

THERAPEUTIC JUSTICE: FOR PRACTITIONERS, BY PRACTITIONERS?

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I. Introduction

1 Therapeutic Justice (“TJ”) finds its roots in the field of therapeutic jurisprudence, which was pioneered by Wexler and Winick.² In therapeutic jurisprudence, focus is placed on the law’s impact on psychological and emotional well-being. The law is regarded as a social force capable of both influencing behaviours and producing outcomes.³ Put simply, therapeutic jurisprudence seeks to humanise the law and utilise it as a “therapeutic agent”.⁴

1 The article is written in the author’s personal capacity, and the opinions expressed in the article are entirely the author’s own views.

2 Barbara A Babb & David B Wexler, “Therapeutic Jurisprudence” in *Encyclopedia of Criminology and Criminal Justice* (Springer, 2014) at pp 5202–5204.

3 David B Wexler, “Therapeutic Jurisprudence: An Overview”, revised version of a public lecture at the Thomas Cooley Law Review Disabilities Law Symposium (29 October 1999).

4 *Law in a Therapeutic Key: Developments in Therapeutic Jurisprudence* (David B Wexler & Bruce J Winick eds) (Carolina Academic Press, 1996) at p xvii; David B Wexler, “Therapeutic Jurisprudence and the Culture of Critique” (1999) 10 *J Contemp Legal Issues* 263; David B Wexler, *Therapeutic Jurisprudence: The Law as a Therapeutic Agent* (Carolina Academic Press, 1990); David B Wexler, “How The Law Can Use What Works: A Therapeutic Jurisprudence Look at Recent Research in Rehabilitation” (1997) 15 *Behav Sci & L* 365 at 367.

2 The adoption of TJ as a “lens of care”⁵ is a recent wave that is sweeping through the local landscape on family law. This is evident from Chief Justice Sundaresh Menon’s observations at the Opening of the Legal Year 2021,⁶ and also the recent Court of Appeal judgment of *VDZ v VEA*⁷ (“VDZ”) where the court examined, in great detail, the application of therapeutic justice in divorce proceedings. The court concluded that “damage cannot be repaired (completely at least) by way of material recompense; healing needs to take place”.⁸ Such sentiments were expressly echoed by Debbie Ong J in the Family Justice Courts Workplan for 2020,⁹ where concrete directions were laid down for the adoption of TJ in the Family Justice Courts (“FJC”).

3 It is therefore patently clear that moving forward, the use of TJ in family law is here to stay. Given the legal profession’s famed (but possibly unfair) image as a Luddite,¹⁰ it is foreseeable that the adoption of TJ into family law may face resistance in some quarters. In order to meaningfully achieve TJ, however, the stakeholders of Singapore’s family justice system have to wholeheartedly contribute towards this goal. In particular, the family practitioners have an important role as they are usually the first points of contact that clients have. This first point of contact should not be underestimated and sets the tone for the client’s approach towards family disputes. An aggressive practitioner is likely to influence the client’s adversarial mindset, whereas an

5 David B Wexler, “Therapeutic Jurisprudence: An Overview”, revised version of a public lecture at the Thomas Cooley Law Review Disabilities Law Symposium (29 October 1999).

6 “Response by Chief Justice Sundaresh Menon, Opening of the Legal Year 2021” *Singapore Legal Service* at paras 39–40 <<https://www.lsc.gov.sg/publications/speeches>> (accessed 27 September 2021).

7 [2020] 2 SLR 858.

8 *VDZ v VEA* [2020] 2 SLR 858 at [77].

9 The workplan’s theme was aptly, “Today is a New Day!”: Justice Debbie Ong, “Family Justice Courts Workplan 2020: Today is a New Day” *Family Justice Courts* (21 May 2020) <https://www.familyjusticecourts.gov.sg/docs/default-source/news-and-events/2020_pj_address_workplan.pdf> (accessed 16 September 2021).

10 “Overcoming Lawyer’s Resistance to Change” <<https://legal.thomsonreuters.com/en/insights/articles/overcoming-lawyers-resistance-to-change>> *Thomson Reuters* (accessed 10 October 2021); Aaron Yoong, “Zooming Into A New Age of Court Proceedings: Perspectives from the Court, Counsel and Witnesses” [2020] *SAL Prac* 19 at para 1.

empathetic practitioner is likely to focus on the client's emotional and mental well-being while addressing their legal needs.

4 Seen in this light, it is clear that a TJ-oriented practitioner can make a meaningful difference in the initial stages of a client's decision-making process, which may then affect the entire conduct of the family dispute. In this article, the authors argue that TJ is the natural next step in the development of the family justice system and should not be shied away from. The article then explores certain areas in which family practitioners can equip themselves for the foreseeable future. Finally, several aspects that a TJ system may aspire towards are suggested. In writing this article, the views of several family practitioners were sought, and it is hoped that this conversation on TJ will continue to expand and be built upon.

II. A system refined

5 As a start, although TJ is part of the "new vision" of the FJC, the core concepts espoused are far from alien or foreign to the family law landscape. It is submitted that Singapore's family justice system has long adopted a problem-solving approach, implicitly putting into practice the therapeutic and non-therapeutic approaches of TJ. As Menon CJ most recently observed, TJ "represents a natural evolution following the earlier waves of family reform".¹¹

6 The foundations for the implementation of TJ have been put in place in almost all aspects of the family justice system. For instance, from a fundamental structural point of view, the recognition of the law's impact on individuals' well-being is found in the setting up of the FJC itself. The following comments by Minister for Law K Shanmugam in the Second Reading of the Family Justice Bill¹² bear out this point:

11 Sundaresh Menon CJ, "From Family Law to Family Justice", keynote address at *The Law Society Family Conference 2020* (14 September 2020) at para 35.

12 *Parliamentary Debates, Official Report* (4 August 2014), vol 92 at pp 24-27 (K Shanmugam, Minister for Law).

... First, provide better support for families to resolve disputes. This is to be achieved through *a robust and integrated network of assistance and support for families, leveraging on existing community touch points and strengthening the capabilities of our Family Service Centres.*

...

... the Bill gives the Family Justice Courts new powers. It empowers the courts to order parties to *undergo mediation or counselling, or to participate in a family support programme or activity* as the court may direct.

In proceedings involving the custody or welfare of a child or involving any person, the Bill also allows the Family Justice Courts to, where necessary, *appoint a registered medical practitioner or psychologist or counsellor or social worker or mental health professional* to examine and assess the child or person so as to prepare expert evidence for those proceedings.

...

We cannot always prevent marriages from breaking down or families from getting into disputes. However, what we can do is to help families resolve their issues, either by mending the relationship, or if that is not possible, by helping them move on with their lives.

[emphasis added]

7 Similarly, the Singapore courts have also arguably long recognised the value of a TJ approach, and the importance of the human and social elements therein. Examples of this range from the recognition that the parent-child relationship consists of a “complex and interlocking web of rights, duties, responsibilities and expectations which parents bear in relation to *each other*, in relation to *the child* and in relation to *society at large*”¹³ [emphasis added] to a judge-led inquisitorial approach for the benefit of children involved in disputes.¹⁴ In *TAU v TAT*,¹⁵ the court also made extensive reference to *social science* and family law experts, empirical studies and various other research.¹⁶ While the court did emphasise that the studies’ findings should not be “used

13 *AZZ v BAA* [2016] SGHC 44 at [28(b)].

14 *AZB v AZC* [2016] SGHCF 1 at [23]; *ZO v ZP* [2011] 3 SLR 647 at [16].

15 [2018] 5 SLR 1089.

16 *TAU v TAT* [2018] 5 SLR 108 at [15]–[18].

to dictate any specific outcome”, it amply demonstrates a keen awareness of the inter-disciplinary approach to family law – something advocated for in TJ.

8 Finally, as noted above, these pronouncements culminated recently with the explicit recognition of TJ in *VDZ*. What is crucial, however, is that the Court of Appeal appeared to regard the “essence” of TJ as already being within the family justice system, noting at [75]:

... the family justice system is one that – despite the parties’ problems with each other (both emotional and otherwise) – is intended to aid the parties (and their children) to achieve as much healing in all its variegated aspects as is possible in order that they move forward as positively as possible with their lives. This is the essence of what the Presiding Judge of the Family Justice Courts, Debbie Ong J, has described as ‘Therapeutic Justice’ (‘TJ’) (see Debbie Ong J, ‘Today is A New Day’, speech at the Family Justice Courts Workplan Speech 2020 (21 May 2020) (‘*Speech*’)). Put simply, it is a *non*-adversarial system that is ‘*problem solving*’ (see *Speech* at para 33). It is a process which is such that ‘the entire journey should allow the healing, restoring and recasting of a positive future. It should allow parties time to grieve over the loss of the marriage and be supported through this’ (see *Speech* at [39]). ... [emphasis in original]

9 In fact, it is arguable that this moralistic aspect of family law has been incorporated in the Women’s Charter¹⁷ since its inception. As Prof Leong Wai Kum has continually emphasised, “marriage as the equal co-operative partnership of different efforts for mutual benefit sets legal regulation of spouses upon a sound moral basis”.¹⁸ Section 46(1) of the Women’s Charter governs the rights and duties of spouses and exhorts them to “co-operate with each other in safeguarding the interests of the union and in caring and providing for the children”. The legislation specifically provides for legal obligations that bind parties who voluntarily subject themselves to the institution of marriage to treat each other and any children of the marriage with a degree of care.

17 Cap 353, 2009 Rev Ed.

18 Leong Wai Kum, *Elements of Family Law in Singapore* (LexisNexis, 3rd Ed, 2018) at para 3.034.

10 These aforementioned aspects of the family justice system would be intimately familiar to most family practitioners. Adopting a lens of care for the future should therefore not come as too much of a shock, or a new change to be assiduously avoided. Instead, TJ should be seen as *refining* the present system on two levels: first, to consolidate all previous practices and systems under a single lens to ensure that there is in place a unified approach moving forward; and second, to encourage more involvement by all stakeholders to participate in humanising the law to a greater degree. It is this participation by practitioners that the subsequent sections will focus on.

III. How family practitioners can equip themselves

11 Amongst practitioners, there is a concern that the adoption of TJ might result in deleterious effects on profits, procedures and practice as a whole. Some practitioners have thus expressed worries about the emerging TJ trends, especially in this current economic environment affected by the COVID-19 pandemic.¹⁹ The authors suggest, however, that far from affecting business negatively, TJ can be utilised to effectively boost current practice. As aptly mentioned in *VDZ*, “parties should not think that the lawyers’ fees are only for litigation services; instead, a family lawyer who helps parties avoid litigation and reach a harmonious outcome, are giving them the invaluable services that they need most”.²⁰ To do so, however, practitioners need to prepare for the incoming TJ wave in a number of ways.

A. Therapeutic justice-related obligations and duties

12 First, practitioners will have to be aware of their TJ-related obligations under the relevant legislation as these will understandably gain significance. In 2018, the Legal Profession (Professional Conduct) Rules 2015²¹ (“Legal Profession

19 “Rajan Chettiar on Revenue in Family Law” *Singapore Academy of Law* (7 December 2020) <<https://www.sal.org.sg/blog/2020-rajan-chettiar>> (accessed 27 September 2021).

20 *VDZ v VEA* [2020] 2 SLR 858 at [75].

21 S 706/2015.

(Professional Conduct) Rules”) was amended to include new ethical obligations for family practitioners pursuant to Rules 15A and 15B. These amendments specifically govern the family law profession and generally provide that: (a) the client has to be informed of all available dispute resolution options;²² (b) the client should be advised to consider resolving proceedings amicably;²³ (c) the client should be advised to act constructively and reasonably in proceedings;²⁴ and (d) where there is a child involved in proceedings, the client should be advised to consider the welfare of the child above other matters.²⁵

13 While it is easy to understand the substance of these rules, they need to be translated into practical actions that benefit the problem-solving process. In order to demonstrate to clients that a firm is committed to such ethical rules, firms should begin exploring the idea of developing a useful and constructive code of conduct in handling family clients. The Legal Profession (Professional Conduct) Rules are a good start to begin shaping these codes. A useful resource would also be the *Art of Family Lawyering*,²⁶ which provides best practice tips for family practitioners in today’s TJ-oriented practice.

14 In this connection, soft skills such as client management and counselling come to the forefront. When managing an emotional client who is solely focused on advancing his legal rights, it is conceivable that a family practitioner could lose sight of the goal of the problem-solving process as the client measures “success” with winning in an adversarial context and imposes this measurement of “success” on the attending family practitioner. This contrasts with the goal of TJ, which is to help clients move on and reorganise their lives in a manner that allows the individual and family to heal. Healing comes in many forms, most fundamentally a party being able to accept the marital breakdown and move on with his life. Such closure would then hopefully pave the way for co-parenting and the amicable

22 Legal Profession (Professional Conduct) Rules 2015 (S 706/2015) r 15A(2)(a).

23 Legal Profession (Professional Conduct) Rules 2015 (S 706/2015) r 15A(2)(b).

24 Legal Profession (Professional Conduct) Rules 2015 (S 706/2015) r 15A(2)(c).

25 Legal Profession (Professional Conduct) Rules 2015 (S 706/2015) r 15A(3).

26 Alvin Chen gen ed (Law Society of Singapore, special edition, 2019).

reorganisation of assets and financial obligations after the breakdown of the marriage. Considering that TJ in the Singapore context is still in its infancy, qualitative research and longitudinal studies would eventually be needed to assess the impact of the TJ measures and how effective they are at achieving “healing”.

15 Helping the clients preliminarily process emotional issues from the marital breakdown is useful when guiding them to seek the psychological help they may need. Some clients may not have the requisite level of self-awareness or may not realise they need professional help.²⁷ Faced with this situation, the family practitioner who has a certain degree of training in the social sciences plays a crucial role in identifying such clients and referring them to the relevant therapeutic avenues. If these emotional issues are left unresolved, the clients may use the litigation process to vent their emotions and vex the other party.²⁸ De-escalating these emotional issues from the outset will hopefully change for the better the course and outcome of the proceedings for that particular family.

16 Given the evolving landscape of family justice, family practitioners will also need to familiarise themselves with new initiatives and keep up to date with new developments in the rules.²⁹ For example, the Family Justice Rules 2014³⁰ (“Family Justice Rules”) and Family Justice Courts Practice Directions 2014³¹ (“Family Justice Courts Practice Directions”) were recently amended in 2020 to include a parenting co-ordination programme, which is a family support initiative that assists spouses in addressing parental issues where there are child custody proceedings afoot.³² A court-appointed parenting co-ordinator

27 Katherine Walsh, *Grief and Loss: Theories and Skills for the Helping Professions* (Pearson, 2nd Ed, 2012) at pp 9, 10, 11 and 18.

28 *VGY v VGZ* [2020] SGHCF 6 at [16].

29 Justice Debbie Ong, “Family Justice Courts Workplan 2020: Today is a New Day”, *Family Justice Courts* (21 May 2020) at paras 96–97 <https://www.familyjusticecourts.gov.sg/docs/default-source/news-and-events/2020_pj_address_workplan.pdf> (accessed 27 September 2021).

30 Family Justice Rules 2014 (S 813/2014) Part 4, Division 1A.

31 Family Justice Courts Practice Directions 2014 as amended by Amendment No 2 of 2020.

32 Family Justice Rules 2014 (S 813/2014) rr 34A and 34C.

facilitates conflict resolution between the spouses and guides them in arriving at and/or implementing arrangements focused on the needs of the children.³³ Ideally, the introduction of the parenting co-ordination programme would minimise access compliance issues and access variation applications when utilised in the right cases.

B. Mediation and other forms of dispute resolution

17 Second, a practitioner ought to be equipped with a comprehensive understanding of mediation as an alternative dispute resolution process. The process of mediation is well suited to help clients with family disputes, as it is a useful means to open channels of communications and build bridges between the parties. This characteristic of mediation is especially relevant for parties with a child who is involved in the dispute. Maintaining a co-operative relationship will enable the parties to continue exercising joint parental responsibility and co-parenting their child. Co-parenting has been widely advocated to have a positive effect on a child's development and well-being.³⁴

18 In laying down the groundwork for TJ, mediation has been made mandatory for applicable divorcing parties pursuant to s 50(3A) of the Women's Charter. Mandatory mediation occurs after the divorce writ and the relevant endorsements have been filed. It was implemented in phases, with the first phase commencing in September 2011 for divorcing parents with children younger than eight years old and the second phase in July 2013 for divorcing parents with children younger than 14. The current phase that has been in place since 2014 makes mediation mandatory for divorcing parties with children younger than 21.³⁵ This age range is consistent with the definition of a "child" under Part X of the Women's Charter that applies to divorce proceedings.³⁶

33 See further resources on the Family Justice Courts' official website: <<https://www.familyjusticecourts.gov.sg/support-network/parenting-coordination>> (accessed 27 September 2021).

34 *TAU v TAT* [2018] 5 SLR 1089 at [33].

35 Family Justice Courts Practice Directions (2014) para 12(1).

36 Women's Charter (Cap 353, 2009 Rev Ed) s 122.

19 Family practitioners are generally expected to advise their clients to consider mediation at the earliest possible stage.³⁷ In a TJ-oriented family justice system, it is foreseeable that mediation and family practice will be expected to work hand in hand, to a far greater extent than was expected in the past. What family practitioners may consider is to urge clients to attempt mediation before applying to the courts for relief. Another form of alternative dispute resolution process available is the Collaborative Family Practice (“CFP”) which provides a structured framework for the parties to negotiate with the help of their CFP legal representatives. By having the parties’ initial legal contact be in a non-adversarial setting, the sting of being a litigant in a lawsuit and having to review allegations in court documents is removed. This may lead to the parties coming to the table with more constructive attitudes, as opposed to negotiating after the divorce writ has already been filed. Such early legal intervention would also minimise the likelihood of the parties adopting a “sunk cost” mentality, where they expect legal outcomes due to the legal fees and other expenses that have already been incurred for initiating court proceedings.³⁸ While there are parties that may have to rely on the mandatory mediation process in the courts after the filing of the divorce writ, this does not preclude them from benefiting from the process as long as they have lawyers who are able to advise them constructively and advance the mediation.

20 Substantively, not only is having a comprehensive understanding of mediation in line with the ethical framework for family practitioners set out in the Legal Profession (Professional Conduct) Rules, it further allows the practitioner to be a more constructive mediation advocate. Family lawyers play a big role in the success of mediation, given that they conduct prior reality-testing with the client, provide legal advice, and encourage the client to be open-minded and co-operative during the mediation. In the light of this, family practitioners who are familiar with

37 Family Justice Courts Practice Directions (2014) para 11(1A).

38 Angelina Hing, “Making Divorces in Singapore Less Acrimonious”, *TODAY* (28 August 2020).

mediation will be able to guide clients positively and ensure that the mediation progresses effectively.

21 Mediation practices, where implemented properly, can work to the advantage of the law firm. This was noted by Rajan Chettiar in his recent interview with the Singapore Academy of Law where he mentioned that in his practice, there had not been “a significant drop in revenue because of the shift away from acrimonious divorces”.³⁹ Being in the ready position of a mediation advocate and providing mediation services for clients will likely be the new norm for family practitioners who intend to stay in the industry in the long run.

22 While it is acknowledged that mediation may not be appropriate for all cases,⁴⁰ it is clear from the available statistics that mandatory mediation that occurs as part of the court process after the divorce writ has been filed has achieved positive results. Between 2015 and 2018, the number of divorce cases that had full or partial settlement increased from 80% to 86%.⁴¹ This paves the way for mediation to be included in family disputes to as large an extent as possible.

C. Interdisciplinary measures

23 Third, practitioners will have to appreciate the interdisciplinary nature of family disputes. There may be some inclined towards the view that issues involving psychological and emotional well-being should be left to professional counsellors or psychologists, leaving lawyers to grapple with issues solely legal in nature. It is acknowledged that there are certain benefits to this – for one, lawyers may save on time costs by not having parties vent their issues to them. This, however, would in the authors’ view undercut the very purpose of TJ.

39 “Rajan Chettiar on Revenue in Family Law” *Singapore Academy of Law* (7 December 2020).

40 “District Judge Lim Choi Ming, Ms Angelina Hing on Mediation and Mindful Advocacy in Divorce Proceedings” *Singapore Academy of Law* (2 December 2020) <<https://www.sal.org.sg/blog/2020-meditation-mindful-advocacy>> (accessed 27 September 2021).

41 Justice Debbie Ong, “Supporting, Healing and Reconstructing”, keynote address at the Family Conference 2019 (3 July 2019) at para 21.

24 Family law *inherently* has a human element. It is precisely because parties can no longer work together as a functioning unit to resolve their personal issues that the courts have to step in and intervene. The sensitivities that family practitioners have to manage are vastly different from those in a commercial matter, where what is at stake is likely to have a keen focus on dollars and cents. In a family dispute, the parties have to continue to be in their children's lives even after the breakdown of their personal relationship. Certain considerations such as having been cheated on, not being able to bond with one's child to the extent that one would like and being unable to secure financial resources for one's daily expenses may cause a party to become emotionally insecure and lose sight of the family's well-being as a whole.

25 It is for these very same considerations that lawyers who may end up representing the parties in court should also be involved in negotiations and mediations. Strategically, it is also beneficial for counsel to be involved at all stages as the process provides valuable insights for lawyers and helps them build rapport with clients. Further, any legal advice or steps should necessarily be informed by proper knowledge of the well-being of the clients, which can only be gotten if the lawyers are personally involved.

26 In the light of this, family practitioners are encouraged to equip themselves with some basic knowledge in other social science disciplines such as counselling and psychology. While family practitioners are neither social workers nor counsellors, such basic skills would allow them to identify root issues faced by the client and offer more practical advice and counsel. Some parties do require therapeutic intervention to help them increase their self-awareness and process their emotions. If family practitioners are trained to spot this at the outset, they will be able to proactively guide parties to obtain the help they need. Once the parties' emotions have been dealt with, they will hopefully be able to act more rationally in mediation and/or court proceedings and focus on what is in the best interests of the family. Such an attitude would generally allow the litigants to view the other party in a more objective light and make for less acrimonious solutions.

27 Having an elementary set of social science skills would also allow the family practitioner to better collaborate with other social science professionals whom they may encounter in the court process. With the move towards TJ, it is likely that family practitioners will have increased collaboration with counsellors, psychologists and psychiatrists. For example, there is a pilot scheme being launched by the FJC with regard to forming a multi-disciplinary docketed team to handle selected high conflict divorces.⁴² This scheme will be reviewed in order to see how its beneficial aspects may be applied more broadly in the FJC.⁴³ The family practitioner will be able to better understand the separate roles of each of the professionals and the value-add that they bring to the table. This is important as the family practitioner may then augment the process rather than act in a counterproductive way that is fixated on protecting the client's rights in an adversarial litigation.

28 Social science skills are not only important when it comes to handling the client at the start of and during the divorce process, they are also useful at the tail end of proceedings. Some extremely acrimonious parties may become so consumed by litigation that it becomes a norm to them. Helping a party gain closure and accept legal outcomes may shorten the litigation process and minimise the number of appeals filed against court orders. Nonetheless, there could be situations where adopting a therapeutic approach towards certain clients may cause them to search for more aggressive practitioners to represent them. In such situations, the judge may have to take on a more proactive case management role to send the appropriate signals to the parties.

42 Justice Debbie Ong, "Family Justice Courts Workplan 2020: Today is a New Day" Family Justice Courts (21 May 2020) at paras 85–86 <https://www.familyjusticcourts.gov.sg/docs/default-source/news-and-events/2020_pj_address_workplan.pdf> (accessed 27 September 2021).

43 Theresa Tan, "Multi-disciplinary Team to Handle 'High Conflict' Divorces" *The Straits Times* (20 July 2020).

IV. What therapeutic justice may aspire towards

29 Going beyond preparations for TJ, it is hoped that a refined system of family justice takes the opportunity to introduce changes to both the “hardware” and “software” of the current system. For instance, refinements can be made to the judge-led approach, which was first introduced in the Family Justice Rules. In tandem with this, the Family Justice Courts Practice Directions provided parameters for a case management philosophy within the framework of the judge-led approach and different case tracks for assignment.⁴⁴ Currently within the FJC, selected cases are docketed to an assigned judge to manage,⁴⁵ which naturally leads to the docketed judge having a thorough understanding of the specific case and the family dynamics involved. This allows the judge to better identify the relevant issues in a case and keep track of the evidence that has been adduced in proceedings.

30 This approach may be extended and exercised in a myriad of ways during the case management stage. For example, the judge may try to reduce acrimony by restricting the number of affidavits filed and limiting the length of any written submissions.⁴⁶ This would cut down on the number of written allegations exchanged and allow the parties to focus on the key issues. Processes such as discovery may also be streamlined during case management, as judges have the power to direct that parties adduce relevant evidence⁴⁷ and that parties’ positions be exchanged by way of softcopy tables instead of reply affidavits and written submissions.⁴⁸

31 The FJC is also currently working on streamlining various procedures such as consolidating originating processes into a single standardised claim form,⁴⁹ enhancing the compliance of

44 Family Justice Courts Practice Directions (2014) at paras 6(2) and 6(5).

45 Family Justice Courts Practice Directions (2014) at para 6(7).

46 Family Justice Rules 2014 (S 813/2014) rr 22(3)(d) and 22(3)(i).

47 Family Justice Rules 2014 (S 813/2014) r 22(3)(b).

48 Family Justice Rules 2014 (S 813/2014) r 22(2).

49 Sundaresh Menon CJ, “From Family Law to Family Justice”, keynote address at The Law Society Family Conference 2020 (14 September 2020) at para 40.

child access orders⁵⁰ and facilitating the application for interim relief once a divorce suit has been commenced. For matters such as interim maintenance, standardised templates covering key monthly expense items and supporting documentation simplify the process and allow the parties to exchange evidence in a more concise and time-saving manner.

32 The family justice system aspires to achieve the best possible state of affairs for the child, taking into consideration the realities of the breakdown of the marital relationship.⁵¹ A way of promoting this is for judges to consider taking on a proactive role when meeting the parties and/or the children to determine what is in the children's best interests.⁵² The judge directly exhorting the parties in court has an impact that cannot be replicated by the family practitioners reporting the court's message back to the client. Similarly, an effective interview with the child would likely provide more valuable insight into the child's perspective than the polarising content in the parties' affidavits on the matter.

33 Additionally, there is much merit in future-proofing the family justice system. With the onset of the COVID-19 pandemic, it has become apparent that technology can and should play a massive role in the implementation of justice. For instance, the FJC has implemented measures such as the creation of "Zoom rooms" to assist individuals with online hearings.⁵³ Moving forward, it should be explored how such technology can be leveraged and expanded on, for instance in aid of cross-border family disputes.

50 Justice Debbie Ong, "Family Justice Courts Workplan 2020: Today is a New Day" *Family Justice Courts* (21 May 2020) at para 97 <https://www.familyjusticecourts.gov.sg/docs/default-source/news-and-events/2020_pj_address_workplan.pdf> (accessed 27 September 2021).

51 *TAU v TAT* [2018] 5 SLR 1089 at [12].

52 Family Justice Rules 2014 (S 813/2014) r 22(2).

53 Family Justice Courts, "Frequently Asked Questions on Family Justice Courts' Matters in the Immediate Post "Circuit Breaker" Period (From 2 June 2020)" (25 August 2020) <<https://www.familyjusticecourts.gov.sg/covid-19/faqs>> (accessed 27 September 2021).

34 It is equally important to focus on developing the software required by practitioners. As part of training TJ-oriented family practitioners, the Family Therapeutic Justice Certification Programme will be launched later this month. The Family Specialist Accreditation Scheme will follow thereafter.⁵⁴ It is hoped that the training will feature multi-disciplinary elements and produce a set of family practitioners whose practice philosophies are aligned with the FJC. Incorporating TJ into all levels of legal advice and client management would go a long way towards achieving a more holistic state of affairs for the family. Once the framework of care is in place, it will be easier to guide the client in a more conciliatory direction and persuade him to adopt amicable solutions.

35 In this connection, universities should aim to include a greater variety of cross-disciplinary courses to expand students' horizons. Similar schemes have long been implemented, for instance, in the Singapore Management University where students at present are required to undertake non-law modules from a "core curriculum" comprising "capabilities", "communities" and "civilisations" clusters that include modules such as "technology and society" and "managing".

36 The third law school at the Singapore University of Social Sciences was also set up with a focus on family and criminal law and to emphasise the interdisciplinary learning between law and the social sciences. Law students have to take a compulsory interdisciplinary course called "Introduction to Social Services" on the foundational blocks of the social work profession in Singapore. Mediation advocacy and legal clerkship modules are also part of the current curriculum. These courses aim to train students to apply holistic solutions to the issues faced by a family client.

37 Such courses introduced in the universities are an encouraging starting point as they indubitably build an effective

54 Justice Debbie Ong, "Family Justice Courts Workplan 2020: Today is a New Day" *Family Justice Courts* (21 May 2020) at para 103 <https://www.familyjusticcourts.gov.sg/docs/default-source/news-and-events/2020_pj_address_workplan.pdf> (accessed 27 September 2021).

foundation, allowing students to contribute towards the TJ sphere down the road. Moving forward, a more targeted approach can be adopted to provide for electives that complement the family law curriculum to ensure that students have early contact with the nature of Singapore's family justice system. Students should have the platform to explore the type of values they wish to believe in, which will shape the type of family practitioners they become. An understanding of the interdisciplinary nature of family law will undoubtedly contribute towards nurturing caring and holistic family practitioners who are able to solve problems with social science professionals.

V. Conclusion

38 In the light of the above, it is clear that the winds of change have begun to blow in the family justice system. The practice of family law is looking to become a more therapeutic one, where practitioners are able to tackle problems in a manner that is consistent with healing and promoting the family's best interests. Lawyers have to adapt in these changing times to ensure the sustainability of their practice. It is hoped that there will soon be an end to the days where a party could abuse the litigation process as a means to torment the other party. The introduction of the various forms of family law certification will also go towards ensuring that lawyers who do choose to focus on family practice are able to do so in a manner consistent with TJ.

39 The family practitioners who will be sought after are the ones who are able to advise clients constructively and arrive at holistic solutions which address the family's needs. Such legal service is beneficial to clients in the long run, as they are able to exit the marriage in a dignified manner and with as many relationships intact as possible. The client will also in certain instances enjoy savings in terms of cost, time and emotions, the latter two which may be considered extremely valuable to certain parties. These changes are ultimately for the good of the clients and the social fabric of Singapore as a whole. Family practitioners should not hesitate to jump aboard the TJ ship and head in the direction set by the FJC. This is an encouragement that will hopefully transform the family justice system into

one with a lasting impact that benefits all who come in contact with it.