

Comparing family law in England & Wales, Hong Kong and Singapore

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Our international family team has grown with the creation on 6 April of our Formal Law Alliance with KhattarWong, operating as 'Withers KhattarWong' and providing skilled local family law advice in Singapore, alongside our teams in Hong Kong and London.

This international reach means that we are uniquely well-placed to consider how each jurisdiction treats the central issues in family law matters. [Suzanne Kingston](#), [Natalie O'Shea](#), [Stacey Choong](#) and [Philippa Hewitt](#) at Withers and [See Chern Yang](#) at Premier Law LLC carried out a thorough comparison, in which England & Wales and Hong Kong's systems can be seen to correspond closely in many more areas than Singapore's, and this is perhaps not surprising, given their lengthier historical relations.

The main distinctions between the jurisdictions feature in relation to civil partnerships, same sex marriages and civil unions. These are only recognised in England & Wales at present, and this difference presumably follows local cultural trends. Generally speaking, concepts of applicable law on divorce are similar across all three jurisdictions, which will consider non-domestic laws as part of the circumstances of a case.

England & Wales and Hong Kong require at least one year of marriage to have passed before a divorce petition can be issued, whilst in Singapore a period of three years separation needs to have passed before a divorce can be issued without leave. Financial provision on divorce is pretty similar in England & Wales and Hong Kong but in Singapore certain assets are excluded from consideration as matrimonial assets, such as gifts or inheritances.

England & Wales leads the way in attaching more weight to pre-nups and post-nups. Hong Kong has approved the judgment in *Radmacher and Granatino* and is awaiting the Law Commission report this year so as to consider what further modifications to make in its system. Singapore, meanwhile, considers pre-nups under common law contractual principles, but will generally enforce post-nups if properly entered into.

Notwithstanding the proposals put forward in the Law Reform Commission in 2005, no big changes have been made to children law in Hong Kong and reference is still made to concepts of joint and sole custody and access – a far cry from the Children and Families Act 2014. All three jurisdictions currently have no statutes governing the division of property for unmarried couples, but are empowered to make maintenance provisions for the benefit of children of unmarried couples.

One of the biggest changes in all of the jurisdictions is in relation to how they deal with cases. It is not now just about litigation but other forms of dispute resolution too. In all three jurisdictions there has been a substantial increase in mediation where a neutral independent facilitator tries to broker an agreement between the couple. In England the family law arbitration scheme introduced by IFLA was launched in April 2012 and has been endorsed by the judiciary with more and more cases going down this route. In Hong Kong a system of adjudication which is very similar to arbitration was established in late 2014, so it will be interesting to see what happens in the world renowned arbitration hub of Singapore. We are all watching and waiting...

A detailed two-part examination of these jurisdictions' approaches to family law, originally published in Legalease's Family Law Journal, can be viewed [here](#) and [here](#).

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