN GENERAL

- § 4:91 Overview
- § 4:92 Reasons why a court may apply the law of another country

B. CHOICE OF LAW ISSUES IN U.S. AND FOREIGN COUNTRIES

- 1. United States
- § 4:93 U.S. choice of law issues
 - 2. Foreign Countries
- § 4:94 Foreign countries' choice of law rules
- § 4:95 Austria
- § 4:96 Belgium
- § 4:97 England and Wales
- § 4:98 Finland
- § 4:99 France
- § 4:100 Germany
- § 4:101 Greece
- § 4:102 India
- § 4:103 Japan
- § 4:104 Korea (South)
- § 4:105 Netherlands
- § 4:106 Poland
- § 4:107 Portugal
- § 4:108 Spain
- § 4:109 Sweden
- § 4:110 Switzerland
- § 4:111 Thailand

VII. DIVISION OF ASSETS UPON DIVORCE

- A. IN GENERAL
- § 4:112 Fundamental issues
 - B. DIVISION OF ASSETS IN FOREIGN COUNTRIES
- § 4:113 Australia
- § 4:114 Canada

TABLE OF CONTENTS

§ 4:115	England and Wales
§ 4:116	Finland
§ 4:117	France
§ 4:118	Germany
§ 4:119	Greece
§ 4:120	India
§ 4:121	Ireland
§ 4:122	Islamic countries
§ 4:123	Israel
§ 4:124	Japan
§ 4:125	Korea (South)
§ 4:126	The Netherlands
§ 4:127	New Zealand
§ 4:128	Singapore

Sweden

Thailand

Switzerland

C. FACTORS AFFECTING DIVISION OF ASSETS

- § 4:132 Relevance of conduct of the parties to division of assets in target jurisdiction
- § 4:133 Relevance of economic misconduct

VIII. SUPPORT

§ 4:129

§ 4:130

§ 4:131

- § 4:134 Introduction
- § 4:135 Spousal support internationally

IX. PROCEDURAL ISSUES

§ 4:136 Disclosure
§ 4:137 —Civil law jurisdictions
§ 4:138 Service of process outside the U.S.
§ 4:139 Interim injunctions
§ 4:140 Recognition of the decree in the U.S.
§ 4:141 Recognition of the decree in other countries
§ 4:142 Issues concerning legal fees

X. OTHER CRITICAL FACTORS

§ 4:143 Judicial bias
§ 4:144 Corruption
§ 4:145 Criminal issues
§ 4:146 Role of law
§ 4:147 Dysfunctional legal systems

CHAPTER 5. RECOGNITION OF FOREIGN DIVORCES

I. INTRODUCTION

8	8 5.1	Uncertainty	surrounding	recognition	of foreign	divorce
9	3 D:T	Uncertainty	surrounding	recognition	or foreign	aivorce

- § 5:2 Checklist of issues to consider to secure recognition of foreign divorce in U.S. courts
- § 5:3 Checklist of issues to consider when opposing recognition of foreign divorce in U.S. courts
- § 5:4 Basic principles
- § 5:5 Choice of law issues
- § 5:6 Effect and extent of recognition

II. JURISDICTION

- § 5:7 Introduction
- § 5:8 Domicile or residence of both parties
- § 5:9 Domicile or residence of one party
- § 5:10 Neither party domiciled or habitually resident
- § 5:11 Bilateral divorce
- § 5:12 The Uniform Divorce Recognition Act
- § 5:13 "Mail order" and ex parte divorces

III. NON-JUDICIAL DIVORCES

- § 5:14 Administrative divorce
- § 5:15 Customary or religious divorce

IV. DEFENSES TO ACTIONS TO RECOGNIZE AND ENFORCE FOREIGN DIVORCE JUDGMENT

- § 5:16 Fairness and due process issues
- § 5:17 Violation of public policy
- § 5:18 Divorce procured by fraud or duress
- § 5:19 Equitable defenses—Estoppel
- § 5:20 —Laches
- § 5:21 —Unclean hands

CHAPTER 6. INTERNATIONAL CHILD SUPPORT

- § 6:1 Introduction
- § 6:2 Hague Maintenance Convention
- § 6:3 Jurisdiction
- § 6:4 Which law applies?
- § 6:5 Whose cost and standard of living should apply?
- § 6:6 Enforcement of a foreign support order

- § 6:7 Registration of a foreign country order
- § 6:8 Defenses to registration
- § 6:9 Rate of exchange
- § 6:10 Modifying a support order
- § 6:11 Evidence
- § 6:12 Methods of setting child support internationally

CHAPTER 7. INTERNATIONAL CHILD CUSTODY

I. INTRODUCTION

- § 7:1 Introduction to the Uniform Child Custody Jurisdiction and Enforcement Act
- § 7:2 UCCJEA: Coordination with Hague Convention, a comparison

II. UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT: AN OVERVIEW

- § 7:3 Introduction
- § 7:4 Home state jurisdiction—In general
- § 7:5 —Application in particular cases
- § 7:6 —Unjustifiable conduct
- § 7:7 —Temporary absence, commencement of child custody proceeding
- § 7:8 —Temporary absence, end of a temporary absence
- § 7:9 Significant connection jurisdiction
- § 7:10 —Application in particular cases
- § 7:11 Jurisdiction by reason of jurisdiction being declined
- § 7:12 Default jurisdiction
- § 7:13 Agreement does not create jurisdiction
- § 7:14 Exclusive, continuing jurisdiction
- § 7:15 Jurisdiction to modify
- § 7:16 Temporary emergency jurisdiction
- § 7:17 Simultaneous proceedings
- § 7:18 Inconvenient forum
- § 7:19 —Illustrative cases
- § 7:20 Unjustifiable conduct
- § 7:21 Information to be submitted to court
- § 7:22 Attorneys fees
- § 7:23 Notice

III. RECOGNITION AND ENFORCEMENT OF FOREIGN COUNTRY CUSTODY ORDERS

§ 7:24 Introduction

§ 7:25	Meaning of "substantial conformity with the jurisdictional standards"
0 = 00	· ·
§ 7:26	Notice and opportunity to be heard in foreign case
§ 7:27	Process of registering a foreign country custody order
§ 7:28	The human rights exception to the obligation to
9	recognize and enforce foreign custody orders
§ 7:29	Meaning of "fundamental principles of human
3	rights"—Treaties
§ 7:30	—Caselaw
§ 7:31	—Repugnance in practice
§ 7:32	—Corrupt systems
8 7.33	Refusal to enforce on public policy grounds

IV. EFFECT OF INTERNATIONAL CHILD ABDUCTION ON CHILD CUSTODY DETERMINATIONS

§ 7:34 Effect of a Hague return order

CHAPTER 8. INTERNATIONAL CHILD RELOCATION

8 8:T	Introduction
§ 8:2	Is a relocation application required?
§ 8:3	Overview of relocation law in domestic cases
§ 8:4	International relocation cases
§ 8:5	Factors supportive of international relocation
§ 8:6	Factors leading to denial of international relocation
§ 8:7	Foreign law and international relocation determinations—In general
§ 8:8	International relocation determinations—Evidence as to foreign law
§ 8:9	—Evidence as to actual operation of the foreign legal system
§ 8:10	Special circumstances of expatriate spouses
§ 8:11	Conditions on international relocation
§ 8:12	Limited effect of conditions on international relocation
§ 8:13	Tips on winning an international relocation petition
§ 8:14	Tips on opposing an international relocation petition
§ 8:15	International relocation checklist
§ 8:16	Relocation from other countries

CHAPTER 9. THE HAGUE ABDUCTION CONVENTION

I. OVERVIEW

§ 9:1 Introduction

Table o	F CONTENTS
§ 9:2	Hague Convention overview
§ 9:3	Incoming and outgoing cases; definitions
§ 9:4	Role of counsel in outgoing cases
§ 9:5	Procedure in incoming cases
§ 9:6	The Hague application
§ 9:7	The Hague petition
§ 9:8	Important practice tips concerning the petition
	State or federal court?
§ 9:9	Venue
§ 9:10	Service
§ 9:11	
§ 9:12	Identity of petitioner
§ 9:13	Identity of respondents
§ 9:14	Stay of custody case
§ 9:15	Interim relief
§ 9:16	Initial appearance of both parties before the court
§ 9:17	Purposes of the Convention
§ 9:18	Expediting the case
§ 9:19	Guardian ad litem
II. F	UNDAMENTAL TERMS OF THE CONVENTION
§ 9:20	Introduction
§ 9:21	Timing of a wrongful removal or retention
§ 9:22	"Habitual residence": interpretations before <i>Monasky</i>
§ 9:23	The Monasky case
§ 9:24	Habitual residence: International authorities
§ 9:25	Habitual residence: Parental uncertainty and
\$ 5.20	conditions
§ 9:26	Habitual residence: Temporary stays
§ 9:27	Habitual residence: the element of abandonment
§ 9:28	Habitual residence of infants
§ 9:29	Can a child have no habitual residence?
§ 9:30	Habitual residence: Proving or disproving settled
3 0.00	purpose
§ 9:31	Habitual residence: Proving intent to relocate
§ 9:32	Habitual residence: Proving no intent to relocate
§ 9:33	Habitual residence: Checklist of documents concerning
, 0.00	relocation
§ 9:34	Meaning of "right of custody"
§ 9:35	e e
§ 9:36	Exercise of rights of custody
III.	THE "GRAVE RISK OF HARM" EXCEPTION
§ 9:37	Introduction
§ 9:37 § 9:38	
0	Establishing the exception
§ 9:39	Traditional interpretation
§ 9:40	Broader interpretation

- § 9:41 Zone of war, famine, or disease
- § 9:42 Other country's ability to protect
- § 9:43 Ameliorative measures
- § 9:44 Asylum and refugee issues
- § 9:45 Other issues

IV. OTHER EXCEPTIONS

- § 9:46 Consent
- § 9:47 Acquiescence
- § 9:48 Child's objections
- § 9:49 One year and settled
- § 9:50 Tolling of the one-year period
- § 9:51 Human rights exception
- § 9:52 Fugitive disentitlement

V. PRACTICAL AND PROCEDURAL ISSUES

- § 9:53 Discovery
- § 9:54 Evidence
- § 9:55 Use of foreign law
- § 9:56 Role of Central Authority
- § 9:57 Return orders / undertakings
- § 9:58 Legal fees and expenses
- § 9:59 Mediation
- § 9:60 Stays pending appeal

CHAPTER 10. RECOVERING ABDUCTED CHILDREN FROM NON-HAGUE COUNTRIES

- § 10:1 Introduction
- § 10:2 Initial fact-finding
- § 10:3 Consultation with foreign counsel
- § 10:4 Demand for return of child
- § 10:5 Custody proceedings in the U.S
- § 10:6 Child custody case in the non-Hague country
- § 10:7 The International Parental Kidnapping Act
- § 10:8 Interpol
- § 10:9 Revocation of Passport
- § 10:10 Extradition
- § 10:11 National Crime Information Center
- § 10:12 Actions based in tort
- § 10:13 Self-help
- § 10:14 Issuance of new passports
- § 10:15 Seeking deportation from overseas
- § 10:16 Role of the left-behind parent

xxvi

CHAPTER 11. INTERNATIONAL TRAVEL: PREVENTING INTERNATIONAL CHILD ABDUCTION

§ 11:1	Introduction
§ 11:2	No significant exit controls
§ 11:3	Prevent departure list
§ 11:4	Practical non-judicial steps to prevent international abduction
§ 11:5	Constitutionality of enjoining international visitation
§ 11:6	Representing a parent who seeks to enjoin foreign visitation
§ 11:7	Establishing a risk of child abduction
§ 11:8	Evidence that foreign legal system may not expeditiously return abducted children
§ 11:9	Overcoming judicial reluctance in evaluating foreign legal systems; use of experts
§ 11:10	Establishing the adverse effects of international child abduction
§ 11:11	Cases in support of an order restraining foreign travel
§ 11:12	Representing the parent who wants to take a child for international visitation
§ 11:13	Evidence that foreign legal system would not support abduction
§ 11:14	Cases authorizing foreign travel
§ 11:15	Terms of court order restraining removal
§ 11:16	Terms of court order permitting foreign visit
§ 11:17	Claims against airlines

Table of Laws and Rules

Table of Cases

Index