

FAMILY CONFERENCE 2023

“THE NEW FAMILY JUSTICE RULES – NAVIGATING THE WAY FORWARD”

13 SEPTEMBER 2023 (Day 1)

Closing Address by Mdm Guy Bte Ghazali, Senior President, Syariah Court

Distinguished guests, colleagues and friends,
Good afternoon.

1. We meet again in yet another edition of the Family Conference.

Family Conference 2023 Theme

2. The theme for this year’s Family Conference is “The New Family Justice Rules – Navigating the Way Forward”.
3. We have all benefitted from today’s enriching discourse on the different topics pertaining to the practice of the Family Justice Courts (FJC). The topics have provided the audience with an end-to-end understanding of the FJC’s court process, from the originating processes, to interlocutory application such as discovery, until the preparation for the final ancillary matters hearing.
4. I have no doubt that the Syariah Court practitioners have found the learning points useful to their practice in the Syariah Court, in view of the commonality in subject matter and the applicability of civil procedure to Syariah Court proceedings.

Syariah Court and relevant statistics

5. The Syariah Court is the institution which adjudicates on Muslim divorces in Singapore. Its civil equivalent is the FJC which adjudicates on civil divorces.
6. In terms of statistics, in the last five years, from 2018 until 2022, there had been an average of 1,650 divorces registered per year under the Administration of Muslim Law Act 1966 (“AMLA”).
7. Out of this, an average of 957 divorces registered per year or 58% involved at least one child under the age of 21 years. These divorces over the 5-year period involved at least 9,165 children under the age of 21 years or an average of 1,833 children per year.
8. These figures do not include the parties’ children who have attained majority age at the time the divorce was registered. They also do not include other children of the parties from their previous marriage or relationship. Even though these children are not captured in the statistics, they are also similarly impacted by the divorce should they have been exposed to parental conflict, especially if the conflict is prolonged and acrimonious. In fact, for children in blended set-ups, there is the concern of repeated trauma.

9. Against this backdrop, we recognise that the court does not just impact the judicial or legal space. Its role goes beyond that and interacts closely with broader efforts at the national level to strengthen families, preserve family relationships, mitigate impact of divorce (especially on children) and develop a strong social compact for Singapore's future. The law does not exist in a vacuum but is an instrument that brings about desired social goals.

Navigating the Way Forward: Case Study – Implementation of Child Representative Scheme in the Syariah Court

10. These are the lens that guide the Syariah Court in navigating the way forward.
11. One such illustration is the Syariah Court's Child Representative model.
12. The Syariah Court will be implementing its Child Representative scheme in the 4th quarter of this year.

Child Representative scheme already incorporated in existing legal framework

13. The role of the Child Representative is already incorporated in the Syariah Court's existing legal framework by way of the 2017 AMLA amendments and the amendments to the Muslim Marriage and Divorce Rules ("MMDR"), which came into effect in 2018.
14. The relevant rule in MMDR is rule 25B.
15. In assessing and designing a suitable Child Representative model that meets the Syariah Court's needs, we have considered the intention envisaged by rule 25B(3).
16. Rule 25B(3) provides that the Child Representative's role is to assist the child in expressing the child's view to the Court fully and accurately, and free from the influence of any person.
17. The Child Representative must also bring to the Court's attention matters or evidence relevant to advancing the interests of the child, having regard to the Child Representative's training or experience in matters relating to child welfare.
18. Rule 25B(2) requires the Child Representative to act in what the Child Representative believes to be in the best interests of the child.
19. The questions that we asked ourselves when we designed the Child Representative model were:
 - (1) What is the type of "training or experience in matters relating to child welfare" (borrowing the words in rule 25B(3)) that we require the Child Representative to have.

- (2) What are the skills, expertise or experience that the Child Representative needs to have to convey the child's view to the court fully and accurately, and free from influence. For example, how do we tell if a child is being coached, or how do we distill the child's actual wishes from, say, an act of loyalty to a parent.
- (3) How do we ensure that the child is able to communicate views in a safe space where confidentiality is being protected.

Social science professionals as Child Representatives

20. Having thought through the above considerations, we proceeded to design a Child Representative model featuring social science professionals as Child Representatives.
21. Social science professionals are well-placed to perform this role as they are trained to speak to children; they are able to identify and assess relevant issues; and they function within a community or network of social science professionals that facilitates information-sharing between agencies if the children are known to them.
22. In the Second Reading of the AMLA (Amendment) Bill in 2017, the appointment of a child representative has been described as providing the Syariah Court with "multiple experts ...[to] better protect the interests of the child amidst the divorce proceedings".
23. This intention is consistent with the general direction that the family courts are now taking to introduce a multi-disciplinary approach to the resolution of family disputes, involving not just legal professionals but also social science professionals.
24. The social science child representative model will also integrate with the Syariah Court's court counselling framework. The Syariah Court established its court counselling framework in September 2022. To-date, the first phase of the court counselling framework has been implemented. Under the first phase, child interviews are conducted jointly by the President (who is the Syariah Court judge) and the Syariah Court's Principal Court Counsellor.

The Child Representative model in the Syariah Court

25. Under the Syariah Court's Child Representative scheme, a Child Representative may be appointed in cases involving children aged 7 years and above, where the issue of custody, care and control or access is in dispute.
26. The Child Representative may be appointed in cases where there are multiple children or children with special needs. For other types of cases, the Syariah Court will continue to direct Joint Child Interview, where appropriate. The Court will not appoint Child Representative or direct for Joint Child Interview in cases where there are risk or safety issues. In cases where there are risk or safety issues, the Court would instead direct for the calling of reports, such as a Custody Evaluation Report or a report from Child Protective Services (CPS).

27. The appointment of Child Representative is part of a suite of judicial tools that the Syariah Court can utilise, depending on the facts of the case, to assist the Court in arriving at an outcome that is in the welfare of the child.

The role of Child Representative in the Syariah Court

28. The role of the Child Representative in the Syariah Court is to ascertain the children's views on parenting arrangements post-divorce, in a manner that takes into account their age and maturity.
29. Where necessary, the Child Representative will also obtain relevant information from other professionals who have been involved with the children, such as psychiatrist, psychologist, counsellor, mental health professional, or schoolteachers.
30. At the conclusion of the session with the child, the Child Representative will submit a report to the Court, capturing the child's voice, by interpreting and analysing the children's opinion and behaviour in the context of their parents' divorce. However, this report will not include direct recommendations on custody, care and control or access.
31. What do we hope to achieve from the Child Representative Scheme? The desired impact of the Child Representative scheme can be broadly categorised as follows.
32. First, the **impact on the child**: by validating the child's feelings and experiences, and by providing the child with the opportunity to express views, preferences and concerns regarding parenting arrangements post-divorce.
33. Secondly, the **impact on the Court process**: by assisting the Syariah Court judges to arrive at a determination through the gathering of information and the gaining of insights into the child's relationships with parents and relevant others, living and schooling arrangements, aspirations and emotional dynamics. The involvement of social science professionals in the Court process enhances the Court's understanding of the child's needs and provides valuable guidance to the Court in child-related disputes.
34. Thirdly, the **impact on the outcome**: by facilitating sustainable post-divorce parenting arrangements that will promote long-term stability and minimise disruption on children and their daily lives.

Conclusion

35. To conclude, the Syariah Court's Child Representative model illustrates the Syariah Court's endeavour to interweave an integrated social science framework into the Court's legal framework, such that both operate in tandem within a megastructure to bring about child-centric outcomes.
36. Indeed, the Court is just one part of a larger ecosystem that seeks to administer, deliver and realise therapeutic justice for its beneficiaries. Afterall, therapeutic justice is the whole that is greater than the sum of its parts.

With that, I thank you and wish you a good day ahead. I also look forward to having you with us at the Syariah Court's masterclass that will be held physically at 5 pm today. See you there.