

THE CITIZENSHIP OF THE FAMILY JUSTICE PROCESS

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Good afternoon. It is my honour and privilege to address you from Singapore. I have a rather comprehensive paper or write-up but I will have to speak to the paper this afternoon.

Introduction

Demographic patterns are changing. Social patterns are redefined. Family values are assaulted. Sanctity of relationships which are duty-based have moved to sanctimonious rights-based relationships. This is the transactional and contextual environment of the Family Court and the family justice system. We have to meet the new challenges. There is synonymy of the public legal institution of the Family Court and the family justice system and processes. The question then is how does the court respond to or meet the increasing needs of families and the rising expectations of court users in a society that is changing at a more rapid pace than ever before. In other words, how does the court maximize the provision of services to families, given the reality that the resources at its disposal are finite?

Outline of presentation

I shall restate my appreciation of the goals of an ubiquitous family justice system. What do we really seek to achieve? I shall then look at how justice systems have sought to achieve their mission through the inter-play and juxtaposition of individualised and distributive justice. I shall then refer to the Singapore model of Collaborative Justice in the Citizenship of the Justice

Process. When I do so, I make no assumptions of its ubiquitousness and its universality. I only do so descriptively. I will take a look at the roles of family justice constituents and how the successful citizenship has produced numerous meaningful court programmes and services in Singapore and hence enhanced access to justice. I will mention the Family Justice Tableau, which is a significant symbol of the partnership of the court and all the stakeholders in administering family justice.

Goals of the family justice system

It is commonplace that the goal of the justice system is to uphold the law and administer justice. In upholding the law and administering justice in family proceedings, the aim is to ensure that family and marital rights and responsibilities are fulfilled and the psychological and physical well being of all family members are preserved and protected. Indeed, the focus of the Family Justice Model in Singapore is the protection of family obligations. In other words, the overarching goals of the family justice system are:

- (1) to preserve and protect the institution of marriage;
- (2) to promote an amicable resolution of family conflicts;
- (3) to promote and protect the welfare of children;
- (4) to promote and protect the safety of family member from family violence; and
- (5) to provide a fair and just means to determine family issues in a manner which meets the needs of the entire family.

Individualised and Distributive Justice

Family disputants seeking assistance or legal redress at the Family Court have a common need and therefore an ultimate goal: they are faced with a family dispute or problem, they require a decisive and durable solution to their problems, this solution must be attained with minimal cost and maximum

convenience. The process of arriving at the solution must be accepted as fair. The challenge for the justice system lies in not only securing the best possible outcome but equally in employing the most effective and efficacious means to do so.

Family disputes are *sui generis*. They involve complex and deep-seated inter-personal conflicts between the parties and defy a simple or straightforward solution. Whenever a family dispute arises, all requisite resources must be engaged to assist parties to not only deal with the immediate family disputes, but also to mend broken relationships. This is to enable the parties to return to a complete and healthy family. That is an ideal. The justice system too strives to attain the perfection of an *individualised justice system* whereby personalised and specialised attention is paid to each and every case that comes before the court to achieve a holistic and enduring resolution of the dispute.

However, individualised justice exerts a tremendous strain on the family justice system. It necessitates the commitment of a huge amount of resources to deal with each individual case, an amount that may be disproportionate to the entire caseload before the court. In a real world where limited public funds must be distributed amongst competing needs, a balance will have to be struck between individualised justice and the efficient and effective use of scarce public resources.

In the *distributive justice* model, the function of the courts is not only to decide cases according to the law and facts, but also to ensure that the limited resources of the family justice system are fairly distributed amongst all those seeking justice across the system. This justice philosophy brings to the administration of justice the practical considerations of cost-effectiveness and efficiency in the allocation of public resources.

In family proceedings, while all parties who come before the court expect a fair and final outcome, the means that are required to accomplish this task are by no means equal. Cases vary in the complexity of the facts and issues in contention, the nature of the relationship and the level of hostility and animosity between the parties. Different cases thus require a different degree of attention and assistance from the court. In a distributive justice system, the Family Court is called upon to evaluate each case to administer or use the most appropriate response, taking into account the availability of resources.

Singapore model: Citizenship of the justice system - a collaborative justice system

In family matters, a number of professionals play an important role in the justice process, ranging from judges, lawyers, mental health professionals, mediators and counsellors. All these professionals do not just influence the outcome of a dispute. They also have a profound effect on the justice process. They may all work together to alleviate the conflicts between the parties by building consensus or they may further aggravate the already fractured relationship between the parties.

There is therefore increasingly a dire need for all professionals, the direct justice constituents and other stakeholders in the justice process, to collaborate in the process to achieve a result that parties want and, more importantly, parties need. This collaborative approach entails a paradigm shift from an emphasis on the adversarial approach to one where all parties act in tandem to arrive at viable and durable solutions for the entire family. It also requires the court to expand its traditional role of adjudication, of passing judgments, to one where it takes charge of the entire justice process and gives

leadership in pulling together the issues, justice constituents and stakeholders and their helpers.

The Singapore Family Court has since its inception adopted *collaborative justice*, a multi-disciplinary approach in managing the cases and case processes. This entails a cooperative and coordinated collaboration of multi-disciplinary professionals to achieve the shared vision of upholding family law and administering justice. The Singapore model of collaborative justice brings together all the justice constituents and stakeholders in the *citizenship* of the justice process. This citizenship achieves both the practical ideal of individualised justice and the reality of distributive justice.

Individualised justice is achieved because through collaboration, synergies between the different help professions are optimised, leading to the creation of value-added services. There is a multiplier effect. The range of services and programmes that becomes available is broadened and the amount of resources at the disposal of the community is expertly multiplied. This translates to more services and programmes for court-users and the community. The Singapore Family Court becomes the strategic coordinator of the activities of the various justice constituents, with the efficient and effective use of resources across the justice system as the critical objective. All these achieve distributive justice.

The Justice Constituents

The family justice system does not only comprise the Family Court. The other constituents also play a crucial and indispensable role in the justice process. Our stakeholders and their roles are as follows:

- (i) *the Legislature and the Attorney General's Chambers;*
They take charge of the drafting and making of legislative provisions in family law, which are then to be interpreted and upheld by the court and the justice constituents.
- (ii) *the Executive;*
This includes the finance ministry (which determines the budget of the court and community services), the social service ministry (which takes overall charge of the operation of welfare programmes and services), the education ministry (which takes charge of the state's education policies and programmes), the health ministry (which oversees the work of the mental health professionals) and the police force (which enforces law and order and gives assistance to victims of family violence).
- (iii) *voluntary welfare organisations, NGOs and religious organisations;*
These organisations operate a range of welfare services that include marriage counselling, children's welfare programmes and programmes for family violence issues.
- (iv) *lawyers and associations representing the lawyers; and*
The role of lawyers in the justice process needs no elaboration.
- (v) *mass media and academia;*
They educate the public and lawyers on family values, familial rights and responsibilities.

The Family Court of Singapore

The Singapore Family Court, as a single organic unit, was established on 1 March 1995 as a specialized forum whereby family members may seek legal redress for all family related disputes. The Family Court is a unified court in that the management and determination of all family proceedings in

Singapore are centralized within this single forum. Its jurisdiction spans a wide spectrum of cases:

- (i) petitions for divorce, judicial separation and nullity;
- (ii) applications for guardianship, custody, care and control and access of children;
- (iii) applications for division of matrimonial assets;
- (iv) applications for protection orders;
- (v) applications for spousal and child maintenance;
- (vi) applications for enforcement of maintenance orders made by the courts and the Maintenance of Parents Tribunal;
- (vii) enforcement of maintenance orders made by foreign courts or tribunals;
- (viii) registration and enforcement of orders made by the Syariah Court; and
- (ix) adoption petitions.

In terms of caseload, the Family Court sees more than 14,000 cases a year and its work therefore affects some 28,000 parties, their children and other family members. These cases are managed by 9 judges and registrars, 9 court officers and 30 corporate support officers at the Registry.

In recognition that the court exists to provide a service to the public and therefore a customer-focused approach must be taken, the Family Court has also set up a Family Justice Centre, as the *service provider* arm of the court. This centre oversees and coordinates all court services and programmes for families and family disputants. It also undertakes primary research on the relevant trends and their impact on the family justice system and the programmes required. The centre comprises the court's in-house counsellors, mediators and researchers. To expand the services available to the community, it also establishes and maintains links with the justice constituents and

stakeholders and works in partnership with these agencies in the provision of services to the public.

The roles of the court

The court's traditional role has been that of an *adjudicator*. In this role, the court is expected to determine cases expeditiously and efficiently. Towards this end, the Singapore Family Court has implemented a Differentiated Case Management System to monitor and manage all cases from commencement to conclusion.

It is no longer sufficient for the court to only adjudicate cases. As an institution that serves the community, the court must keep abreast of changes to societal values, educational systems, aspirations of couples, the young ones and community as society progresses. It must keep pace with, and indeed, stay ahead of change. Otherwise, the court risks becoming irrelevant to those it seeks to serve. Hence, over and above providing just processes to decide cases, the court has to play a multitude of different roles, which are highlighted below.

As a Leader

The Singapore courts enjoy a high degree of respect amongst the population. Family disputants naturally prefer to approach the Family Court to address their family issues because of the clout and authority of the court and the trust reposed in it. Very often, when disputes arise that require the intervention of an external party, the court is the first port of call by parties. Hence, the court is well placed to take the lead in shaping the justice process.

In its role of a *leader*, the Family Court has adopted a pro-change organisational culture whereby futures studies to project emerging social trends and strategic planning exercises to chart the court's and the justice system's course of action are undertaken. Futures studies and strategic planning are not merely an academic exercise. They reap two tangible rewards for the community: (i) they enable the court to anticipate and therefore respond to the needs of families in the form of services offered to them; and (ii) they enable the court to shape the future where possible, by implementing programmes to attain the preferred future.

As an innovator

In managing and leading change, the Family Court also plays the role of an *innovator* of services and programmes for dysfunctional families and children. Strategic planning exercises arm the court with the requisite information to conceptualise, catalyse and operationalise innovative programmes and services that accord with the real needs of the parties and their children. In this way, court users and families gain access to concrete services and programmes, which are provided by the Family Justice Centre and the community.

As a service provider

I have earlier mentioned that the court is in the frontline of the delivery of services to families and children. For the convenience of persons requiring assistance or recourse to the law and the effective management of family conflicts, the Family Court has to function as a 'one-stop' *service provider* that houses a complete and comprehensive range of services. However, the court alone is not in a position to meet all the needs of the disputants and their families. Neither should the court be expected to shoulder the sole

responsibility of providing justice and services. Families exist in the community and justice is the 'business' of the entire community. The community thus has to play its part in providing a continuum of services and programmes to families and children, services that are seamless and streamlined.

As a Strategic Coordinator

When the Family Court initiates new programmes and services for the community, it invites the participation of community agencies. It then functions as a *strategic coordinator* of public resources. As the frontline help organisation with expertise in the various dispute resolution processes, it can accurately diagnose and assess the nature of the case and the parties before it and channel the case to the most appropriate programmes and services, bearing in mind resources are limited and have to be catered to meet the needs of all litigants.

As a Communicator

Finally, responding to the needs of the community in a society that does not remain static is a continual challenge. The court must play the role of a *communicator*. This involves a two way process whereby the court institutionalise a system of obtaining feedback from court-users and the community and at same time gives pertinent information to the community. In this way, the court plays the role of an educator; it influences society by reinforcing positive family values and desirable means of resolving family conflicts. At the same time, in communicating with the public, the court is giving accountability to the community for its performance in the administration of justice.

In the final analysis, the citizenship of the justice process is a marriage of all available resources to produce a result where more is offered to the community with less. Tapping community resources optimises the services that can be offered to the public. It avoids wasteful duplication of resources and maximises the allocation of resources so that each constituent focuses on delivering services in its area of expertise but in a coordinated fashion. This engenders ownership of all constituents in the justice process and yet ensures accountability. This is because while community resources may be used, the Family Court retains overall control over the services offered to ensure that consistently high standards of performance are maintained and that services are afforded to parties in a timely manner and with minimal costs.

Enhancing access to justice

The citizenship of the justice process has enabled the court to administer justice and to do so *efficiently* and *effectively* thereby enhancing access to justice. Access to justice in effect connotes access to the justice process. For justice to be truly accessible, multi-faceted family programmes and services, that are provided by multi-disciplinary professionals, have to be introduced, institutionalised and integrated into the justice process.

In Singapore, the successful marriage of community resources into the justice process has resulted in a multitude of programmes and services that can be offered to the community at no or little cost to the disputants. These programmes bear testimony to the successful partnership or citizenship of the various constituents in the family justice process. Some of the programmes and services are described below.

Family Court programmes

Mediation and counselling. The benefits of mediation and counselling need no elaboration. These processes are available at the Family Justice Centre to family disputants at absolutely no charge and can be accessed even before legal proceedings are commenced. In addition to court mediators and counsellors, mediators and counsellors in the community as well as volunteers are used. This enables the court to tap all available expertise and experience and at the same time, maintain control over the processes.

Court Appointed Counsel for 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. In appropriate high conflict custody cases, the court will appoint an amicus curiae right from pre-trial stages to ascertain his views and submit a report that highlights the child's wishes as well as all other relevant factors. The amicus curiae is appointed from a panel of experienced family lawyers. These lawyers are paid an honorarium of a nominal \$250 for each case.

Parenting orders and post custody review. In addition to custody and access orders, the Family Court also issues "parenting orders". Legislative parenting plans are in place to underpin this area. Parenting orders may require parents to undergo parenting classes or long term counselling. Such programmes are implemented by court counsellors but if long term follow up is necessary, these cases are referred to external counsellors.

Therapeutic justice in family violence cases. To deal with such cases more effectively, the Family Court has adopted a "Therapeutic Justice Model". The court will order parents to attend mandatory counselling on family violence situations. The Family Court has set up specialised rehabilitative

programmes for abusers and restorative or empowerment programmes for victims and children. Again, these programmes are run by counselling agencies in the community but the court oversees the efficacy of the programmes through case reviews.

Provision of comprehensive range of services

By casting the net wide to involve the community in the justice process, the Family Court is in a happy position whereby a comprehensive range of services is available to families.

Counselling services. The Family Court has set up a counselling service. Court counsellors conduct conciliation counselling in family cases and also take the lead in developing programmes for families and children. External counsellors can also be called upon to undertake counselling in cases referred by the court.

Family Protection Unit. A specialised unit has been set up to manage family violence cases. Professional counsellors conduct intake counselling and link the applicants to a complete range of services, viz free legal advice, free medical examination, referral to hospitals, crisis shelters and welfare agencies in the community.

Extended opening hours. To enhance access to justice, the Family Registry is open after office hours on two nights a week to accept applications for maintenance orders and protection orders. Similarly, mediation is conducted after office hours, for the convenience of working litigants.

Applications for protection orders via live video-link. The Family Court has harnessed technology to further enhance access to justice. The court is

linked to counselling agencies in the community through video-conferencing facilities. Victims can therefore file applications for protection orders through live videolink saving them a trip to Court.

Legal Clinic. The Family Justice Centre operates a Legal Clinic for the use of litigants who cannot afford legal counsel. The clinic is staffed by volunteer lawyers and is opened in the evenings. Given the adjudication function of the court, it would not be proper for the court to render legal advice. Without the assistance of these lawyers, it would not be possible for such a service to be available to court users.

Medical Clinic. The Family Court has also set up a medical clinic at its premises, which is operated by volunteer doctors. Victims of family violence are referred to the medical clinic for free medical examination.

KIDS (Kids in Difficult Situation) Line. The KIDS line is an interactive CD Rom which is specially produced by FAMCARE Unit to give information on divorces, separation and family violence to children between the ages of 7-10 years old. This is in addition to an I-house production on Family Violence.

Video-link trials. Where victims of family violence or children are required to testify in a trial, they can do so via live video-link. This will thus minimize the trauma of giving evidence in court. A volunteer social worker gives support during such trials.

Information pamphlets, publicity brochures and videos. Information leaflets on court processes and the court's services have been produced. These brochures are available not only at the court but also family service centres, police stations and law offices.

Outreach programmes. FAMCARE counsellors, together with volunteer counsellors and social workers regularly conducts talks at community agencies, welfare organizations, law enforcement agencies and schools to promote the myriad services of the Family Court and its Family Justice Centre.

Feedback to the court

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.

Dialogue sessions with Law Society and welfare agencies. The Family Court holds regular dialogue with the Law Society and various government departments and non-governmental organizations to obtain feedback and proposals for reform or improvements.

Teens forum. There are plans to develop a TEENS Line, akin to the KIDS line, to provide information via internet to older children. The schools have assisted the court to organize a TEENS forum whereby the court obtains the views of the teenagers themselves.

The Family Justice Tableau

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. The tableau is both a recognition of the contribution made to the family justice process by the constituents as well as a demonstration of the commitment by the constituents to uphold family justice.

Conclusion

The citizenship of the family justice system is a collaborative approach with all justice constituents to manage family justice imperatives and processes in Singapore. The Family Court and the Family Justice Centre take the driver's seat in steering the course of the justice system, but the justice system is collectively owned by the justice constituents. Together, all partners in the justice process will play their roles in concert to orchestrate a justice system that delivers meaningful access to justice across the community, with fair quality outcomes achieved through effective and inexpensive programmes.