



**ABA Section of
International Law**
Your Gateway to International Practice



NEWSLETTER

INTERNATIONAL PRIVATE CLIENT COMMITTEE (IPCC)

WINTER 2016

NOTE FROM THE CO-CHAIRS

Agnès Proton & Caroline Abela

As mentioned in our 2016 Spring newsletter issue, the ABA-SIL International Private Client Committee (IPCC) focuses on planning and litigation issues related to Asset Protection, Business Succession Planning, Charitable Organizations, Closely Held Business Counseling, Estate Planning, Fiduciary Services and Tax Optimization in an international context.

During the ABA-SIL Tokyo Fall Meeting (October 18 – 21, 2016), the IPCC organized a most successful program, that was perfectly in line with our overall scope of work: *“Differences of Culture and Family Dynamics: Consequences For International Succession And Estate Planning”*

We are proud to mention that this Program was co-sponsored by the ABA-RPTEL (Real Property Trust and Estate Law Section), and more specifically by its Non-Tax Issues Affecting the Planning and Administration of Estates and Trusts Committee. It was also co-sponsored by the ABA-SIL International Family Law, International Ethics, International Tax and Immigration and Naturalization Committees.

This session took place on Thursday October 20, 2016 (9:00 – 10:30 am) at the Tokyo Hilton Hotel, under the following announcement and description:

Panel Chair

Jean-Louis Collart, Mentha Avocats, Geneva, Switzerland

Moderator

John Strohmeier, Crady, Jewett & McCulley LLP, Houston, TX

Speakers

Jean-Louis Collart, Mentha Avocats, Geneva, Switzerland

Timothy Langley, Langley Esquire, Tokyo, Japan

Yann Mrazek, M/Advocates of Law, Dubai, United Arab Emirates

Tomoko Nakada, Hokusei Law Office, PC, Tokyo, Japan

Guillermo Villasenor, Sanchez Devanny, Mexico City, Mexico

Cultural and social factors surrounding and influencing the ownership, structure, and control of family and business assets are important variables to consider in international estate and succession planning. Profound respect for elders and family heritage weighs heavily in certain countries and cultures, whereas in others, gender and individual control play the more prominent roles.

To further complicate matters, increased global mobility has made it common for families to have members from multiple cultures, often residing outside their country of citizenship. Drawing upon their experiences, panelists will compare the ways in which these elements are pertinent to succession and inheritance planning in their home countries. Clients and the elements of the property concerned are often located around the world. Therefore, issues of international taxation and ethical questions such as the attorney’s competence to address foreign law will be discussed.



Cabinet d’Avocats
aproton@ap-avocats.fr
+ 33 (0) 4 93 99 27 72
www.ap-avocats.fr



WeirFoulds LLP
cabela@weirfoulds.com
416-947-5068
www.weirfoulds.com

Service Hotline

800-285-2221

312-988-5000

Monday-Friday

9:00 AM - 6:00 PM ET

Chicago Headquarters

321 North Clark Street

Chicago, IL 60654

312-988-5000

Washington DC Office

1050 Connecticut Ave. N.W.

Suite 400

Washington, D.C. 20036

202-662-1000

¹ Our next IPCC program will be held during the 2017 ABA-SIL Spring Meeting that will take place in Washington DC (25-29 April 2017). It is titled "Wealth Planning for PEPs and High Risk Clients: Risks and Challenges?", and it is chaired by our IPCC Vice-Chair Michael Parets.

Please check on our IPCC webpage for more information as to this coming session and many more projects ahead: <http://apps.americanbar.org/dch/committee.cfm?com=IC840000>.

All speakers gave an overview of their respective jurisdictions legal backgrounds in the fields at stake: inheritance law and applicable substantive tax law.

Then practical examples were discussed around a short case study that was stating the facts and raising the issues reported below:

Father and Mother have only been married to each other for the last 45 years. They have the following five children:

1. *Abbey, Daughter, age 43, two children of her own, married, homemaker,*
2. *Ben, Son, age 38, three children of his own, married, successful professional, working outside of the family business,*
3. *Carrie, Daughter, age 35, no children, single, successful professional, working outside of the family business,*
4. *Daniel, Son, age 31, no children, single, works in the family business, and will be able to take over the business in 10-15 years,*
5. *Edward, Son, age 29, three children, single, does not work, and may never work because he does not think he needs to.*

Father and Mother have amassed a fortune of approximately US\$100MM. The primary asset is the business that Father started decades ago. The business is headquartered in your jurisdiction, but does business internationally. As a result, Father and Mother have purchased a few additional vacation properties in places where they can take vacations after they have checked on the business.

Last, closing remarks were made as to new changes and future trends to be foreseen in each panelist's jurisdictions.

Since then, those discussions and remarks have been collected from the panelists, in order to be published in this Newsletter Issue.

It is worth mentioning also that a very lively and innovative business cards raffle concluded our Tokyo session. As a result, many participants were lucky enough, not only to have been attending a most interesting presentation, but also to have won a gift at this surprise lottery!

For sure those prizes will be brought back home as a souvenir from a Program they will not forget . . .

May all the Contributors to this great Program, and thus to this Newsletter Fall Issue, be heartedly thanked here! ¹



MENTHA
jl.collart@mentha.ch
+41 (0) 22 311 22 23
www.mentha.ch

DIFFERENCES OF CULTURE AND FAMILY DYNAMICS: CONSEQUENCES FOR INTERNATIONAL SUCCESSION AND ESTATE PLANNING – THE SWISS LEGAL ENVIRONMENT

Jean-Louis Collart, Partner
Mentha Avocats

Background

The way succession is approached in the different legal systems is a reflection of the cultural and social environment. Coming from traditions of aristocracy, continental Europeans prize family heritage while the Anglo-Saxons favour the individual approach where one can dispose of what has been earned on his/her own. In some regimes, gender plays a prominent role in the attribution of the estate.

In Switzerland, the succession law is essentially ruled by the Swiss Civil Code, which was drafted in the early 20th century. Since then, amendments have been made, as the status of children born outside the marriage has been improved, as well as the status of the surviving spouse. Registered partnership has been taken into account. However, the social context has changed, life expectancy has increased, and family membership has diversified.

Future developments

A modification of the succession law in Switzerland has been planned, aiming at reducing the compulsory portion of forced heirs, leaving more freedom to the deceased to dispose of his/her assets. It is also planned that a judge can grant a kind of

legacy, to be paid by the estate, in favor of another party if such party and the deceased were living as a couple during at least three years and such party contributed significantly to the deceased or if the other party lived at least 5 years as a minor in the same home as the deceased and the latter supported the minor in a way that would have been continued if the deceased were still be alive. Finally, it is planned that a will can, in certain circumstances such as imminent danger of death, interrupted communications or war, be recorded in audiovisual form. In such form, the testator has to appear physically on the recorded video, indicating his or her name, explaining the exceptional circumstance, if possible with the date and declaring his or her last will. Such will becomes void 14 days after the moment the testator can again make a written will.

Current legal constraints

The current legal and cultural constraints in succession planning are the rights of a surviving spouse against the forced heirship rules which gives to the forced heirs, generally the spouse and the children, and sometimes the parents, a compulsory portion.

Forced heirs

When Swiss law is applicable to the estate, the provisions of Swiss law related to forced heirship have to be respected. Forced heirs under Swiss law include the surviving spouse, descendants, and sometimes parents.

The compulsory portion of forced heirs is:

- for a descendant, three quarters of his statutory share of inheritance;
- for the father or mother, one half;
- for the surviving spouse or registered partner, one half.

The statutory share varies depending on the remaining heirs.

It is, for the spouse or registered partner

- one half of the estate if there are surviving children;
- three fourths of the estate if there are surviving parents or their descendants;
- the estate in full if there are no other survivors.

If the forced heirs cannot enjoy in full their compulsory portion, the deprived heirs can by an action in abatement recover their compulsory portion in full.

If a foreign law is applicable to the estate, the provisions of such law shall apply to decide what the rights of the heirs are. Swiss law is very liberal in this respect as it allows a foreigner to submit his/her estate by will or by testamentary contract (*professio juris*) to the law of one of the States of which he/she is a citizen. By doing this, a foreigner, even if domiciled in Switzerland, can avoid forced heirship as provided for under Swiss law if the chosen law, which will be applicable to the estate, does not have provisions on forced heirs. Rules on forced heirs and compulsory portion are not considered as part of public order under Swiss law.

Testamentary contracts

The testator may, by contract of succession bequeath his or her estate or a legacy to another person. Heirs can renounce to their rights in the estate

The contracts of succession:

1. must meet the formal requirements of a will by public deed ;
2. contracting parties must simultaneously declare their intentions;
3. they must sign the deed before a public official and two witnesses;
4. parties are free as to the content of the contract subject to immoral or illegal content.

Marital property law

Under Swiss law, in case of succession (or divorce dispute) a spouse has a claim in the liquidation of the matrimonial regime.

Based on the statutory matrimonial regime, called the *participation aux acquêts* (participation in acquired property), assets of each spouse are divided into the *acquêts* (property acquired during the marriage) and the *biens propres* (individual property of each spouse).

Acquired property comprises those assets acquired for valuable consideration during the marital property regime, in particular the proceeds from employment and income derived from a spouse's own property.

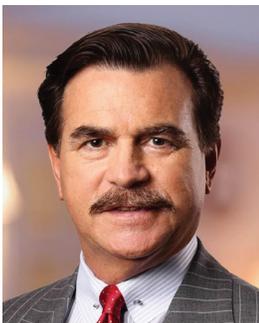
A spouse's individual property consists of the personal effects used exclusively by that spouse and assets belonging to one spouse at the beginning of the marriage or acquired later at no cost by inheritance or otherwise.

Upon divorce, the property regime of participation in acquired property is dissolved using these rules:

- property acquired during marriage and individual property are separated;
- property is valued at the time of dissolution;
- the contribution of a spouse to the acquisition or improvement of an asset belonging to the other gives the contributing spouse a right to the increased value;
- there is no participation in a decrease in value;
- the remaining total value of the acquired property after deduction of debts on acquired property constitutes the surplus;
- each spouse is entitled to one-half of the surplus of the other spouse;
- a deficit is disregarded;
- the respective claims of the each spouse are set off.

As a conclusion, one should keep in mind that when dealing with estate and succession planning:

1. A succession should be planned well in advance;
2. The matrimonial regime liquidation issues should not be ignored;
3. Unless one wishes to increase the chances of dissension between his or her heirs the forced heirship rules should not be broken



Langley Esquire
contact@langleyesquire.com
+81 50-3365-4844
www.langleyesquire.com

INHERITANCE LAW IN MODERN JAPAN

Timothy Langley
Langley Esquire

I am honored to have been included on the panel discussion regarding Wills and inheritance in modern day Japan. Along with my colleagues we examined a scenario of inheritance, part of which really did not apply in the Japanese context. Most of my comments were focused on the unique aspects of Will writing in Japan together with the rules and historical underpinnings of inheritance in this marvelous country.

In Japan, there is a tradition of keeping a registry of family births that is passed down from individual to their offspring: the *koseki tohon*. This is a formal government regulated family register. Traditionally in Japanese society and culture, the eldest born son (always the son!) took care of the homestead and the parents until their deaths and, as a consequence, received all the property in trust for the benefit of the other siblings.

More frequently, this translated to the eldest getting everything and the others fending for themselves. Laws were changed and now there is a standard calculation for distribution if an individual dies intestate. However, expectations and cultural norms die hard and frequently there is a usurpation that ultimately ends up destroying families either because it is (a.) challenged or (b.) makes the family dynamic unbearable when the oldest exerts his traditional primacy. So this is a rather complicated situation bound by cultural and tradition.

And for a Westerner dealing in this, well... it tends to be very very interesting. To show a little bit of flavor on this aspect, I recommended two films to the audience that I thought might shed tremendous light on this aspect of the culture of dying in Japan. The first one is called the Ballad of Nagayama, or in Japanese *Nagarayama no monogatari*. <http://www.rogerebert.com/reviews/the-ballad-of-narayama-1983> (it is a turn-of-the-century story of the tradition where the eldest son must carry his elderly mother up the mountain, to leave her there to die as was The Way, after she lost her last tooth). The second one, by

famed Director Juzo Itami in 1982, is called “The Funeral” (<https://www.youtube.com/watch?v=yNO7opGnWVw>) (won many awards, is quirky and points fun at the strangeness of the Japanese, is a somewhat contemporary view of what goes on inside the family upon the passing of a patriarch).

In closing, of all the panelist, including my Japanese colleague, I am the only one I know of who is writing wills for mixed married couples (foreign husband and Japanese wife for assets in Japan and elsewhere) and utilizing a special technique of Will writing in Japan known as a Secret Will.

I very much enjoyed talking about these interesting aspects of inheritance and the Japanese Will application here and abroad, the inclusion of native and foreign assets, and the distributions dictated by culture. I thank my colleagues for warmly including me in their discussion and for the tremendous audience who were active participants throughout the entire panel.

Many thanks and best regards,
Timothy



M-Advocates of Law
mrazek@m-hq.com
+971 (0) 4 295 57 37
m-hq.com

UAE INHERITANCE LAW IN GENERAL

YANN MZAREK

M-Advocates of Law

The legal basis for inheritance in the UAE is found in Sharia, which is the primary source of Islamic Law. Sharia in the UAE is codified in the Personal Affairs Law¹. Subsidiary regulations are found in the Civil Code².

Both the Personal Affairs Law³ and the Civil Code⁴ provide that inheritance shall be governed by the law of the deceased at the time of death. The law of the deceased shall be understood as the law of his own country or community, applicable to his inheritance and will when he passes away.

The applicable law to inheritance and succession in the UAE primarily depends on whether the deceased is or is not a Muslim.

When the deceased is a Muslim – whether a foreigner or a UAE citizen – the Personal Affairs Law, i.e. Sharia principals, will mandatorily govern his inheritance and succession.

When the deceased is not a Muslim, his inheritance can be distributed in accordance with the laws of his community or the country of which he is a national at the time of his death – provided that he has left a will stating clearly which governing law he is relying on. However, immovable assets located in the UAE are an exception. Immovable assets held directly by the deceased are governed – including inheritance and wills – by UAE law when the matter is ruled upon by local courts. The law of the non-Muslim deceased’s country or community will not apply to such asset class. Thus, from a non-Muslim perspective, different succession regimes – including forced heirship – may apply in the UAE.

Provided that the law of the deceased does not contradict the UAE public order, such law can be applied with respect to the movable assets left to be inherited or distributed according to the deceased’s will.

Despite the apparently clear rules, there is still controversy surrounding inheritance issues for foreigners in the UAE. The UAE Courts will always have discretion as to whether the law of the country to which the deceased belonged is applicable.

Lastly, it is important to stress that the UAE Courts will positively not apply foreign law to the inheritance of Non-Muslims if a valid will does not provide for the same. A duly executed will – with an express election of applicable law – is therefore a condition sine qua non.

The DIFC Wills and Probate Registry

With the implementation of the Dubai International Financial Centre (DIFC) Wills and Probate Registry (DIFC WPR) Dubai aims at providing a clear path for asset protection, succession planning and child guardianship for non- Muslims, and at avoiding the uncertainty of a decision issued by the local UAE Courts, which tend to apply Sharia Law.

A DIFC will may cover all assets located in the Emirate of Dubai, including real estate. For further information we refer to the enclosed fact sheet.

¹ UAE Federal Law No. 28 of 2005.

² UAE Federal Law No. 5 of 1985 (also known as the *Civil Transactions Law*).

³ Art. 1.2 of the Personal Affairs Law:
“The provisions of this Law shall apply on citizens of the United Arab Emirates State unless Non- Muslims among them have special provisions applicable to their community or confession. They shall equally apply to non- citizens unless one of them asks for the application of his law.”

⁴ Art. 17.1 of the Civil Code: *“Inheritance shall be governed by the law of the deceased at the time of his death.”*

The DIFC is expecting to be able to have its own will registry, and a speedy, efficient and orderly administrative process of probate and consequent distribution of UAE assets pursuant to the wish of the testator.

Use of trusts in estate planning

The Islamic World (including the legal system in place in the UAE mainland, but excluding Free Zones) does not recognize the institution of the trust per se, but it does provide for a similar concept in the waqf. The latter is traditionally used for charitable purposes and rarely to hold shares in a local company, etc.

However, the DIFC has promulgated a Trust Law 2005 (DIFC Law No. 11 of 2005) establishing a legal framework with regard to trusts. This law provides the legal foundation for the establishment of asset-holding arrangements and single-family trusts in the UAE, with the enforcement of trust relationships being executed through the DIFC Courts.

Corporate trustees established in the DIFC are able to own assets in the DIFC (typically bank accounts) in other Free Zones as well as in the UAE mainland. In view of the restriction of foreign ownership in limited liability companies (LLCs), only corporate trustees wholly owned by UAE nationals can own the 51 per cent interest which must be held by UAE nationals or a company wholly owned by UAE nationals. The remaining 49 per cent interest, which can be owned by foreigners, does not cause any issues in this respect and can be held by a corporate trustee.

The Trust Law 2005, section 15 addresses conflict with foreign law providing that any trust under this law is valid and should not be voidable before any foreign law. Most scholars have interpreted 'foreign law' in that context as including the provisions of Shari'a law.

It remains unclear whether a local UAE Court would recognize a distribution of assets under a DIFC trust made for succession planning if it is contrary to the mandatory Shari'a principles – particularly those codified in the Personal Affairs Law 2005.

Despite the Islamic World's general lack of recognition of the common-law trust, foreign-established trusts are routinely used – by both Muslims and non-Muslims settlors – to hold shares of corporate structures holding UAE assets e.g. shares in local companies or real estate.

Use of foundations in estate planning

In the UAE, foundations are used strictly for charitable purposes and are strongly regulated. Foreign foundations, like foreign trusts, are routinely used to hold shares of corporate structures which hold UAE assets.

Types of entities

The legal types of commercial entities – as provided in the CCL 1984 (UAE Federal Law No. 8 of 1984 as amended by UAE Federal Laws No. 13 of 1988 and No. 15 of 1988) include the following: general partnership, limited partnership, joint participation (ventures), public joint stock, private joint stock, limited liability (LLC) and partnership limited by shares.

The LLC is the corporate structure predominantly used in the UAE. It restricts foreign ownership to 49 per cent, with the remaining 51 per cent mandatorily held by UAE nationals or a company wholly owned by UAE nationals. LLCs must have at least two and not more than 50 members. Minimal requirements as to share capital have recently been abolished; a capital pay-up at inception is not required. LLCs are especially appropriated for trading, commercial brokerage and manufacturing or industry activities for, primarily, distribution in the UAE and other Middle Eastern countries.

Foreign companies may otherwise establish a branch or a representative office. The new CCL makes it optional for a foreign company to appoint a UAE national as agent – which is typically not involved in the operation of the company but assists in obtaining visas, etc., but retains the requirement that a company appointed as agent be wholly owned by UAE nationals.

The UAE also has around 30 Free Zones in which limited liability entities (a Free Zone limited liability company – FZ-LLC – has two or more members; a Free Zone establishment – FZE – has one owner) can likewise be established. A Free Zone company can be 100 per cent owned by foreigners and it is entitled to 100 per cent repatriation of capital and profits. The capital requirements to set up in a UAE Free Zone entity vary from AED10,000 up to AED1,000,000, the latter for a free zone establishment with the Jebel Ali Free Zone Authority (JAFZA).

An international business company (IBC) can be incorporated in JAFZA and in Ras Al Khaimah Investment Authority (RAKIA). Modelled on the British Virgin Islands (BVI) offshore companies, these flexible dematerialized corporate vehicles may be 100 per cent foreign owned and may conduct any lawful activity as allowed by the Registrar. It typically conducts business abroad

and it is suitable for holding material or immaterial assets in the UAE or abroad. JAFZA offshore companies are the only type of offshore structures allowed to hold freehold property in the Emirate of Dubai.



Hokusei Law Office, P.C.
tomoko@hokusei-law.com
81-(0)3-3237-8080
www.hokusei-law.com/en/index.html

CULTURE AND SUCCESSION LAW IN JAPAN

Tomoko Nakada
Hokusei Law Office, P.C.

1. General Legal and Cultural Constraints in our Practice of Succession

The samurai had dominated Japanese government and society for about 675 years until the Meiji Restoration of 1868. Succession of samurai was primogeniture. The first son of the previous leader became the next leader of the clan. He inherited the family property and succeeded the responsibility to preside over certain rituals for ancestors and to maintain the family grave.

With the Meiji Restoration of 1868, the new Japanese government decided to adopt a Civil Code. They first tried to import the French Civil Code and invited a French scholar named Boissonade who drafted an initial version of the Civil Code. However, scholars objected because the French family system was based on a husband-wife relationship that didn't fit the Japanese family culture based on the father-first son relationship of samurai. They preferred the German Civil Code, which was based on patriarchy. The newly enacted Japanese Civil Code adopted a patriarchy model. That is, the first son in the clan inherited the property and succeeded to the responsibility to preside over the rituals for ancestors and to maintain the family grave.

However, after World War II, the patriarchy system was abolished, influenced by the principle of equality under the U.S. Constitution. Under the current Japanese Civil Code, children inherit property equally, while the rights relating to rituals for ancestors and the family grave pass to the person whom custom dictates. Even today, custom often dictates that the first son is the responsible person. Therefore, now the first son has to share the property with his siblings, while he has to bear the burden of presiding over rituals for ancestors and maintaining the family grave. Please note that the grave in Japan is not for the individual but for the family. In the grave, there are many small urns for parents and ancestors.

This sometimes causes inheritance disputes. Even now, in their wills, parents tend to give the first son (1) the primary real estate and/or (2) more money to pay for the rituals for ancestors, to maintain the family grave and to thank him for taking care of the parents in their last days. The first son thinks that he deserves a larger share than his siblings for these reasons. However, the other children may claim their equal intestacy rights or forced heirship rights against the first son. To resolve these disputes, the first son sometimes is forced to sell the real estate. The first son often feels that this is unfair.

2. A Sample Estate Plan for a Family

1) Marital Property Regime

The liquidation of marital property is unnecessary before succession. Our marital property regime is a separate property model unless there is a prenuptial agreement (which we practically never use). Upon death, property in the name of either spouse is included in his or her estate, according to the legal title of the property, even if it was acquired by joint contribution of the spouses.

Therefore, in this case, we first check the title of the assets to see what are the Father's assets and what are the Mother's assets.

2) Forced Heirship

Assuming that the Father's main assets are the shares of a Japanese unlisted company, let's think about how to transfer the shares from the Father to Daniel, his son.

One way would be to have the other children renounce their forced heirship rights during the Father's lifetime (if they are willing to do so), but a court's judgment is required to confirm that the renunciation is voluntary.

Another way would be for the Father to give the other children, by will, the minimum assets they are entitled to pursuant to their forced heirship rights. This would not be difficult if the Father has considerable non-business assets such as financial assets and vacation properties, but it could be difficult if most of the Father's assets consist of shares in a company.

To make the management of the company stable, the successor should have at least one-half or preferably two-thirds of the outstanding shares. What if almost all of the Father's assets consist of the shares of the company?

The basic strategy to keep the stability of the management is to divide the shares into economic rights and voting rights and to devise the economic rights to all of the children and the voting rights only to Daniel.

Giving the economic interests to all the children will substantially reduce the possibility of a future claim of their forced heirship rights against Daniel.

One of 2 methods is used to achieve this goal. One is the use of preferred shares without voting rights and the other is the use of a trust. In this trust, the Father designates his children as beneficiaries after his death and also designates Daniel as the person who will have the power to direct the trustee how to vote the shares.

3. Expected Change in the Future

Compared to U.S. citizens, Japanese people do not have a strong interest in their estate planning. People in their 40s and 50s, or even 60s, often don't think seriously about their estate plan. Indeed, the number of persons who make wills is gradually increasing, but fewer people make wills in Japan than in the United States.

There are several reasons for this. First, in Japan there is a cultural reticence to talk about death. Children do not feel free to ask their parents to write their wills. It is considered to be ominous or even greedy. Parents tend to postpone making wills, especially when they are fine, thinking that they will not need to think about wills until far in the future.

Secondly, parents sometimes consider their wills to be unnecessary when their family is close. They tend to believe that their heirs will not fight over their estates and will reach an agreement on how to divide the estate. Therefore, they do not believe that they need to dictate how the estate will be distributed among their heirs. In addition, they do not have a strong desire to decide who takes which property.

However, because society in Japan is becoming more international, this will change and more people will make wills.

4. Forms of Japanese Wills

The forms of the wills under the Japanese Civil Code ("the Code") are (1) a holographic will, (2) a notarized will, and (3) a secret will. I recommend (2) a notarized will to foreigners, rather than (1) a holographic will and (3) a secret will. It is because wills in the latter forms may not be able to be executed in the end. These wills need to be applied for confirmation (*kennin*) at a court after the testator's death pursuant to the Article 1004 of the Code. Practically, the certificate of confirmation issued by the court is required to execute these wills. For instance, to transfer the title of real properties or to withdraw the bank deposits, this certificate needs to be presented to the governmental bureau or banks. However, if the new law submitted to the Diet on February 26, 2016 is enacted, a court in Japan will have no jurisdiction for confirmation (*kennin*) of wills when the testator lives outside Japan at his death. On the other hand, there is no need to apply for confirmation (*kennin*) of a notarized will at a court. Foreigners who do not understand Japanese can make a notarized will with a translator.

INHERITANCE LAW

John R. Strohmeier

We had a great panel that represented several cultures. The panel began with a brief introduction by each panelist explaining both the legal and cultural constraints imposed in their respective jurisdictions. Because we only had an hour and a half to talk, it was not possible for any panelist to go into great detail about any one topic. But each panelist was able to sketch out the important issues that applied in their jurisdiction (e.g., forced heirship statutes, multiple spouses, religious obligations, and cultural obligations to pass property to the first-born son).

After this brief introduction to the relevant law and cultural constraints, the panelists in turn analyzed a hypothetical scenario, and each panelist provided a recommended planning solution. The answers were different from each panelist because the applicable cultural and legal constraints were different.

Finally, the panelists briefly explained what they thought would be the important issues in the coming years, and what they expected to see in the future. Overall, it was a great panel!

Please contact Caroline Abela and/or Agnès Proton if you are interested in participating in the IPCC and/or membership in the IPCC.



Crady, Jewett & McCulley, LLP
jstrohmeier@cjmlaw.com
713-739-7007
www.cjmlaw.com