Chapter 6 & 10

4． An Italian man H and a Cantonese woman W got married in Guangzhou in July 2007. W has her domicile in Guangzhou, but after marriage she went to live with her husband in Rome. In May 2008, H decided to sue for a divorce in Guangzhou Haizhu District Court. W opposed to the exercise of jurisdiction by Haizhu District Court and took proceedings for separation in an Italian court.

Questions:

1. Why did H sue in Guangzhou? Why did W sue in Italy?
2. Does Haizhu district Court has jurisdiction, why or why not?

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5．A Chinese woman W and a French man H got married in Shanghai. After marriage H and W lived in Shanghai and gave birth to two children. Then they moved to France leaving two children to live with their grandparents. Two years later H and W divorced, leaving their children unsupported. The children sued their parents for the maintenance.

Questions:

（1）Does Chinese court have jurisdiction? Why or why not?

（2）What shall be the governing law ?

6．Wang and Ke got married in 1975. In 1985, Wang went to US to study. Wang petitioned for a divorce in a US court in 1987.In 1990, Ke and Wang entered into a divorce agreement, Wang signed the agreement but didn’t come back to register the divorce agreement. In 1991, Ke petitioned for a divorce in the People’s Court of Yizheng. During the trial of the case, Ke received from Wang a photocopy of the judgment of a US court allowing Wang’s divorce petition. Ke applied to withdraw her case and petitioned to the Middle Court of Yangzhou City for the recognition of the divorce judgment of the US court. The People’s Court of Yizheng allowed Ke’s petition, but the Middle Court of Yangzhou City did not accept the petition for the recognition of the US judgment as the photocopy of the judgment is not original and there is no Chinese translation of the judgment. In 1994, Ke sued again in the People’s Court of Yizheng for a divorce, she also required for the guardianship of their son and the separation of their common property.

Question:

1. Did the People’s Court of Yizheng have jurisdiction over Ke’s petition for divorce? Why or Why not?
2. Should the People’s Court of Yizheng allow Ke’s withdrawal petition?
3. Should the Middle Court of Yangzhou recognize the judgment from the US court?
4. What law should govern this case?

7．Mr.Cao and Ms.Xin got married in 1944.Cao went to Taiwan in 1949 and then emigrated to US in 1957. In 1975, Xin went to US to live together with Cao. Since 1984, Cao and Xin came back to China once a year and bought three houses in Ningbo City. In 1988, Cao met a woman Wang. In Feb.1989, Cao and Xin quarreled with each other, then Cao came back to Ningbo to cohabitate with Wang. In Oct.1990, Xin came back to Ningbo to persuade Cao to leave Wang. Cao paid no attention to Xin’s words. Instead, he returned to US to petition for a divorce and withdrew their common deposits US$82553.54 in the bank. In August 1991, Cao presented a US divorce decree, to the Bureau of Civil Administration of Ningbo and registered his marriage with Wang. In Dec.1991, Xin applied to the Middle Court of Ningbo City for a divorce with Cao, requiring the court to separate their common properties and order Cao to pay her alimony since March 1989.

Questions:

1. Please comment on the validity of the marriage between Cao and Wang.
2. Should the Middle Court of Ningbo city hear Xin’s case? Why or why not?
3. What law should govern this case?

8．Mr.Bian and Mrs Bian were Chinese, they met in 1993 in Japan when they were studying there and got married in Fugang of Japan in 1999. For convenience of visa application in Japan, they also applied for a marriage certificate in the Chinese Consulate in Japan. In Oct.2002,Mr.Bian and Mrs Bian changed their nationality and naturalized to be Japanese. Mr Bian has a permanent employment contract with a Japanese company. In April 2005, Mr.Bian was sent by his company to work in Beijing for two years, Mrs Bian and their daughter accompanied Mr.Bian to Beijing. The expiring date of their visas is March 14 of 2007. Just before the expiring date of their visas, Mr. Bian sued for divorce in the second Middle Court of Beijing City. Mrs Bian disputed the jurisdiction of the second Middle Court of Beijing City.

Question:

1.Should the second Middle Court of Beijing City exercise jurisdiction over this case? Why or why not?