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## THOUGHT FOR THE MONTH

“I am not afraid of storms for I am learning how to sail my ship.”

Louisa May Alcott



## CMI 2016 NEW YORK

The 42nd Conference of the Comité Maritime International (CMI), was hosted by The Maritime Law Association of the United States (MLA), and took place in New York from May 3-6 at the New York Hilton.

The main item on the conference agenda was the review of the rules relating to general average with which the CMI has been engaged with for 20 years. The focus of the agenda was to ascertain a set of York Antwerp Rules (YAR) which allow more GA expenses to lie where they fall outside GA (but usually still covered as “particular average” under marine insurance policies) and encourage the quicker publication of GA adjustments. The new YAR 2016 introduces some helpful measures which, if incorporated into contracts, may reduce insurers’ GA exposure by a few percentage points.

Other topics included the Costa Concordia salvage and wreck removal operation, Polar Shipping and Arctic Development; Cybercrime in Shipping; Offshore Liability issues; Unmanned Craft; Liability for Wrongful Arrest and shipping law issues arising from Refugee Migration at Sea.

Mr. Joy Thattil & Mr. Rafi Kallatra, partners @ Callidus attended the conference.

## REGISTRATION OF WILL BY AN EXPATRIATE IN DUBAI A DREAM COME TRUE

May, 2016 has brought happiness for the expatriates in Dubai. Starting from May 2016, Dubai Government has made it possible for all the expatriates to register their Will in Dubai. Though Dubai is a Muslim Country, it is a place where a lot number of People from different countries and different religion come and set up their life. They work their entire life to build up their assets. The people who stay in Dubai, due to uncertainty and lack of familiarity with the distribution of their assets, and their legacy, move their earnings and assets to overseas Jurisdictions or to their home country. In case, if they do not make a Will, the process of transferring their assets to their loved ones, in many cases are guided by the Sharia Law, which differ quite significantly from the tradition and habits of their own cultures. Applying Sharia Law, would mean that the state would be deciding on the fact that which of their family member receives which share of their estate. This was applied to all the non muslim expatriates who died intestate.

Some used to register their Will in their home country and try to implement the same in Dubai, which was not easy. Little did they knew that even when they wanted to apply the law of their home country, they had to appeal before the Court of Appeal / Court of

Cassation, which would be costly and time consuming. Since, there was no guaranteed solution in the distribution of the assets, the only option left with the expatriates was to hope that their legal heirs would agree to re distribute the estate among each other without engaging in the legal battle.

Dubai Government has framed a new rule, starting from May, 2016 that all the Non-Muslim expatriates shall have the right to register their Will in Dubai. The Wills and Probate Registry, a public entity of the Dubai Government and an ancillary body of the DIFC’s Dispute resolution Authority (DRA), provides the services to the eligible individuals the ability to register their Wills according to the principals of testamentary freedom. With the new rule, the expatriates belonging to other religion, can choose their beneficiaries, ultimately ensuring that the person’s wishes as stated in their Will are carried out, upon their death. This new rule has been designed to protect the assets in Dubai, their family and loved ones, after the death.

### Eligibility to register the WILL

In order to register the Will with the DIFC Wills and Probate Services, the expatriate should fulfil certain mandatory criteria like -

- 1.The expatriate should have assets in Dubai

- 2.The Expatriate should be a non-muslim
- 3.The age of the expat shall be 21 years.
- 4.If the individual has a minor living with him and he require a guardianship provision included in the WILL.

Further, only a registered/licensed legal practitioner can draft the Will. Unlike in some other countries wherein the expenses is determined as a percentage of the value of the estate, here, the Policy makers have also decided on the cost for registering the Will. All eligible individuals will also have the ability to register their Will in English Language which help to create a legal certainty for the inheritance of their assets after death.

### Conclusion

It is to be noted that to register the Will in Dubai, a person need not have to be a resident of Dubai. Any eligible person, with assets in Dubai or an eligible individual wishing to appoint guardian for their minor children may register a Will with the DIFC Wills and Probate Registry. This new rule is not only an optimal legal solution for protecting Dubai Assets, Family and Business after death but is also an efficient mechanism for the non-muslims to pass on their estates according to their wishes.

## Great Tips for Success in Both Life and Business

### Build a Support Group

While mentors serve as a guide with whom you review your past actions and plan your next steps, a support group are your companions that help you with during the actual execution of your plan. This may be in the form of a mastermind group or accountability partner where you keep each other accountable for your goals and to help each other deal with situations that may arise while you are on your journeys. It is extremely helpful to have someone you know that is willing to listen to your frustrations and self doubt and to encourage you and remind you of how far you've already come.

### Personally

#### Know Your Finances

Numbers scare a lot of people. Start talking about assets, liabilities and net worth and people's eyes just glaze over. If you are one of these people who run away from numbers, please stop running because you are hurting yourself. If you want to be financially independent, you need to know how to keep score. If you have your own business or want to successfully invest, finances tell you how well you are doing and reveal the health of a business. If you don't understand finances, you have to learn. It's easy once you get over the limiting belief that you are no good at numbers.

#### Get Help

It is important to know and understand all aspects of your life and business but that does not mean having to do all the tasks involved in maximizing your potential in those areas. It is true that we can always learn new things and become competent in them but what is also true is that we are only given 24 hours each day and to live full lives, it is more effective to do what we do best and to outsource tasks that we're not good at to people who excel at them. Delegating effectively takes trust and the ability to clearly communicate what you want.

#### Learn Sales

Many people cringe when they hear the word sales. "I would never be in sales, that's a sleazy job." It is exactly this type of thinking that stops people from being their best. Sales is nothing more than persuading someone of something. When you are looking to get a date, you are selling. When you are interviewing for a job, you are selling. When you are trying to persuade your spouse or kids to go to Europe for your family vacation, you are selling. In a professional setting, sales is paramount and the lifeline for any business. If you want to get the most out of life and business, learn the skills for effective selling.

# AN OVERVIEW ON GLOBAL DATA PROTECTION LAWS



In the present day and age, the combined use of technology along with access and transfer of information through ecommerce, poses an eminent threat to personal data. Nations have responded at various level to this call, wherein some have taken stringent measures to safeguard the best interest of its citizens, while other countries, have merely incorporated sections within existing enactments and for now are adopting tactic of wait and watch, before coming out with specific or full-fledged laws.

In this Article we shall limit our comparisons to a few major economies or countries, to get a brief insight on the relevant legislation or measures adopted by various countries in relation to protection of personal data.

The European Union has been at the forefront in developing specific legislation and implementing data protection directives which are applicable to its member nations. The

much talked about EU Data Protection Directive 1995 (officially Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data) came about to protect the people's fundamental rights and freedoms and in particular their right to privacy with respect to the processing of personal data.

At present within the EU countries like the United Kingdom have their own enforcement authority to implement the present data protect laws, i.e. the Information Commissioner's Office ('ICO'); In Germany each German state has its own data protection laws and an enforcement authority which sees to its implementation. In France Enforcement of the Law is principally through the '*Commission Nationale Informatique et Libertés*' ('CNIL').

In 2012 the EU proposed having a new General Union Data Protection Regulation (GDPR), to extend the scope

of the EU data protection law. The intent behind the GDPR was to not only strengthen and unify data protection for individuals within the EU but to also monitor foreign companies processing data of EU residents. The GDPR is set to come in force with its formal adoption sometime in 2016, and the said enactment would then replace the Data Protection Directives from 1995.

In comparison to the EU's take, on Data Protection, if we shift our concentration to the United States (US), there are about 20 sector specific laws that in some way address the issues of Privacy or the protection of data, coupled with hundreds of state wide laws enacted in specific states and territories in the US. There by making this subject diverse and too vast to address in this particular issue.

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## HOT NEWS

### US helped India remove ship from UN's Libya sanction list

The UN Security Council's decision to remove from a sanctions list an Indian ship accused of loading illicit crude from eastern Libya is being talked about as the latest byword for global India-US strategic cooperation.

India-flagged tanker Distya Ameya, chartered by a UAE-based firm, was removed from the sanctions list of a UNSC committee concerning Libya in exactly 16 days, which is being seen as an unparalleled achievement for Indian authorities. US diplomats were required to work in conjunction with their Indian counterparts in Washington, New York and Delhi to ensure that the Indian asset wasn't frozen.

The US, in fact, helped India prevail upon the UN-backed Government of National Accord (GNA) of Libya to withdraw its complaint against the ship and this resulted in the removal of Distya Ameya from the sanctions list in record time.

Any oil loaded without the approval of Tripoli-based National Oil Corporation is deemed illegal by international authorities. Distya Ameya though had loaded 650,000 barrels of oil from the Al-Hareega port in Tobruk, which is not under the control of the new Libyan government based in Tripoli, and was on its way to Malta where it intended to discharge the oil. Sources said as soon as the UN issued a press release on April 27 saying it had added the tanker to the sanctions list, the US took up the matter with India saying the ship had to adhere to international laws which are meant to ensure the "credibility and stability" of Libyan oil.

India's permanent mission in New York, which was coordinating with US authorities, worked with DG Shipping to ensure that the ship immediately sailed back to Libya and offloaded the oil.

The US helped India persuade Libyan authorities into formally withdrawing its complaint to the UN.

The Indian flagged tanker is owned by Mumbai-based Arya Shipping. Indian authorities had to convince the Libyan government that the "foreign charterers" and Indian owners and managers of the ship were unaware of the UN sanction on export of Libyan oil.

As the government had announced earlier, the UN on May 12 formally lifted the sanction on the Indian vessel. The ship, it said, was now completely free to resume its normal sailing and carry on its commercial operations.

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Similarly to the US nations like China and India have no comprehensive or specific legislation on privacy or data protection. However, in India the Information Technology Act, 2000, which also contains Rules on Privacy and protection of sensitive data and information etc, mainly covers the topic. Besides the said act, legislation on specific sectors also contains sections within the enactments for protection of data or privacy. In China since there is no law on the subject per se, hence the General Principles of Civil Law and the Tort Liability Law are used to interpret data protection or protection rights. In both these nations the laws at present are not exhaustive and though both have been deliberating independently on a data protect drafts/bills to address the specific Data Protect issues, there are no concrete efforts to transform the same to enactments or laws.

In Australia, there are state and federal legislation that address data protect or privacy. For instance there is The Federal Privacy Act 1988 which is updated with its amendments for time to time and applicable as a whole; however based on the said

Federal Act, some Australian States and Territories also have their own data protection legislation. In addition there are several independent or sector related Federal and State legislations, which have data privacy and protection laws incorporated into them, for instance Federal legislation like the National Health Act 1953, or state legislation like the Health Records and Information Privacy Act 2002 (NSW) etc.

It is rather remarkable to note that a handful of South East Asian countries have comprehensive Data Protect Laws - like Singapore has the Personal Data Protection Act 2012; Malaysia, the Personal Data Protection Act 2010 and the Philippines has enacted the Data Privacy Act of 2012. However nations like Indonesia have regulations in palace or in the case of Thailand, the Constitution of the Kingdom of Thailand, protects privacy and recognizes the same as a right, hence laws under various sectors safeguard this right. Thailand also has a draft Personal Information Protection Act, which is yet to come into force.

In Argentina the Federal Constitution not only guarantees the privacy of its citizens but it also has a Personal Data Protection Law, which meets the European Union's standards of Data Protection.

In short we can safely say that major countries across the globe are beginning to understand the fragile nature of privacy laws and the need to protect personal data. Technological advancements have reduced the difference in time and space and have made the transfer of such data easy through ecommerce streams. Though these advancements are commendable, issues like data theft, cyber crimes, misuse of personal data and infringement of privacy laws need to be addressed with urgency. It is for this reason that many nations not only have specific data or privacy enactments in place but also have enforcement mechanisms to check and book offenders. The day is not far when nations may come together to have a convention or treaty which can bring in uniformity and prescribed standards, in relation to Data Protect laws applicable across nations.

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