



DIVORCE

TRANSFORMING THE FAMILY JUSTICE SYSTEM

RECOMMENDATIONS OF THE
COMMITTEE FOR FAMILY JUSTICE

**A note from Indraneel Rajah S.C.,
Senior Minister of State for Law**



As all family lawyers know, family cases are far less about legal issues than they are about emotional ones. Clients who are otherwise rational and logical can, in family disputes, take intransigent positions on matters which, viewed objectively, should never be brought to court but end up being litigated anyway due to the inability to separate the legal issues from the emotional ones.

More often than not, this plays out in the form of protracted, acrimonious proceedings with children caught in the middle of an emotional tug-of-war, a fusillade of unnecessary applications and cross-applications, vituperative allegations and counter allegations and a heavy undertow of angst which affects everyone, lawyers included. This has knock-on undesirable effects in terms of parties inability to move on with life and psychological scars for children as well as incurring unnecessary time and costs.

It was against this backdrop that Chief Justice Menon called for reforms to the family justice system last year. Following this, the government appointed the Committee for Family Justice co-chaired by then JA VK Rajah and myself to address these issues.

The Committee has released its Report [[Click to view report](#)]. The recommendations, which have been accepted by the government, form the blueprint for the new legal and policy framework to transform our family justice system.

The philosophy underlying our entire approach was:

- To save families and marriages as far as possible.
- If the matter still ends up in court, to reduce the acrimony and emotional trauma and focus on conflict resolution.
- To ensure the best interests of the child are paramount where children are involved.

Lawyers and Judges have a central role to play in the new landscape. This note gives an overview of the recommendations, and highlights the role of Judges and lawyers in the new scheme of things.

KEY RECOMMENDATIONS

Providing better dispute resolution support for families through a robust and integrated network of assistance

• Strengthening community touch points

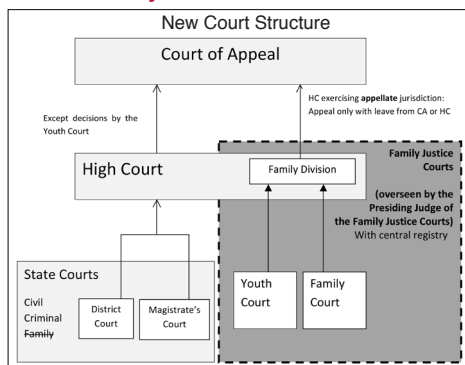
When a family dispute occurs, the court is not the first port of call. It is usually a community touch point e.g. Family Service Centres, schools, hospitals, charities, police, grassroots members and MPs. The first priority therefore is to strengthen these touch points and enable them to direct families to the appropriate agencies to assist them.

• Establishment of Specialist Agencies

Currently we have 3 agencies specialising in Family Violence issues, [Promoting Alternatives to Violence (PAVE)], [TRANS Family Services, Care Corner] but none that specialise in divorce-related issues. We aim to have four Divorce Specialist Agencies. They will provide services such as information, non-legal advice, case management by social workers, counselling and family dispute management. Where something can be resolved without the need to go to court, that should be encouraged and facilitated. If legal advice or court action is required, the clients will be directed to the appropriate channel for legal assistance.

Establishing new specialist Family Courts

Given the nature of family cases and the issues outlined above, the Committee felt that there was a clear need for specialist courts to deal with family issues. The family division will be taken out of the State Courts and a new Family Court will be established.



I introduced the Family Justice Bill in Parliament last week. On current timelines, the new Family Court is envisaged to be operational by year end.

Enhancing the court management processes

We will empower the Family Justice Courts to adjudicate and resolve family disputes more effectively to reduce the trauma and acrimony of divorce

• Pre-filing consultation session

Before filing for divorce in the Family Court, couples with children must undergo a pre-filing consultation session, unless they are able to agree on the divorce and all ancillary matters.

• Differentiated case management

There will be different tracks for different types of cases entering the court system.

• Simplified forms and procedures

The forms and procedures will be simplified. New rules will be introduced. Voluminous affidavits with irrelevant details and exhibits are out.

• Court Friend

We will introduce a "Court Friend" scheme (akin to a McKenzie Friend) to give practical support and help to unrepresented litigants.

Judge-led approach

Our current system is an adversarial one. It works well for commercial and other types of cases, but it is inimical to family cases as it increases rather than resolves the conflict given the high emotional quotient.

A different approach will therefore be applied to family cases. Cases in the Family Court will be Judge-led, meaning that Judges will be empowered to take a much more proactive role in court proceedings. (We did consider calling it an Inquisitorial approach but given the context that didn't sound quite right either! It does not convey the essence of what we wish to achieve – which is to focus on and achieve resolution of the real issues on the dispute.)

Family lawyers should expect therefore that the new environment will be significantly different from the old one not just in form but in substance, and in the philosophy of how cases are to be handled. I am highlighting this because family lawyers have a very important role to play in this new landscape (see below) and it is imperative that family lawyers must take on board and adopt this new approach otherwise it would negate the effect of the reforms.

• Child-centred approach

The Judge-led approach will have a much greater emphasis on addressing the interests of children in a divorce. This includes:

- Expanding the mandate of the existing Counselling and Psychological Services of the State Courts;
- Appointing Child Representatives. This could take the form of a lawyer appointed to be the child's advocate or a social worker or medical expert if one is required; and
- Enlisting the assistance of social and psychological service professionals to protect the best interests of the child.

Introducing a new Family Law Practitioner (FLP) accreditation

Family lawyers play an important role in family proceedings.

Just as litigation requires incisive cross-examination skills and corporate lawyering requires deal making and negotiation skills, family lawyers also need specific skill sets in addition to mastery of the law – counselling, mediation and emotional conflict resolution skills.

Clients often regard the lawyer not just as a legal advisor, but also someone who they turn to for guidance and counsel – and also sometimes as someone to whom they can download their woes. The lawyer's advice can either escalate the conflict or help resolve it (assuming the client listens to advice). You can at times prevail upon clients to take a different and better course of action than one they may otherwise have chosen. So you do make a difference.

We want to enhance your ability to do this, and to navigate the new family law environment.

We will be developing specialist training for family lawyers with a view to equipping them with additional skills and techniques for handling matrimonial cases in the new framework. Lawyers who undergo this training will receive a Family Law Practitioner (FLP) accreditation.

It will not be mandatory for lawyers currently practicing family law to obtain a FLP accreditation. However, we do intend over time to develop a cadre of FLPs and it would be advantageous for family lawyers to obtain this accreditation.

I would therefore encourage practitioners to obtain this accreditation once the details are released.

The transformation of the family justice system will not happen simply upon a release of a report or even with the passing of the Bill. It will only truly happen when all the persons involved at every point of the spectrum share the vision and are committed to making it so. In this transformation, lawyers and judges have a major role to play and I hope that you will give these reforms your fullest support.

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