

SPEECH

SPEECH BY MDM GUY GHAZALI, SENIOR PRESIDENT OF THE SYARIAH COURT, AT THE SYARIAH COURT'S HAKAM EMPANELMENT CEREMONY ON 10 MARCH 2023

Mr. Masagos Zulkifli, Minister for Social and Family Development, Second Minister for Health & Minister-in-charge of Muslim Affairs

Assoc Prof Dr. Muhammad Faishal Ibrahim, Minister of State, Ministry of Home Affairs & Ministry of National Development

Deputy Mufti Ustaz Dr. Mohammad Hannan Bin Hassan

Distinguished guests

Ladies and gentlemen

Partners, stakeholders, and friends of the Syariah Court

Assalamualaikum wr. wb.

Good evening to all and a very warm welcome to the Syariah Court's hakam empanelment ceremony.

Introduction

1. This year is a significant year for the Syariah Court. I am happy to share that the Syariah Court will be celebrating its 65th year anniversary end of this year.
2. As we embark on this milestone year, it is fitting that we celebrate one of our most important partners - the Syariah Court's Panel of Hakam or Marital Conciliators.

Empanelment of the Syariah Court's Panel of Hakam (Marital Conciliators)

3. The Syariah Court's hakam are empanelled every 3 years. Today, we will witness the empanelment of 18 hakam who will commence their term on 1st April. 11 of them are from our current panel and they will continue to serve as hakam while 7 others are new hakam. Together, they possess a wealth of experience in the family sector. 8 of the incoming hakam are Naib Kadi. 5 others are Resource Persons for the Marriage Counselling Programme. The breadth and diversity in experiences of our incoming hakam will no doubt enrich and enhance the quality and expertise of the Syariah Court's Panel of Hakam.

Appreciation for Syariah Court's outgoing hakam

4. The theme for today's event is "Moving into the future with Hikmah". This theme is significant for two reasons. First, it is with reference to the H.I.K.M.A.H framework, which we are launching today. Secondly, hikmah means "wisdom". This theme reminds us that wisdom is a key component of progress. Wisdom is not something that can be attained overnight. It is a product of having learned from experience, gathered over time.
5. As we welcome our incoming hakam, we honour the contributions of 6 outgoing hakam who have tirelessly over the years devoted much time and effort to the Syariah Court's hakam endeavours. Our outgoing hakam have amassed many years of experience. The longest serving among them has served as hakam for 30 years. Ladies and gentlemen, please join me in a round of applause to show our appreciation for our outgoing hakam. I am certain that they will continue to contribute to the Syariah Court's Panel of Hakam as a point of reference for the new hakam, sharing invaluable experiences and insights, and be an inspiration for the new hakam to emulate.

The important role of hakam in the Syariah Court divorce process

6. Hakam play an important role in the Syariah Court divorce process. Where the issue of divorce is contested in Court, such as where the wife is seeking a divorce, but the husband does not wish to divorce the wife, the Syariah Court may appoint two hakam, one for each party, to resolve the marital dispute. Hakam may also be appointed in situations where the husband applies for divorce, but he subsequently has second thoughts on whether he should be following through with the divorce.
7. The role of the hakam is to explore the possibility of reconciliation between the parties and to effect reconciliation where possible. If reconciliation cannot be achieved, the role of the hakam is to facilitate an amicable divorce. The significance of an amicable divorce cannot be understated. It can pave the way for parties to resolve other issues such as children matters. Where the level of acrimony is low, the parties are more likely to move on with their lives post-divorce harmoniously. Where there are children, the hakam process allows the family relationship to be preserved despite the dissolution of the marriage, and this will enable both parties to continue to be effective co-parents for their children.
8. Ladies and gentlemen, allow me to continue part of my speech in Malay:

- (i) Hakam memainkan peranan penting dalam proses perceraian di Mahkamah Syariah. Peranan mereka adalah untuk meleraikan pertikaian antara suami isteri.
- (ii) Hakam akan berusaha untuk mendamaikan kedua-dua belah pihak. Tujuan utama adalah supaya suami isteri dapat berbaik semula. Namun begitu, sekiranya mereka tidak dapat disatukan lagi dan perpisahan adalah jalan yang terbaik, hakam akan menyelesaikan pertelingkahan mereka dengan cara yang aman. Dengan bantuan hakam, walaupun suami dan isteri berpisah, ia dilakukan secara ihsan seperti yang dianjurkan dalam Islam.
- (iii) Adalah penting untuk suami isteri meleraikan konflik dalam proses perceraian demi kebajikan dan kesejahteraan mental serta emosi anak-anak. Apatah lagi kedua-dua belah pihak akan terus memainkan peranan penting dalam kehidupan anak-anak sebagai ibu bapa dan mereka harus bekerjasama dalam hal ini. Peranan hakam memastikan kebajikan anak-anak tidak terjejas dan dapat terus terpelihara supaya anak-anak dapat membesar dengan kasih sayang walaupun kedua ibu bapa sudah berpisah.

Therapeutic justice inherent in the administration of Muslim family law

9. In Islam, we are constantly reminded to treat our spouses with fairness, and where the circumstances are such that the marriage has to come to an end, it must be done with compassion and kindness.
10. The hakam process illustrates that therapeutic justice underpins the administration of Muslim family law in the Syariah Court. We recognise that there can be no winner in a divorce. Hence, the divorce process must provide opportunities for affected families to be able to set aside their hostility in order to transit into a state of functionality post-divorce where family relationships (whether between co-parents or between parents and their children) can continue to thrive.
11. The Court is unable to achieve this objective on its own. The family justice ecosystem involves many actors that work towards this collective purpose, including asatizah such as hakam, social science professionals and legal professionals.
12. It is with this in mind that the Syariah Court has started to establish its court counselling framework with effect from September 2022. The court counselling framework will be

implemented in phases. Under the first phase, which has already commenced, child interviews are conducted jointly by the President (who is the Syariah Court judge) and the Syariah Court's Principal Court Counsellor. The Principal Court Counsellor is a new role that the Syariah Court has created to strengthen coherence within the family justice system and to further enhance child-centricity in the Syariah Court divorce process. The involvement of a trained and experienced court counsellor in the child interview process ensures that the psychological wellbeing of the child remains protected, even if the child has to be involved in the court process through judicial interview.

13. By resolving the marital dispute between divorcing parties, thereby enabling them to start afresh as functional co-parents for their children, the Syariah Court's hakam are instrumental in the Syariah Court's efforts to enhance child-centricity in its divorce process.

Launch of the H.I.K.M.A.H framework and e-Guidebook

14. Recognising the important role that the hakam play in the Syariah Court divorce process, particularly in bringing about therapeutic outcomes for the families who appear before us, the Syariah Court is launching the H.I.K.M.A.H training and assessment framework for our hakam.

15. H.I.K.M.A.H stands for "**H**akam's **I**deals: **K**nowledge, **M**ethodology, **A**pplication, **H**eart". The H.I.K.M.A.H framework focuses on the 4 aspects that a hakam must have, which I will summarise as the 4 Ps – Proficiency (having the requisite Knowledge), Process (adopting the most suitable Methodology for the situation at hand), Product (the outcome or Application of the knowledge and methodology), and Passion (having the Heart to help and support affected couples and families). I would also add a 5th P to cap the entire process, which is Perseverance, as there are bound to be challenges but we must persist in our mission to support affected families.

16. The H.I.K.M.A.H framework is a culmination of a series of efforts by the Syariah Court over a period of 2 years to engage and seek feedback from our hakam and piloting training sessions covering various components including legal and social science trainings as well as practical activities such as simulation of the hakam process.

17. The H.I.K.M.A.H training framework will cover 4 modules – legal module; social science module; ethics and conduct module; and role-play module. Apart from training, the H.I.K.M.A.H framework also incorporates an assessment mechanism through the

demonstration of competencies by the hakam in the role-play module, feedback received from parties who have undergone the hakam process and performance tracking by the Syariah Court based on a list of indicators. This is to ensure consistency in practice and standards among the Syariah Court's Panel of Hakam.

18. The H.I.K.M.A.H framework will be complemented with the launch of an e-Guidebook, which provides guidance to our hakam so that they are able to discharge their role effectively and seamlessly.

Conclusion

19. I end my speech by welcoming the incoming hakam into the Syariah Court family. The task ahead may not be easy but take comfort in the belief that you might just be that voice of reason reminding affected couples that healing is within reach, light is within sight and hope is within rights. The Syariah Court will continue to support our hakam in this endeavour to achieve our common vision to preserve and strengthen family relationships.

Thank you.