

SERVING THE COMMUNITY: THE EXPERIENCE OF THE SINGAPORE FAMILY COURT

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INTRODUCTION

1 The theme of this conference, “Co-operating to Serve Our Communities”, is a very apt one. The ultimate aim of any justice system must be to uphold and administer the law to serve the community. In addition, family disputes differ from other kinds of disputes in that the complete solution to the problem often requires the input of not only the court system but also various other organisations and agencies in the society.

2 The Singapore Family Court subscribes fully to the need for co-operation in order to serve the communities in the family justice processes. To this end, I like to mention that as a symbol of the close partnership between the courts and the community in the family justice processes, the Family Court commissioned in April 1999 a Family Justice Tableau. It contains 150 signatures of representatives from the various family justice constituents, which include the judiciary, the legislature, the executive, the Attorney General, the police, the media, the academia, welfare agencies and voluntary groups. The tableau is of the size of a full height wall and will prominently be placed in the main lobby hall of the new Family Court building when it is completed in 2001. It is both a recognition of the contribution to family justice by the constituents as well as a demonstration of the commitment by the constituents to uphold family justice.

3 In this paper, I will first briefly introduce the Family Court of Singapore and then proceed to deal with various programmes implemented to achieve the goal of administering family justice effectively and expeditiously. I will then conclude by describing how the Family Court has involved the community in its multifarious activities and programmes.

THE SINGAPORE FAMILY COURT

4 The Singapore Family Court was established on 1 March 1995, some four years ago. It is a specialized forum whereby family members may seek legal redress for all family related disputes. When the Family Court commenced operation, it only dealt with applications for maintenance, protection orders and adoption. With the transfer of matrimonial proceedings and guardianship cases to the Family Court from the High Court a year later, the court can now be said to be a unified court dealing with all family proceedings in Singapore.

5 The jurisdiction of the court is as follows:

- (i) petitions for divorce, judicial separation and nullity¹;
- (ii) applications for guardianship, custody, care and control and access of children²;
- (iii) applications for division of matrimonial assets³;
- (iv) applications for protection orders⁴;
- (v) applications for spousal and child maintenance⁵;
- (vi) applications for enforcement of maintenance orders made by the courts, the Maintenance of Parents Tribunal and the Syariah Court⁶;

¹ Under *Part X Women's Charter* (Cap 353, Statutes of Singapore). Whereas previously, the Family Court does not have jurisdiction over matrimonial matters involving Muslim parties or parties married under Muslim law, it now has concurrent jurisdiction with the Syariah Court to deal with division of assets on divorce, custody of children and maintenance.

² Under the *Guardianship of Infants Act* (Cap 122) and *Part X, Women's Charter* (Cap 353).

³ Under *Part X and section 59 Women's Charter* (Cap 353). The Family Court did not have jurisdiction over disputes on custody or division of matrimonial assets involving Muslim parties or parties married under Muslim law (these are dealt with by the Syariah Court). However, this will change when the *Administration of Muslim Law (Amendment) Act 1999*, which was passed on 15 April 1999, comes into operation. This Act seeks to confer jurisdiction in the civil courts to hear cases involving custody and division of matrimonial assets, notwithstanding parties are Muslims or are married under Muslim law.

⁴ Under *Part VII Women's Charter* (Cap 353).

⁵ Under *Part VIII and X Women's Charter* (Cap 353).

⁶ Under *s 71 and Part IX, Women's Charter* (Cap 353) and the *Maintenance of Parents' Tribunal Act*.

- (vii) reciprocal enforcement of maintenance orders made by foreign courts or tribunals⁷; and
- (viii) adoption petitions⁸.

6 In terms of caseload, the Family Court handled 11,350 applications in 1996, 12,847 applications in 1997 and 15,078 applications in 1998.

ADMINISTERING FAMILY JUSTICE

7 The primary responsibility and indeed, the constitutional duty of the Family Court, are to administer justice. In achieving this mission, the court seeks to: (1) enhance access to justice; (2) achieve effective determination of disputes; and (3) expedite the disposition of cases.

Enhancing Access To Justice

8 If there are impediments to the pursuit of justice, the court will fail in its mission to uphold the law for all people. In this regard, there are three types of obstacles: (1) costs; (2) lack of information; and (3) procedural impediments. The strategies employed by the Singapore Family Court to eradicate these obstacles are described below.

Minimizing costs

9 The Family Court must consciously seek to minimize costs. This is especially so in family cases as most family members do not have adequate financial means to fund litigation⁹. This is achieved by first, using litigation as a last resort to solve legal disputes and secondly, by providing legal aid or free legal advice to needy litigants. In

⁷ Under the *Maintenance Orders (Facilities for Enforcement) Act* (Cap 168) and *Maintenance Orders (Reciprocal Enforcement) Act* (Cap 169).

⁸ Under the *Adoption of Children Act* (Cap 4).

⁹ In the majority of cases dealt with by the Family Court, one or both of the parties are not represented.

family violence cases, the Family Court has also set up a free medical clinic for the use of applicants.

10 *Mediation and counselling.* The Family Court offers free mediation and counselling services to litigants as an alternative to litigation.¹⁰ Such processes are integrated into the case process of all contested family cases, in that before hearing dates are fixed, the court will, with the consent of the parties, refer them for mediation or conciliation counselling. These alternative dispute resolution processes assist parties to resolve their disputes amicably, thereby saving them a hefty legal bill. Since the introduction of mediation and counselling in family cases in 1995, these voluntary processes have proven to be so successful¹¹ and gained such widespread acceptance that mediation and counselling are now the norm rather than the exception. Litigation is therefore, in practice, used as a last resort after all attempts to settle the case amicably have failed.

11 *Legal Clinic.* The Government does provide legal aid for persons who cannot afford legal representation provided such persons meet certain prescribed requirements¹². In addition to this scheme, the Family Court has set up a Legal Clinic run by volunteer lawyers at the court premises to offer free legal advice on family law to persons who cannot afford to pay legal cost.

12 *Medical Clinic.* The Family Court has also set up a medical clinic at its premises where victims of family violence may be referred to for free medical

¹⁰ The Family Court has a panel of trained mediators to conduct mediation. These mediators have qualifications in law, social work, and psychology or have vast experience working with dysfunctional families. Judges also serve as mediators in settlement conferences. The court has also set up a FAMCARE Centre (Family Court Conciliation and Resolution Centre), which comprises professional counsellors. These counsellors conduct reconciliation counselling and conciliation counselling for children's custody and access issues.

¹¹ At the Family Court, more than 85% of cases are settled through mediation and counselling. For contested divorce cases, only 0.1% of cases have proceeded for trial.

¹² Legal aid in Singapore is administered by the Legal Aid Bureau under the *Legal Aid and Advice Act* (Cap 160, Statutes of Singapore). Persons seeking aid must satisfy the "means and merits" test.

examination provided by volunteer doctors. Medical reports are prepared forthwith for use as evidence of the commission of violence.

Publicizing the court processes, programmes and services

13 Most people find going to court a daunting and intimidating experience. It is therefore imperative that “family justice” be brought to the people in that the public is educated on the legal avenues that are available to them when they are faced with family disputes.

14 *Website and pamphlets.* Apart from the website of the Subordinate Courts on the internet (www.subct.gov.sg), the court also issues free information pamphlets on the court’s processes, programmes and services. These pamphlets are available not only within the court premises, but also at the family service centres, police stations and law offices. In addition, the Family Court has produced an educational video on Family Violence, which is played in police stations, schools and welfare agencies. There are plans to have a specific website of the Family Court and to produce a video on children’s issues in future.

15 *Outreach programmes.* The Family Court Conciliation and Resolution Centre (FAMCARE) of the Family Court regularly conducts talks at community agencies, welfare organisations, law enforcement agencies and schools to keep the public informed of the myriad services of the Family Court and to raise awareness on family issues.

16 *KIDS (Kids in Difficult Situation) Line.* An interactive CD-Rom for children will be launched early next year to assist children caught in the middle of their parents’ marital breakdown, family violence situations or other family disputes. This line provides information on how children can cope with their difficult situation and where and from whom they can seek help using interesting animation.

Procedural impediments

17 *Simplified procedures.* In order to enhance access to justice, it is imperative that processes be kept simple and inexpensive. In applications for maintenance orders and protection orders, a quasi-criminal procedure that is simple and straightforward is adopted. Under this procedure, standard forms are available for the application and they could be completed easily by applicants with the assistance of court staff. The court also undertakes the service of the applications. In the majority of cases, there is no legal representation as it is unnecessary. In addition, applicants need only pay a nominal fee of S\$1/- to lodge an application.

18 In cases for divorce, custody and matrimonial assets, plans are also underway to simplify and streamline the procedural rules. Plain English will replace legal jargons and archaic forms will be discarded in favour of straightforward and user-friendly forms. This will go a long way in assisting family disputants to better understand and follow the proceedings.

19 *Extended opening hours.* For the convenience of the public, the Family Registry is open after office hours on two nights a week to accept applications for maintenance orders and protection orders. Mediation for maintenance cases may also be conducted on these two nights to suit the hours of the parties.

20 *Applications for protection orders via live video-link.* The Family Court has harnessed technology to further enhance access to justice. Presently, the court is linked to a counselling agency in the community through video-conferencing facilities. Victims of family violence may file applications for protection orders through live video-link at the counselling agency without the need to travel physically to the court. There are plans to extend the linkage to more agencies in the near future to bring justice nearer to the home of the people¹³.

¹³ Applications for protection orders are made by affirming a complaint before a Magistrate. As the Singapore government plans to set up welfare agencies, which are known as Family Service Centres, all over the island, it will be more convenient for applicants to go to a nearby Family Service Centre to file applications.

Effective Determination Of Disputes

21 *Promotion of non-litigious processes.* In many family cases, the underlying conflicts could not be resolved by simply solving the legal issues. Parties often have to continue to deal with each other long after their case is concluded in court. It is therefore crucial for family disputes to be resolved completely and conclusively. Oftentimes, the underlying emotional conflicts between the parties must be addressed before there can be any true resolution of the disputes. Unfortunately, the adversarial nature of court hearing does not help in this aspect as it tends to exacerbate the disputes between the parties and fails to prepare the parties to cope with their future.

22 I have earlier alluded to the use of mediation and counselling in saving costs. The benefits of mediation and counselling extend beyond the saving of costs. Unlike litigation, mediation and counselling focus on interests rather than positions, emphasize consensus rather than contention and assist parties to prepare for the future rather than fight over the past. Hence, instead of gearing parties towards an open confrontation in court, court processes in the Family Court are designed to encourage parties to use mediation and counselling rather than litigation. In this way, the court promotes consensual outcomes and reduces the acrimony between the parties. Parties are also more likely to co-operate with each other to carry out orders which are mutually acceptable compared to orders imposed on them.

23 The Family Court is encouraged by the positive results of its mediation and counselling programme¹⁴. Currently, mediation and counselling are conducted only after cases have been commenced in court. In divorce proceedings, the court plans to introduce pre-filing information sessions which applicants have to attend before commencing action. During these sessions, the effects of divorce will be discussed and the possibility of reconciliation will be explored with parties. Mediation and counselling on the marital and children's issues will also be made available to parties. The aim is therefore to educate and to offer assistance to the parties as early as possible. In this way, salvageable marriages will stand a better chance of being saved

¹⁴ See note 11 above.

as professional help is rendered early. Even if a divorce is inevitable, the court's intervention at an earlier stage of proceedings can assist parties to better "manage" their divorce so that the attendant pain and suffering can be minimized.

24 *Plans to be filed with divorce petition.* It is the responsibility before commencing a divorce action for parties to consider the effect of the divorce on their children and how the children will be taken care of after the proceedings. In many cases, parties fail to address their mind on this issue. In addition, many parties also fail to consider how they will deal with their properties after the divorce. These issues are often left to be resolved only after the divorce proceedings have been commenced and as a result lead to prolonged court proceedings which are undesirable. In 1997, the court introduced the *Women's Charter (Parenting Plan) Rules* and a year later, the *Women's Charter (Matrimonial Property Plan) Rules*.

25 *Women's Charter (Parenting Plan) Rules.* These Rules compel parents to file parenting plans together with their divorce petitions. A parenting plan is a document that sets out the arrangements on the care and financial provisions of the children upon the dissolution of a marriage. The rationale of these Rules is to emphasize and reinforce a parent's responsibility to make adequate provisions for their children in the event of a marital breakdown.

26 *Women's Charter (Matrimonial Property Plan) Rules.* A great majority of Singaporeans live in flats built by the Housing and Development Board (HDB) and bought with their savings in the Central Provident Fund (CPF)¹⁵. The division of the flat has proven to be the most contentious issue in divorce cases as the high property price level in Singapore has often made the flat the single most valuable matrimonial asset for most couples. The housing authority and the Fund also have special rules concerning the disposal of the flats. The Rules compel the parties to obtain all relevant information on their matrimonial flat from the relevant bodies, before filing a divorce petition and to present their agreed or proposed plans on how the matrimonial

¹⁵ HDB is in charge of public housing in Singapore. CPF is a compulsory superannuation scheme administered by CPF Board. Every month, a portion of salary has to be deposited into the fund

flat should be dealt with upon divorce. The filing of such plans at the commencement of the divorce case allows the court to intervene earlier to assist parties to resolve this issue and hence reduce the acrimony between the parties.

27 *Court Appointed Counsel for children.* In high conflict family cases, the paramount concern is that court processes and the case outcome must be effective in safeguarding the welfare of children. Very often, in a fierce custody battle, the voice of a child is drowned amidst the allegations hurled by the parties against each other. All too often, the child becomes the innocent pawn in the parental tug-of-war and is torn between which parent to choose. To counter this, the Family Court introduced a Court Appointed Counsel scheme in July 1999. Under this scheme, the court will appoint an amicus curiae, who is well versed in family law matters, to interview the child to ascertain his views and other factors relevant to his well-being in appropriate high conflict custody cases¹⁶. Thereafter, the counsel will see both parties and act as a neutral moderator to assist parties to settle the custody issue. If the case goes to trial, the counsel will submit a report that highlights the child's wishes as well as all other relevant factors. This scheme gives cognizance to a child's right to be heard in a matter that affects his future and also reminds parents to consider seriously the interests of their child.

28 *Parenting orders and post custody review.* In addition to custody and access orders, the Family Court may also issue "parenting orders" in appropriate cases. These orders compel parents to attend parenting classes or long term counselling after the conclusion of the case. For example, where there are difficulties in carrying out an access order, the court may direct the parents to attend counselling to facilitate access. Failure to attend the classes or sessions ordered will result in the case being brought up for further review by the court.

and the amount may be withdrawn for certain approved purposes including the purchase of real properties.

¹⁶ A high conflict custody case includes cases where (i) there is an intractable conflict between the parents; (ii) there are allegations of child abuse; (iii) a child is alienated from one or both parents; and (iv) there are issues of cultural or religious differences affecting a child.

29 *Special Management for family violence.* Family violence cases are *sui generis* in that there is often a pronounced imbalance of power between the parties. Hence a specialized unit named the Family Protection Unit has been set up to manage such cases. The unit has drawn up a Family Violence Policy that sets out the court's protocol when dealing with family violence cases. The unit also houses a dedicated intake counter to receive applications for protection orders. At this counter, professional counsellors conduct intake counselling. Other than taking in applications for the purpose of commencing a court process, it also links the applicants to a complete range of services, *viz* free legal advice, free medical examination, referral to hospital, assistance to procure medical reports and referral to crisis shelters and welfare agencies in the community.

30 *Therapeutic Justice for family violence cases.* To ensure that the aggressors of family violence are rehabilitated and to reduce future commission of family violence, the Family Court may order an abuser and/or a victim to attend mandatory counselling presently conducted by the social service department of the government¹⁷. The Family Court is in the midst of expanding the scheme to set up specialized rehabilitative programmes for abusers and restorative or empowerment programmes for victims and children so that the programmes may be made to fit the specific needs of the cases.

Expeditious Disposition Of Cases

31 Justice delayed is justice denied. This saying takes on a particularly poignant significance in family cases. A prolonged and protracted suit involving family members is likely to have a deleterious effect on the whole family, especially the children who are caught between the warring parties. As such, the court has a duty to ensure that family cases are dealt with without delay, so that a measure of certainty and stability can be injected into the lives of the affected persons as practicable as possible.

¹⁷ See section 65(5)(c) *Women's Charter* (Cap 353).

32 Towards this end, the Family Court has institutionalized within its justice process a proactive case management system to enable cases to be concluded within acceptable time norms or timelines.

33 A *Differentiated Case Management* system has been established by the Family Court to manage family cases. Under this system, all cases filed in court are assigned a “case track” in accordance with the nature and complexity of the issues in dispute. The progress of the cases is then closely monitored by the court according to the timetable assigned to the case tracks. If parties fail to proceed with their cases in a timely manner, the court intervenes by conducting “status conferences” to give directions to parties to take the necessary steps to prosecute their cases. In contested cases, the court also conducts “pre-trial conferences” to refer parties to the appropriate dispute resolution process. Where cases cannot be settled, directions are given to ensure that cases are adequately and promptly prepared for trial.

34 With the robust implementation of the differentiated case management system, the Family Court is in a happy position whereby there is no backlog of cases and cases are fixed for hearing well within the target timelines. In fact, the court has even publicized the timelines or waiting period for all family cases in a document known as the “Court’s Charter”. This charter is a testimony of the court’s undertaking to the public that family disputes will be dealt with swiftly so that no unnecessary hardship is occasioned to families in distress as a result of delay in court proceedings.

35 *Conduct of Proceedings.* In addition, judges are expected to be vigilant in overseeing the pace and length of proceedings to ensure that the litigation is brought to a definite conclusion expeditiously.

THE CITIZENSHIP OF THE COMMUNITY IN THE FAMILY JUSTICE PROCESSES

36 The Family Court exists to serve the community. The Singapore Family Court has also sought to involve the community in its programmes so that the community may take ownership of the family justice system and processes. Its policy is to forge

strategic partnerships with professional organizations and welfare agencies to provide a complete range of services to families. This enables the court to tap on the rich sources of expertise and experience in the community. The following are examples of the community involvement :

- (1) the Legal Clinic set up in the Family Court's premises are operated by volunteer lawyers from the Law Society, the Singapore Association of Women Lawyers and the Legal Aid Bureau;
- (2) the Medical Clinic at the Family Court is run by volunteer doctors from the Singapore Association of Women Doctors and other volunteer doctors;
- (3) in addition to the court's in-house mediators and counsellors, the Family Court also enlist the assistance of volunteer mediators and counsellors to conduct mediation and counselling; these mediators and counsellors are qualified counsellors, lawyers, psychiatrists and social workers who are experienced in handling family matters;
- (4) a pool of lawyers also serve as *amicus curiae* or court appointed counsel in high conflict custody cases for a nominal fee of \$250.00 per case;
- (5) the court has direct links with family service centres which are voluntary welfare organisations for applications to be filed via live video link;
- (6) the court has direct links with hospitals whereby victims in family violence cases may be referred for expedited medical treatment and reporting;
- (7) the possibility of getting volunteer social workers to serve as support persons for victims in family violence cases is being explored; and
- (8) the setting up of contact centres is being studied together with welfare organizations.

37 The foregoing is a testimony of the immense assistance extended by the community to the Family Court. Without the unstinting support of these

organizations and volunteers, the Family Court will not be able to extend its services beyond addressing immediate legal concerns.

38 In addition to assisting the court to run various programmes, the community has also contributed much to the family justice processes by constantly giving feedback and suggestions to the court on possible improvements. The Family Court holds regular dialogue with the Law Society and various government departments and non-governmental organizations. Changes to the procedural rules¹⁸ are made and new Family Court programmes are introduced upon consultation with the Family Court constituents.

KEEPING PACE WITH THE COMMUNITY

39 As an institution that serves the community, the court must keep pace with changes to the community as society progresses and the economy matures. It is crucial for the judiciary to anticipate, manage and indeed lead change to administer justice effectively. In meeting future challenges, we have to realize that any stability achieved at present is no lasting guarantee and we must be receptive to changes and drive changes. Developments in technology, medicine, communications and other fields are rapidly altering the way people think, work and live. The changing needs of the people and greater expectations for services will challenge conventional assumptions and practices.

40 The Family Court has adopted a pro-change culture. The changes made to the case management system in recent years, such as the implementation of differentiated case management, and the introduction of mediation and counselling and other family court programmes, show vividly that the Family Court will not shy away from making changes where necessary.

¹⁸ For example, the Women's Charter (Matrimonial Property Plan) Rules were drafted with the input of the Law Society, Singapore Association of Women Lawyers, the Housing and Development Board (HDB) and the Central Provident Fund Board (CPF Board).

41 The Family Court is also concerned with strategic planning and has been developing annual workplans as part of the Subordinate Courts workplan to look ahead at programmes and initiatives to further enhance the quality of family justice.

CONCLUSION

42 The family is the basic unit of the society and strong families make a resilient society. The Singapore Family Court is committed to its mission to strengthen and protect the family units and their members. It will do so together with the other constituents of the family justice system and is confident that with their co-operation, family justice can be administered fairly, effectively and expeditiously, for the good of the entire community.

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