

ACHIEVING THERAPEUTIC JUSTICE IN DIVORCE PROCEEDINGS

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I. Introduction

1 The term therapeutic justice (“TJ”) is derived from the term therapeutic jurisprudence, which was coined by law professors Wexler and Winick in 1987.¹ Therapeutic jurisprudence centres around the social force of the law. It recognises that the legal system – its rules, procedures and actors – has therapeutic or anti-therapeutic consequences, and seeks to reform their roles to enhance therapeutic potential (or positive effects on one’s well-being) while maintaining due process principles.² It is an interdisciplinary approach to law,³ encouraging practitioners and theorists alike to explore the impact of law on the emotional and psychological well-being of those it affects. Family law is thus a prime candidate for its implementation.

2 In recent times, TJ has come to the fore of Singapore’s divorce proceedings. For instance, the Family Justice Courts

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

2 Michael L Perlin, “What is Therapeutic Jurisprudence?” (1993) 10 *NYLS Journal of Human Rights* 623 at 623–624.

3 Bruce J Winick, “Therapeutic Jurisprudence and Problem-Solving Courts” (2003) 30 *Fordham Urban Law Journal* 1055 at 1062.

Workplan for 2020⁴ (“Workplan 2020”) largely revolved around the goal to commit the Family Justice Courts (“FJC”) to the ideal of TJ.⁵ However, the concept of TJ is still relatively unexplored in Singapore’s jurisprudence, and may still remain a novel concept to many. Here, the authors explore the notion of TJ in the context of divorce proceedings and its application in the few Singapore court decisions that have discussed TJ. Issues that may be pertinent for the fraternity to consider in the ever-increasing realisation of TJ in Singapore family law are also highlighted.

II. Therapeutic justice in Singapore courts

3 How would TJ look like in divorce proceedings? Simply put, if the law on divorce proceedings were to identify TJ as an objective, the entire process should strive to protect families and children from present and future harms, reduce emotional turmoil, and promote family harmony or preservation.⁶ In Singapore, the core tenets of divorce proceedings and their ancillary matters have generally incorporated notions of TJ. For example, the Court of Appeal has repeatedly emphasised the no-fault basis of the determination of ancillary matters.⁷ In the 2012 decision of *AQS v AQR*,⁸ the Court of Appeal overturned the lower court’s decision on the division of matrimonial assets. This was on the grounds that the lower court’s reliance on the misconduct of the wife as the basis of ordering a transfer of matrimonial properties with no consideration to the wife was wrong in law.⁹ Importantly, the court emphasised that the ancillary proceedings should not be

4 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 25 October 2021).

5 Justice Debbie Ong, “Family Justice Courts Workplan 2020: Today is a New Day”, *Family Justice Courts* (21 May 2020) at para 52 <https://www.familyjusticecourts.gov.sg/docs/default-source/news-and-events/2020_pj_address_workplan.pdf> (accessed 25 October 2021).

6 Barbara A Babb, “An Interdisciplinary Approach to Family Law Jurisprudence” (1997) 72(3) *Indiana Law Journal* 775 at 800.

7 *Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195 at [25]; *BPC v BPB* [2019] 1 SLR 608 at [86].

8 *AQS v AQR* [2012] SGCA 3.

9 *AQS v AQR* [2012] SGCA 3 at [27].

used to “engage in mudslinging and dwelling on each other’s misconduct”.¹⁰

4 Such emphasis on enabling parties to “move on” so as to reduce acrimony or anti-therapeutic outcomes is not novel, which may lead one to conclude that the notion of TJ does not introduce anything new.¹¹ However, making explicit the pursuit of TJ sharpens its application in reaching therapeutic outcomes, as emphasised by Debbie Ong J,¹² and illustrated in recent decisions of the Singapore courts. Moreover, the notion of TJ has only recently been expressly adopted by the Singapore courts, which has culminated in three decisions where TJ was discussed.

5 In *VDZ v VEA*¹³ (“VDZ”), the Court of Appeal spoke at length about the importance of TJ. This case concerned contempt of court proceedings brought by the husband against the wife. This unfortunate case concerned a husband (who lived separately), and a wife living with their children. In a prior proceeding, there was a court order made that the parties should not make disparaging remarks about the other party against their children, and not share documents relating to the litigation against them with the children.¹⁴ However, this order was not adhered to.¹⁵

6 The court found that the wife was guilty of contempt of court, but sentenced her to a \$5,000 fine instead of a jail term, in exercise of judicial mercy as she was considerably ill with Stage 4 breast cancer.¹⁶ The court commented that it was unfortunate that what was “originally a loving relationship between father and children ... was irreparably damaged by the appellant poisoning the children’s minds”.¹⁷ The court then highlighted

10 *AQS v AQR* [2012] SGCA 3 at [37]–[42].

11 Ian Richard Freckelton, “Therapeutic Jurisprudence Misunderstood and Misrepresented: The Price and Risks of Influence” (2008) 30 *Thomas Jefferson Law Review* 575 at 584.

12 Justice Debbie Ong, “Through the TJ Lens: A Balanced Application of the Law”, speech at The Law Society Family Conference 2020 (15 September 2020) at para 37.

13 [2020] 2 SLR 858.

14 *VDZ v VEA* [2020] 2 SLR 858 at [3]–[6].

15 *VDZ v VEA* [2020] 2 SLR 858 at [7]–[11].

16 *VDZ v VEA* [2020] 2 SLR 858 at [68]–[74].

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

important dimensions of TJ in divorce proceedings, stating that “[w]hen familial relationships break down, those relationships ... are damaged. Such damage cannot be repaired (completely at least) by way of material recompense; healing needs to take place”.¹⁸

7 In its elaboration on TJ, the court indirectly justified why “anti-therapeutic consequences” should be minimised. The first rationale is that parties cannot move forward with their lives if they are still engaged in war.¹⁹ The second rationale is that the children’s well-being will be adversely affected when they are swayed to the “side” of one of the parents.²⁰ This was the situation in *VDZ*, where the relationship between the husband and the children broke down because the wife took a “scorched-earth policy”, utilising the children as “pawns in attacking their father”.²¹ The third rationale, while not explicitly discussed in *VDZ*,²² may be surmised as the impact on the wider society. Indeed, the impacts of divorces on parties, children and the community have been widely studied, and it is generally recognised that the aftermath for everyone involved becomes more difficult the more acrimonious the divorce is.²³

8 The second case, *Lim Kieuh Huat v Lim Teck Leng*²⁴ (“*Lim Kieuh Huat*”), concerned a dispute where the parents brought a claim against the son and his ex-wife. The FJC made ancillary orders that the son pay his ex-wife \$175,000 in relation to the matrimonial assets after their divorce. However, after the FJC proceedings concluded, the parents brought the claim to argue that they were the beneficial owners of the HDB flat.²⁵ In concluding that the parents were not the beneficial owners, the court commented on the relationship between the son

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

19 *VDZ v VEA* [2020] 2 SLR 858 at [78].

20 *VDZ v VEA* [2020] 2 SLR 858 at [79].

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

22 *VDZ v VEA* [2020] 2 SLR 858 at [79].

23 Marsha B Freeman, “Love Means Always Having to Say You’re Sorry: Applying the Realities of Therapeutic Jurisprudence to Family Law” (2008) 17 *UCLA Women’s Law Journal* 215 at 217.

24 *Lim Kieuh Huat v Lim Teck Leng* [2020] SGHC 181.

25 *Lim Kieuh Huat v Lim Teck Leng* [2020] SGHC 181 at [3].

and his ex-wife. It noted that the courts were there to “help the parties ‘let go’ and ‘move on’. But the parties must play their part”.²⁶ It was observed how this “sad saga” had already resulted in incarceration terms for the son and ex-wife on grounds of harassment of the district judge, the son’s repeated incarceration for non-compliance with the ancillary order, their child maintenance remaining in arrears, and the proceedings in *Lim Kieuh Huat* – where the parents were involved to keep the flat from being sold to satisfy the ancillary orders – as well as pending applications in the FJC.²⁷

9 In these two cases, TJ was engaged primarily as a means of urging parties to move on from the acrimonious breakdown of their relationships, instead of any justification of the court reaching its judgment. Indeed, it was recognised in *VDZ* that the relationship between the husband and his children, and the husband and his wife, “epitomised everything that the family justice system is intended to assiduously avoid”.²⁸

10 The third case, *USC v USD*,²⁹ involved a family court dispute where the husband and wife disagreed over certain ancillary matters, including the division of matrimonial assets. In assessing the applicable Form 6 in the Family Justice Rules³⁰ (“FJR”), which provides for the statement of claim for divorce or judicial separation, the court noted how the form’s differentiation between the “Division of matrimonial home” and “Division of matrimonial assets (aside from the matrimonial home)” was “consistent” with the notions of TJ.³¹ Such a differentiation requires parties to ensure that they have applied their minds to specific aspects of the proceedings, to enable the court to determine the matter holistically.³² Here, TJ was used primarily to justify the court’s processes (that is, why the forms in the FJR

26 *Lim Kieuh Huat v Lim Teck Leng* [2020] SGHC 181 at [219].

27 *Lim Kieuh Huat v Lim Teck Leng* [2020] SGHC 181 at [220].

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

29 [2020] SGFC 76.

30 S 813/2014.

31 *USC v USD* [2020] SGFC 76 at [28].

32 *USC v USD* [2020] SGFC 76 at [28].

are phrased the way they are), instead of being a relevant factor in the court's judgment or order.

11 Since TJ as a concept has only recently come to the fore, it is perhaps unsurprising that it has only been used in a subsidiary fashion in the courts' decisions. To bring TJ to the fore of the court judgments would also be novel – in fact, there has been a considerable dearth of court decisions worldwide discussing therapeutic jurisprudence.³³ However, given the Court of Appeal's wide-ranging discussion of TJ in *VDZ*, coupled with the emphasis placed by key members of the family justice system on TJ, one can expect TJ to play a more prominent role in judgments relating to divorce proceedings. To be clear, one should not mistake TJ as a trump over the rights of parties.³⁴ As Minister Desmond Lee and Ong J had noted separately in different fora, TJ does not override substantive law, and any application of TJ cannot compromise the due process of the law.³⁵ What TJ provides instead is a gloss on the application of certain rules and procedures to enable the law to facilitate therapeutic outcomes; it reminds one “how the substantive law ought to be applied to reach that ultimate outcome that we desire for divorced families”.³⁶

12 That being said, one may expect more judicial outcomes with a strong therapeutic focus. One example is a judicial order to mediate and attend counselling. This is enshrined in rule 22(3)(a) of the FJR, which gives the court the authority to give directions “that the party or parties to the proceedings attend mediation or counselling or participate in such family support programme or activity as the Court thinks fit”, which may be more frequently

33 Michael L Perlin, “‘Have You Seen Dignity?’: The Story of the Development of Therapeutic Jurisprudence” (2017) 27 *NZULR* 1135 at 1148.

34 Marsha B Freeman, “Love Means Always Having to Say You’re Sorry: Applying the Realities of Therapeutic Jurisprudence to Family Law” (2008) 17 *UCLA Women’s Law Journal* 215 at 224.

35 Justice Debbie Ong, “Through the TJ Lens: A Balanced Application of the Law”, speech at The Law Society Family Conference 2020 (15 September 2020) at para 5; Desmond Lee, “Keynote Address by Minister Desmond Lee at The Family Justice Practice Forum” *Ministry of Social and Family Development* (2 October 2018) at para 5.

36 Justice Debbie Ong, “Through the TJ Lens: A Balanced Application of the Law”, speech at The Law Society Family Conference 2020 (15 September 2020) at para 10.

invoked.³⁷ Such alternative dispute resolution techniques are utilised to achieve more harmonious outcomes,³⁸ by enabling judges to strike an appropriate balance between the parties' own resolution of a family legal matter by their private ordering or agreement and full court trial of family law issues.³⁹ Another example is rule 36 of the FJR, which empowers the court to direct the child be examined or assessed by a person who is trained or has experience in matters relating to child welfare. Judges have required reports to be prepared by trained professionals on matters such as the welfare of the child,⁴⁰ or may even interview the child directly to take into account the child's wishes in a welfare dispute.⁴¹ As TJ comes to the fore, one would do well to expect that such measures to secure therapeutic outcomes will be more commonly engaged.

III. Issues to note going forward

13 What issues might the family law fraternity need to grapple with going forward? For a start, one must recognise that effecting TJ requires a co-ordinated effort from the entire legal ecology. Many of the existing rules and processes already have a strong TJ element to them. A pertinent example that was noted by Ong J is the simplified divorce track in rule 83(1) of the FJR, which allows parties to resolve divorce proceedings under a simplified track where they have agreed that the divorce proceedings will be uncontested and all the ancillary matters are

37 Eunice Chua, "Mediation in the Singapore Family Justice Courts: Examining the Mandatory Mediation Model under the Judge-Led Approach" (2019) 38 *Civil Justice Quarterly* 97. See also Chen Siyuan, Eunice Chua & Lionel Leo, *Family Procedure in Singapore* (LexisNexis, 2018) at Part III.

38 Bruce J Winick, "A Legal Autopsy of the Lawyering in *Schiavo*: A Therapeutic Jurisprudence/Preventive Law Rewind Exercise" (2007) 61 *University of Miami Law Review* 595 at 600.

39 Barbara A Babb, "An Interdisciplinary Approach to Family Law Jurisprudence: Application of an Ecological and Therapeutic Perspective" (1997) 72(3) *Indiana Law Journal* 775 at 803.

40 Sundaresh Menon CJ, "Role of Courts Regarding Recent Family Issues – How to Tackle Family Issues on Child Welfare and Domestic Violence", speech at the 17th Conference of Chief Justices of Asia and the Pacific (September 2017) at para 25 <<https://www.supremecourt.gov.sg/Data/Editor/Documents/cj-39-s-paper-for-17th-conference-of-chief-justices-of-asia-and-the-pacific.pdf>> (accessed 25 October 2021).

41 *ZO v ZP* [2011] 3 SLR 647 at [15]–[17].

agreed on. In 2019, 58% of divorce proceedings were settled by the simplified track, which has aided in less acrimonious divorces and more therapeutic outcomes.⁴²

14 But apart from existing measures and processes, there has been a concerted effort in reforming the family justice system towards therapeutic ends. In 2017, the Committee to Review and Enhance Reforms in the Family Justice System (“RERF”) was tasked specifically to “examine how elements of therapeutic and restorative justice can be applied in the family justice system for better outcomes for the family and community”.⁴³ Further reforms have also been suggested in Workplan 2020. The broad categories of these reforms were: adopting a multi-disciplinary approach in the family justice landscape to further TJ; facilitating court processes, settlement and enforcement; and improving the judges and lawyers’ capacities and capabilities in TJ.⁴⁴

15 While the authors do not intend to detail the proposed and coming reforms, certain points should be noted in their implementation. First, much caution must be taken given the oft-tenuous nature of sociological phenomena.⁴⁵ As has been argued, “applied psychology is overrun with political machinations, nonsensical theories and outright misrepresentations”.⁴⁶ For example, the no-fault grounds for divorce (or “irreconcilable differences”)⁴⁷ have met detractors and supporters alike, which

42 Justice Debbie Ong, “Family Justice Courts Workplan 2020: Today is a New Day” *Family Justice Courts* (21 May 2020) at para 9 <https://www.familyjusticecourts.gov.sg/docs/default-source/news-and-events/2020_pj_address_workplan.pdf> (accessed 25 October 2021).

43 Committee to Review and Enhance Reforms in the Family Justice System, *Report of the Committee to Review and Enhance Reforms in the Family Justice System* (13 September 2019) at para 8.

44 Justice Debbie Ong, “Family Justice Courts Workplan 2020: Today is a New Day” *Family Justice Courts* (21 May 2020) at paras 79–111 <https://www.familyjusticecourts.gov.sg/docs/default-source/news-and-events/2020_pj_address_workplan.pdf> (accessed 25 October 2021).

45 Martha Albertson Fineman, *The Illusion of Equality: The Rhetoric and Reality of Divorce Reform* (University of Chicago Press, 1991) at p 115.

46 Elizabeth J Kates, “Why ‘Therapeutic Jurisprudence’ Must be Eliminated from Our Family Courts” (2008) 13 *Domestic Violence Report* 65.

47 Committee to Review and Enhance Reforms in the Family Justice System, *Report of the Committee to Review and Enhance Reforms in the Family Justice System* (13 September 2019) at para 173.

cite therapeutic outcomes as the reason to adopt their opposing positions.⁴⁸ Supporters claim that such grounds allow parties to remove blame and acrimony, helping families heal after a breakdown in marriage;⁴⁹ detractors argue that no-fault grounds for divorce results in an erosion of the institution of marriage, resulting in greater anti-therapeutic outcomes.⁵⁰ Intensive cross-disciplinary studies must be instituted before concluding that any reforms would in fact result in therapeutic outcomes.⁵¹

16 Second, sufficient safeguards must be put in place to prevent processes intended to facilitate TJ resulting in anti-therapeutic outcomes.⁵² Certain classes of family disputes may require the swift intervention of judicial authority, and alternative dispute resolution methods to maximise therapeutic outcomes may be inappropriate.⁵³ Ong J similarly highlights that TJ “hardware”, or hard processes, may result in anti-therapeutic outcomes if used inappropriately.⁵⁴ Targeted studies and research must be done to strike appropriate balances; for example, family violence and power imbalances may render mediation inappropriate.⁵⁵

48 Sundaresh Menon CJ, “Envisioning Family Justice through the Eyes of a Child”, speech at the 8th Family Law & Children’s Rights Conference: World Congress 2021 (12 July 2021) at para 8.

49 Chan Wing Cheong, “Consider Allowing No-Fault Divorce to Remove Blame Game When Couples Split” *The Straits Times* (9 July 2020) <<https://www.straitstimes.com/opinion/consider-allowing-no-fault-divorce-to-remove-blame-game-when-couples-split>> (accessed 25 October 2021).

50 Kang Zhi Ni, “Forum: ‘No-Fault’ Divorce Threatens Fabric of Families, Exposes Children to Vulnerabilities” *The Straits Times* (14 July 2020); J Herbie DiFonzo, “No-Fault Marital Dissolution: The Bitter Triumph of Naked Divorce” (1994) 31 *San Diego Law Review* 519.

51 For an example of such cross-disciplinary studies, see Becky L Glass, “No-Fault Divorce Law: Impact on Judge and Client” (1984) 5(1) *Journal of Family Issues* 47.

52 See generally, Andrea Kupfer Schneider, “The Intersection of Therapeutic Jurisprudence, Preventive Law, and Alternative Dispute Resolution” (1999) 5(4) *Psychology, Public Policy and Law* 1084 at 1092–1094.

53 Philip Marcus, “The Israel Family Court – Therapeutic Jurisprudence and Jurisprudential Therapy from the Start” (2019) 63 *International Journal of Law and Psychiatry* 68 at 75.

54 Justice Debbie Ong, “Through the TJ Lens: A Balanced Application of the Law”, speech at The Law Society Family Conference 2020 (15 September 2020) at para 58.

55 Eunice Chua, “Mediation in the Singapore Family Justice Courts: Examining the Mandatory Mediation Model under the Judge-Led Approach” (2019) 38 *Civil Justice Quarterly* 97 at 102–107.

17 Third, any reform should continue to ensure that the due process rights of the parties are protected. Critiques of therapeutic jurisprudence largely centre around the incompatibility between a more paternalistic approach to law and due process rights of litigants.⁵⁶ Even as the picture and model of lawyers and judicial officers change in the light of TJ, one cannot disregard the notions of fundamental principles of justice.⁵⁷ Failure to do so may not only violate constitutional principles, but may even generate greater dissatisfaction and anti-therapeutic outcomes.⁵⁸

18 Ultimately, if TJ is to be effected in divorce proceedings, the lawyer, as part of the legal ecosystem, will play a crucial role in securing therapeutic outcomes for all. However, a paradigm shift in the practice of law must be adopted to do so. A lawyer's role in this goal of achieving TJ is multifaceted; it centres around the reframing of the lawyer-client relationship as not only protecting the client's legal rights, but also the client's mental well-being, seeking therapeutic solutions to resolve disputes.⁵⁹ This involves engaging with the client's psychological, social and financial conditions, instead of merely focusing on the direct gains or losses in court processes.⁶⁰ Such engagement may take on various forms, such as advising clients to seek plans for financial issues by informing them of common problems they personally observe after the court processes have run their course.⁶¹ It has been suggested that instead of the hierarchical

56 Nigel Stobbs, "In Defence of Therapeutic Jurisprudence: Threat, Promise and Worldview" (2015) 8(3) *Arizona Summit Law Review* 325 at 330-335.

57 Diana Bryant CJ & John Faulks DCJ, "The 'Helping Court' Comes Full Circle: The Application and Use of Therapeutic Jurisprudence in the Family Court of Australia" (2007) 17 JJA 93 at 117.

58 Diana Bryant CJ & John Faulks DCJ, "The 'Helping Court' Comes Full Circle: The Application and Use of Therapeutic Jurisprudence in the Family Court of Australia" (2007) 17 JJA 93 at 95.

59 Barbara A Babb & David B Wexler, "Therapeutic Jurisprudence" in *Springer Encyclopedia of Criminology and Criminal Justice* (Springer, 2014) at pp 5202-5204.

60 Dax J Miller, "Applying Therapeutic Jurisprudence and Preventive Law to the Divorce Process: Enhancing the Attorney-Client Relationship and the Florida Practice and Procedure Form 'Marital Settlement Agreement for Dissolution of Marriage with Dependent or Minor Child(ren)'" (2009) 10(2) *Florida Coastal Law Review* 263 at 278.

61 Dax J Miller, "Applying Therapeutic Jurisprudence and Preventive Law to the Divorce Process: Enhancing the Attorney-Client Relationship and the Florida Practice and Procedure Form 'Marital Settlement Agreement for Dissolution of Marriage with Dependent or Minor Child(ren)'" (2009) 10(2) *Florida Coastal Law Review* 263 at 278.
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process where clients seek advice of lawyers, who then act on the clients' advice to resolve the dispute, TJ requires lawyers to involve their clients in a collaborative process to determine and implement strategies together.⁶² In highly acrimonious divorce proceedings, lawyers may also need strategies and psychological assistance for clients to uncover underlying issues.⁶³ One may even say that the lawyer "must be a shoulder to cry on during the hard times ... and provide encouragement and must advocate the benefits of wholesale lifestyle change".⁶⁴ While this may perhaps be too high a threshold to meet, it illustrates how a lawyer must reinvent his relationship with clients *vis-à-vis* the traditional notion of a lawyer, in order to effect outcomes for his client.

19 However, a lawyer must also be adept to the notions of TJ and its intimate links with the broader social science context which TJ is placed in. Legal practitioners are mostly untrained in psychology, and may be less effective in understanding the deeper psychological concerns undergirding family disputes.⁶⁵ To practise TJ effectively, one should effectively engage with cross-disciplinary studies to understand better how to effect therapeutic outcomes. Interestingly, research suggests that lawyers possessing certain atypical traits may perform better at seeking TJ. These traits include: non-competitive lawyers emphasising on the role of lawyer as planner, counsellor and negotiator; altruism; and an ethic of care, including propensity for the "Feeling" instead of the "Thinking" trait on the Myers-

of Marriage with Dependent or Minor Child(ren)'" (2009) 10(2) *Florida Coastal Law Review* 263 at 279-281.

62 Michael S King, "Restorative Justice, Therapeutic Jurisprudence and the Rise of Emotionally Intelligent Justice" (2008) 32 *Melbourne University Law Review* 1096 at 1123-1124.

63 Michael S King, "Restorative Justice, Therapeutic Jurisprudence and the Rise of Emotionally Intelligent Justice" (2008) 32 *Melbourne University Law Review* 1096 at 1123.

64 Deen Potter, "Lawyer, Social Worker, Psychologist and More: The Role of the Defence Lawyer in Therapeutic Jurisprudence" (2006) *Murdoch University Electronic Journal of Law* 95 at 97.

65 Morris B Hoffman, "Therapeutic Jurisprudence, Neo-Rehabilitationism, and Judicial Collectivism: The Least Dangerous Branch Becomes Most Dangerous" (2001) 29 *Fordham Urban Law Journal* 2063 at 2069.

Briggs Type Indicator.⁶⁶ While not all lawyers may possess all of these traits, cognisance of them will help them better shape their legal advice and strategies to meet the needs of the client through the lens of TJ. Perhaps the key takeaway from these “atypical” traits, is the ability for the lawyer to be able to use emotionally intelligent skills in addressing the client,⁶⁷ with a view to the latter’s holistic well-being. Thus, even when communicating bad news or conveying realistic expectations to the client, one should always remain cognisant that the way that the manner it is conveyed may also affect the process of TJ.

IV. Conclusion

20 The thinking behind Singapore’s system of divorce in family justice proceedings has been opined as such: “Divorce should be no worse than a re-organisation of family members’ living arrangements and the divorced spouses should still be able to continue to discharge their parental responsibilities with some degree of co-operation.”⁶⁸ Divorce may have significant long-term mental effects on the parties involved,⁶⁹ as well as their children,⁷⁰ but therapeutic jurisprudence seeks to mitigate any anti-therapeutic effects arising from it. As the authors have put forth, TJ cannot be effected merely by the courts, although they look to play a significant role in this regard. Reforms in legal processes and a recalibration of the role of a family lawyer towards the goal of TJ are ultimately necessary for a comprehensive ecosystem towards achieving therapeutic

66 Susan Daicoff, “Making Law Therapeutic for Lawyers: Therapeutic Jurisprudence, Preventive Law, and the Psychology of Lawyers” (1999) 5(4) *Psychology, Public Policy, and Law* 811 at 827–828.

67 Michael S King, “Restorative Justice, Therapeutic Jurisprudence and the Rise of Emotionally Intelligent Justice” (2008) 32 *Melbourne University Law Review* 1096 at 1123.

68 Leong Wai Kum & Debbie Ong, “Family Justice in Divorce Proceedings in Singapore for Spouses and Their Children” (2020) *Journal of the Malaysian Judiciary* 165 at 165.

69 See Elizabeth G Menaghan & Morton A Lieberman, “Changes in Depression Following Divorce: A Panel Study” (1986) 48(2) *Journal of Marriage and Family* 319.

70 See Naomi Wauterickx, Anneleen Gouwy & Piet Bracke, “Parental Divorce and Depression: Long-Term Effects on Adult Children” (2008) 45(3) *Journal of Divorce and Remarriage* 43.

outcomes. As Menon CJ noted in *VDZ*, “TJ is not merely an ideal; it is a necessity”.⁷¹ The stakes are high – the failure to deliver TJ may result in irretrievably broken relationships, and deleterious consequences for generations to come.

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