



**IAFL Asia Pacific Chapter Symposium
HOT TOPICS in International Family Law
Hong Kong, China**

Tuesday 2 December 2025

**Session Resources Pack
What is HOT in Property Division in Cross-
Border Disputes?**

2:45 – 4:15 pm

CONTENTS

- **Speaker profiles** Page 3-7
 - Christine Arndt (Switzerland)
 - Alex Carruthers (England and Wales)
 - William Sloan (Australia)
 - Zenobia du Toit (South Africa)
 - Dr Pinky Anand (India)

- **Speaker papers**
 - What is HOT in Property Division in Cross-Border Disputes Page 8-13

CHRISTINE ARNDT

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Christine Arndt was admitted in 2004; 2007 - 2014 family court judge in Zug / Switzerland. She is a partner at Langner Arndt (founding partner) since 2014; Certified Specialist SBA family law ("Fachanwalt Familienrecht SAV") and since 2016 a qualified lecturer at the University of Zurich. She is a mediator since 2014 and part-time judge at the Swiss Federal Supreme Court since 2021. She publishes and lectures frequently on family law is a member of the editorial board of the journal FamPra.ch and practices in all areas of Swiss and international family and matrimonial law. Specialized in complex divorce disputes and financial settlements, in particular with an international element involving companies, real estate and jurisdiction issues and experienced in pre- and post-nuptial agreements with international dimensions. Commentators say, "She has amazing insight into how the Swiss courts would view things" and "She is an extremely switched-on, dedicated and talented lawyer".

ALEXANDER STEVENS CARRUTHERS

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A founding partner at Hughes Fowler Carruthers, Alex specialises in complex divorce, financial, and children's work, particularly in international cases. His clients are high net worth individuals with complex legal issues including trusts and jurisdictional disputes. Alex helped set up the Young Solicitors Family Law Association in 1998. He is a member of Resolution, the International Bar Association and a trustee of the Royal Courts of Justice Citizens Advice Bureau.

Alex is a regular commentator and speaker on family law and on issues concerning divorce, most particularly those involving trusts and complex financial structures. He continues to be highly commended in the leading legal directories for his expertise, which describe him as 'a stand-out litigator of immense experience and superior instincts' and 'a complete advocate for his clients. He is technically superb and represents his clients brilliantly.'

WILLIAM SLOAN

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William Sloan is a Director at Kim Wilson & Co Family Lawyers in Perth, Australia. He is an accredited specialist family lawyer, a former President of the Family Law Practitioners Association of WA and current Vice President of the Asia Pacific chapter of the International Academy of Family Lawyers.

ZENOBIA DU TOIT

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Zenobia is a Director at Miller du Toit Cloete Inc, in Cape Town, South Africa, specializing in all aspects of family law, related constitutional law issues, comparative law, international cases, Hague Conventions, high end financial disputes, trusts, ART, ADR, PNAs, children's interests, LGBTQI issues and with a keen interest in developing family law. She is a mediator and arbitrator.

She co-edited a textbook and has written numerous articles and presented at expert forums. She was an expert member of the 2013 HCCH Working Group on the Article 13(1)(b) Guide to Good Practice and is an Appointee to the Steering Committee HCCH Forum on Domestic Violence.

DR. PINKY ANAND SC, FCIARB

**Senior Advocate & Former Additional Solicitor -
General of India
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Prof. (Dr.) Pinky Anand is a distinguished Senior Counsel, Arbitrator, Mediator, Author, and Jurist with over 44 years of experience before the Supreme Court of India, High Courts, and Tribunals. A Harvard Law alumna and former two-term Additional Solicitor General of India, she has a thriving practice across constitutional, commercial, criminal, family, and international law, with several landmark judgments to her credit. Dr. Anand is a Fellow of the International Academy of Family Lawyers, has represented India at BRICS, SCO, and ICC ADR Committee, and has served in leadership roles including Chair of LAWASIA's ADR Committee. Recognized globally, she is a Door Tenant at No. 5 Barristers Chambers, London, and has been honored with awards such as the French Order of Merit and the Bharat Gaurav Samman at the UK Parliament. Dr. Anand is a fellow of the International Academy of Family Lawyers [IAFL].

What is HOT in Property Division in Cross-Border Disputes?

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Christine Arndt, Langner Arndt Rechtsanwälte AG, Switzerland

Pinky Anand, India

Alex Carruthers, Hughes Fowler Carruthers, England and Wales

Zenobia du Toit, Miller du Toit Cloete Incorporated, South Africa

William Sloan, Kim Wilson & Co, Australia

1

India: Pinky Anand

STATUTORY FRAMEWORK

- Under the Hindu Marriage Act (HMA), 1955, Sections 24, 25, and 27 deal with maintenance and jointly owned property, but they do not establish any framework for division of marital property.
- The Special Marriage Act (SMA), 1954 provides for maintenance but does not create any property-sharing mechanism.
- Section 125 of the CrPC offers a statutory right to maintenance, but it does not allow for division of assets.
- The Domestic Violence Act (DV Act), 2005 grants residence rights and the return of stridhan but does not confer any ownership rights in property.
- Property and succession laws continue to determine ownership, primarily through the Hindu Succession Act, the Transfer of Property Act, and the Indian Trusts Act.

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2

Division of Property in Case

- 1) Cohabiting Couples in India
- 2) Pre-Nuptial Agreements
- 3) Transgender Persons and Same-Sex Cohabiting Couples in India
- 4) Domestic Violence

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3

Hot Topics in England and Wales

1. Matrimonialisation of assets – Case of Standish
 - Key principles of ‘sharing’ claims – the importance of matrimonial and non-matrimonial property
 - Relevance of the case

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4

Hot Topics in England and Wales

2. Part 3 of the Matrimonial and Family Proceedings Act 1989 – Case of Potanina
 - The general law
 - Procedural impact of the case
 - Overall impact in the future – the difference between England and Wales and HK

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5

Hot Topics in England and Wales

3. The rise of ADR
 - Restriction of financial cases in the CFC

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6

Hot Topics in South Africa

Relevant legislature and Bills

- Marriage Act 25 of 1961
- Civil Union Act 17 of 2006
- Matrimonial Property Act 88 of 1984
 - o *EB (born S) v ER (born B) and Others; KG v Minister of Home Affairs and Others* (CCT 364/21; CCT 158/22) 2024 (2) SA 1 (CC)
- Recognition of Customary Marriages Act 120 of 1998
- Muslim Marriage Bill
- Marriage Bill B43-2023
 - o Monogamous and polygamous marriage
 - o Civil, customary and religious marriages
 - o Minimum marriage age of 18
- Divorce Act 70 of 1979
- Maintenance of Surviving Spouses Act 27 of 1990
- Trust Property Control Act 57 of 1988
- SALRC Report regarding a unified relationship approach
- Domestic Violence Act 116 of 1998, The Domestic Violence Amendment Act 14 of 2021.

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7

Hot Topics in South Africa

- Prenuptial contracts
- The effect of domicile on marriage regimes and law reform
- Heterosexual, same sex and transgender marriages
- Trusts
- Cohabitation
 - o Common law remedies – unjust enrichment, universal partnership, estoppel
 - o Consequences of acceptance of a maintenance obligation
 - o Law reform proposed
- Domestic violence

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8

Family violence – definition

violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the family member), or causes the family member to be fearful

Examples of behaviour that may constitute family violence: [abridged]

- stalking
- repeated derogatory taunts
- intentionally damaging or destroying property
- intentionally causing death or injury to an animal
- preventing the family member from making or keeping connections with his or her family, friends or culture
- unlawfully depriving the family member, or any member of the family member's family, of his or her liberty
- economic or financial abuse ↓ ↓ ↓

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9

examples of behaviour that might constitute economic or financial abuse:

- unreasonably denying the family member the financial autonomy that the family member would otherwise have had
- unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or the family member's child (including at a time when the family member is entirely or predominantly dependent on the person for financial support)
- coercing a family member (including by use of threats, physical abuse or emotional or psychological abuse)
- hiding or falsely denying things done or agreed to by the family member, including hiding or falsely denying the receipt of money, assets or other items, in connection with a practice of dowry

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10

Family violence – consequences

In considering what order ... should be made ... in property settlement proceedings, the court ... is to take into account ...

- the effect of any family violence, to which one party to the marriage has subjected or exposed the other party, on the ability of a party to the marriage to make ... contributions
- the effect of any family violence, to which one party to the marriage has subjected or exposed the other party, on the current and future circumstances of the other party

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11

Hot Topics in Switzerland

- Swiss matrimonial property law, as well as the corresponding case law, is highly stable and predictable.
- In the absence of a prenuptial agreement, all assets acquired during the marriage are subject to equal division.
- The relevant cut-off date is the date on which the divorce petition is filed, while asset valuation is carried out at the time of the division.
- Although the scope of pre- or postnuptial agreements in Switzerland is somewhat limited, their legal enforceability is very strong.
- There is no formal requirement for independent legal advice, full financial disclosure, or a cooling-off period when entering into pre- or postnuptial agreements.

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12