

# OPENING OF THE FAMILY JUSTICE COURTS

1 October 2014

1. Thank you for being with us today to mark the opening of the Family Justice Courts. This is a historic moment because today we witness the birth of a new judicial institution. It is an institution of critical importance serving to administer justice to families in distress, and, as I noted at my Welcome Reference in January last year, this is an area of direct and enduring interest to all Singaporeans.

## ***Introduction to the family justice reforms***

2. Families and youth are the foundation and the future of our society. Every family dispute is traumatic for members of the affected family. Moreover, family dysfunction brings in its wake a slew of other actual and potential problems. In this setting, the courts play a pivotal role: resolving disputes, redressing wrongs and restoring the balance, so that dysfunction can be displaced by a focus on constructive problem solving. In 2013, the Family and Juvenile Justice Division of the State Courts dealt with almost 24,000 cases. This is symptomatic of the erosion of the family unit, and it is in keeping with a wider global phenomenon that has resulted in greater pressure on courts everywhere that deal with family cases.

3. But we must keep pace with society's changing complexion and needs. Recognising this, the Minister for Law and I asked Senior Minister of State for

Law Indranee Rajah and then Justice VK Rajah, when he was a Judge of Appeal of the Supreme Court, to co-chair the Committee for Family Justice. When Justice Rajah stepped down from the Bench to become the Attorney-General, Justice Andrew Phang took his place on the Committee.

4. The Committee comprised judges from the Supreme Court and the State Courts, representatives from the Ministry of Law and Ministry of Social and Family Development, family law practitioners and academics. It was in every sense a collaborative effort of multiple agencies and stakeholder groups and its mandate was to isolate the gravest concerns and issues in this vital area and then not to confine themselves to tinkering at the edges but to be bold in imagining and devising solutions that would make a real difference.

5. I am deeply grateful to the co-chairs and to each member of the Committee as well as all the others who have helped in this effort for the diligence, care and thoughtfulness with which they undertook and completed the Report. Thank you! I also want to take this opportunity to express my sincere and heartfelt appreciation to a group of unsung heroes. These are the judicial officers and the administrative staff of the Family Courts who over the last two years have done a stellar job of staffing the reforms, preparing for the changes, looking ahead to what more needs to be done and all of this while, discharging their full-time day jobs of carrying out the ongoing work before the courts. It must from time to time have felt that the pressure was too much. Believe me when I say that the benefits that your work will bring to Singaporeans are greatly appreciated and I personally am very grateful to each of you.

6. The Committee undertook a careful study of the existing system, made a number of study trips and exchanged views with other courts and agencies around the world engaged in family justice reform, and also had extensive consultations with stakeholders and the public in Singapore. This effort has resulted in a broad range of recommendations that we are certain will put family justice on a sound footing for the future. The recommendations, which have been accepted by the Government, are comprehensive and aim to provide better support for families through a robust and integrated network. A specialist court structure, which is at the core of the recommendations, was subsequently established by the passing of the Family Justice Act.

### ***The Family Justice Courts***

7. The Family Justice Act enables us to effect important structural changes in the courts that deal with family cases.

8. First, the State Courts' Family and Juvenile Justice Division will become the Family Courts and Youth Courts. These courts, together with the new Family Division of the High Court, will be brought together in one administration under a Presiding Judge, who will be a Judge or Judicial Commissioner of the Supreme Court. This reflects our conviction that family justice is a specialist discipline that requires specific attention and jurisprudential development. It is my pleasure to congratulate Judicial Commissioner Valerie Thean who was sworn in as judicial commissioner yesterday and appointed today as the first Presiding Judge of the

Family Justice Courts. The Family Division of the High Court will be further enriched when Assoc Professor Debbie Ong comes onto the Bench in November following a highly distinguished career as a family justice academic.

9. The Family Courts will, in general be the court of first instance in the great majority of family cases. Parties may apply for cases to be transferred to the Family Division of the High Court where there are issues of complexity or if the jurisdictional basis of the High Court is required for enforcement purposes. As for the Juvenile Court, this has been renamed the Youth Courts, a term that young people may better appreciate and it will have greater flexibility in jurisdiction and sentencing.

10. These changes go beyond the nomenclature and mark something of a coming of age. While Family and Juvenile Justice Division judges have dealt with divorce cases since 1996, they did so exercising transferred or delegated jurisdiction. From today, save for probate, the Family Courts will have concurrent original jurisdiction with the High Court.

11. The Family Division of the High Court will hear some cases at first instance as well as appeals from the Family and Youth Courts. As has been the case in the High Court when hearing Magistrate's Appeals, in selected cases where the guidance of the Family Division of the High Court would be especially useful for judges in the Family Courts or the Youth Courts, the appeals may be heard by three Judges.

12. The Court of Appeal will hear appeals from the Family Division of the High Court. For cases that were dealt with by the Family Courts and Youth Courts at the first instance and then appealed to the Family Division of the High Court, a further appeal may lie to the Court of Appeal but only with leave.

13. Second, we have for the first time, a centralised Registry that will administer the two levels of courts. Registrars will assist judges with the management of their cases, and with more cases being dealt with on a docket system, court users should encounter fewer delays and experience greater convenience and consistency. Ancillary services, such as mediation and counselling, will also be streamlined throughout the various courts. It is my great pleasure to congratulate Mr Chia Wee Kiat who this morning was sworn in as the first Registrar of the Family Justice Courts.

14. A third change concerns the dynamics of how we will safeguard the interests of children when the parents are engaged in a dispute with one another. More than 50% of our family cases involve children. We must take special care of them. We know the links between family dysfunction and child delinquency. Children, who are the victims in this setting, need a louder and more forceful voice. They must not come out of the court experience feeling that they have been the pawns or the spoils of battle. The expansion of our court counselling and psychological services will mean that children will be better understood, heard and helped. Child Representatives, drawn from a panel of seasoned family law practitioners, will be appointed in suitable cases to assist the court. Their role will be to assist the court with evidence or submissions as to what is called for in the best interests of the child.

15. Another critically significant change is that we are bringing together within one judicial setting all family-related work. The Family Justice Courts will hear the full suite of family-related cases including all divorce and related matters, family violence cases, adoption, succession and guardianship cases, cases in the Youth Courts, and applications for deputyship under the Mental Capacity Act. Come January 2015, probate will also come within the jurisdiction of these courts. This breadth of work is unusual. In most jurisdictions, domestic violence and divorce tend to be dealt with in separate

courts. Similarly, Youth Courts usually operate as distinct and separate institutions. Bringing the entire range of work under one judicial roof yields advantages in two respects in particular.

16. First, rather than seeing each case as an isolated occurrence, we will be able, through this reform, to situate the issues that come before us within the broader narrative of the family and its history. This is a potent consideration in the context of family work, because social science research informs us that family disputes are a function of, and often bring in their wake, a variety of other associated family issues.

17. A second, equally significant, advantage is that we will be able to bring the specialist skills of family judges as well as the various refinements and enhancements of the litigation process that we are implementing in these courts to bear upon the range of issues that would benefit from this.

18. This bears some elaboration.

19. To begin with, family cases involve parties whose relationships will often have to continue beyond the life of the case. After a divorce, ex-husbands are still fathers and ex-wives are still mothers. Even after contending that a parent lacks mental capacity, sons and daughters remain sons and daughters. After disputing over the assets of their deceased parents, brothers and sisters are still bound by familial ties. We must face up to these realities in thinking about how best to deal with such disputes.

20. It will often, even if not invariably, be the case that counselling and mediation can better address disputes in the context of these continuing relationships. While the time that the parties spend in such processes will often be insufficient for them to address deep-seated issues, our hope and belief is that a different litigation method might yet

preserve the prospects for the parties to move forward constructively in their on-going relationships. Moreover, it is a fact that parties tend to abide more readily by orders in which they have had a part in crafting.

21. Mediation has hitherto been mandatory for divorcing couples with children under 14. The 645 cases mediated by the Child Focused Resolution Centre last year saw an impressive settlement rate of 82%. From today, subsidiary legislation will make such mediation mandatory for all divorcing couples with children under 21. The Family Justice Act also empowers judges of these courts to direct parties to attend such mediation and counselling in other cases. This extends also to the Youth Courts.

22. For cases requiring adjudication, the court process itself will be refined in a manner that seeks to ensure that the tensions, the hurt and the animosity that frequently exists in these cases are not aggravated by having to journey through adversarial proceedings in court. The traditional adversarial system - effective in complex civil litigation – is generally not conducive to the continuing relationships which are at play in the family setting. We therefore will see more active judicial management of these cases to minimise the prospects of aggravating the existing fissures. Rules coming into effect today will empower a judge to give a wide range of directions to focus parties on, and only on, the relevant issues. This is intended to do away with the unhealthy practice of filing copious and lengthy affidavits recounting each party’s subjective recollection of the painful incidents that have led to the breakdown where this is not relevant to the legal issues at hand. Indeed, in most of these cases, the airing of these hurtful allegations can only aggravate matters. We will also calibrate the process by putting cases that require urgent or specialised treatment on differentiated tracks to ensure attention is received as required.

23. The court also has the ability in certain cases to order an affected person to undergo an examination by a registered medical practitioner, psychologist, counsellor, social worker or mental healthcare professional to enable the expert in question to examine and assess that person and report on his or her mental state to the court.

24. Family justice is a unique field in the administration of justice. Although here, as in other areas, judges have the last word on how a contentious situation is to be resolved, in this area in particular, judges need to be attentive to the way forward for the affected parties. In some respects, the judicial task can be likened to that of a doctor with a focus on diagnosing the problem, having the appropriate bedside manner to engender trust and convey empathy, and the wisdom to choose the right course of treatment so as to bring a measure of healing. Our reforms are geared towards enabling our judges to meet these challenging expectations. It will not be easy and we will not always get the perfect outcome; but we hope to get many more better outcomes.

25. We are also mindful of the fact that litigants-in-person make up a significant proportion of our family court users. This is a trend that is also seen in family courts elsewhere. To support and assist such litigants, we have started a Court Friends programme, with the help of the Community Justice Centre and the NUS Pro Bono Office. Court Friends are volunteers, and while they may not provide legal advice, they can and do provide emotional support, relevant information, and assistance in filling out forms and in note-taking during the proceedings in court.

26. But we are resolved to do more. Critically, we will work to simplify court forms. Our new Practice Directions contain simplified forms to be used for mental capacity cases from today. Template affidavits and other simplified forms will follow. In time, we will also look at how our information technology platforms can better accommodate the

litigant-in-person. This should all result in a less daunting and more transparent process for court users.

### ***The future of family justice***

27. The new initiatives which we have put in place will require time and effort before practices and procedures run smoothly. Today marks the culmination of a major process of reform but it also marks the start of much longer term work which will take time to be completed and to come to fruition. Court forms and the information technology platform, which I mentioned earlier, are important areas. Work is continuing on a new set of comprehensive Family Justice Rules which we expect to see in the new year, when the probate jurisdiction is added to the work of these courts. The new Rules will bring together, rather ambitiously, the Rules of Court, the Matrimonial Proceedings Rules, and various enhancements to these rules.

28. Work also continues apace in our effort to build up our wider family justice infrastructure. One example is in the area of family mediation which I have already touched on. Working with the Singapore Mediation Centre, we will put in place the required standards and a structured process for the training and accreditation of family mediators. This will increase the availability of such services to the wider community. In time, when all the agencies are ready to implement plans for more extensive pre-writ consultation, the availability of such mediators within the wider community should see more issues being settled through their efforts and intervention, thus sparing the parties some of the added cost or stress of litigation.

29. Looking ahead, it will also be important for family lawyers operating in this new landscape to be properly equipped. Family law work requires an understanding of other disciplines. The Family Justice Committee recommended that an accreditation

programme be designed for family lawyers. I have asked Justice Phang to chair a Committee to look into how this recommendation should be implemented. The Committee will include judges, experienced practitioners and other professionals in the field.

30. Today, we mark a reform effort that has effected and will in the coming months continue to effect fundamental changes to the way we approach and resolve disputes concerning the family. We will no longer function in the traditional adversarial paradigm; our view of the services that the courts provide and the way they do so must change. Change will affect our judges and judicial officers, our court staff, and also the legal fraternity at large. But this is necessary and wholly worthwhile. Countries elsewhere have seen the growth of private arbitration in family matters. In some instances, this has been explained as a consequence of the courts being too slow and too rule-bound. But perhaps most importantly, the search for alternative models for family justice reflects the realisation that subjecting a fractured family to the stress of an adversarial litigation is simply unwise.

31. This is a critically important period for family justice in Singapore. We will have many continuing conversations as we work together to meet the challenges that lie ahead of us. Courts, lawyers and other agencies including in particular the Ministry of Social and Family Development will work together to address these in a spirit of collaboration. The second Family Justice Forum that will take place after this morning's launch ceremony is part of that dialogue, enabling participants to think about and discuss practice points and problems that must inform our work in this bright new age.

32. As we gather today on this historic occasion, we have reason to be optimistic that we are on a path that will lead to real progress and improvement in the administration of family justice in Singapore. Much work has already been done and

once again, I thank all those who have brought us to this point. But much more remains to be done. And to those on whom the burden falls to brings us forward from here, please persevere because it will be worth every bit of the effort if our collective work can help ameliorate the pain of all those who must journey through our courts in these difficult circumstances.

Thank you.