

WELCOME ADDRESS BY MDM GUY GHAZALI, SENIOR PRESIDENT OF THE SYARIAH COURT, AT SYC PRACTICE FORUM 2024: THE TIES THAT BIND ON 1 AUGUST 2024

Colleagues, Partners and Friends of the Syariah Court,

Assalamualaikum, good morning and a very warm welcome to all.

Introduction

1. It is my pleasure to welcome you to the SYC Practice Forum 2024.
2. It brings me great joy to see many familiar faces and almost as many new faces. We, at the Syariah Court, are constantly motivated by your passion, desire and interest to learn and understand about the administration of Muslim family justice in Singapore.
3. I hope today's forum will leave all of you enriched and enlightened. More importantly, that it will provide you with an opportunity to build friendships that will form the foundation for effective partnerships within the family justice system.

SYC65 Conference

Ladies and gentlemen,

4. Nine (9) months ago, in November, the Syariah Court celebrated its 65th anniversary. In conjunction with this milestone, the Syariah Court organised the SYC65 Conference.
5. The SYC65 Conference provided a general and broad overview of the Syariah Court's recent developments in three main areas – **S**ystems, **P**rocess and **P**eople. We shared about:
 - (i) our jurisprudential and legal advancements,
 - (ii) our digital transformation journey,
 - (iii) the introduction of a court counselling framework to enhance child-centricity in the divorce process,
 - (iv) the enhancements made to the marital conciliation or hakam process, and
 - (v) the building of capabilities of our hakam or marital conciliators through a structured training and assessment framework called "HIKMAH" or "Wisdom" in Malay. "HIKMAH" stands for "Hakam's Ideals: Knowledge, Methodology, Application, Heart", representing the attributes that we aspire for and require of our Syariah Court hakam.

SYC Practice Forum

6. Nine (9) months on, we convene again today for the inaugural SYC Practice Forum. Through this forum, we aim to delve deeper into two practice areas that were touched upon at the SYC65 Conference.
7. There are two segments to today's forum. The first segment will be on Muslim divorces and the Hikmah (or Wisdom) in the Syariah Court's marital conciliation or hakam process. The second segment, "Shield the Child", seeks to provide insights on how professionals navigate through child protection and family violence issues in the divorce context. I will briefly address these two segments in turn.

1st segment: Muslim divorces and the Hikmah (or Wisdom) in the Syariah Court's marital conciliation or hakam process

8. First, Muslim divorces and the marital conciliation or hakam process. For those who may not be familiar with the Syariah Court divorce process, you will learn from the presentation later that there are four grounds of divorce under the Administration of Muslim Law Act 1966 (AMLA). There are other grounds of divorce under Muslim Law in general but only these four are applicable to the Syariah Court, which is governed by the AMLA.
9. Out of the four grounds of divorce under the AMLA, two are non-fault grounds. What does a non-fault ground mean? This means that a party seeking a divorce does not have to prove fault on the part of the other party or to produce witnesses in Court to prove his or her claim for divorce. The two non-fault grounds are talak (divorce by husband's pronouncement) and khuluk (divorce by redemption). The presentations later will elaborate further on these grounds.
10. For present purposes, I would like to focus on the ground of talak as divorce on the ground of khuluk is a rare occurrence.
11. What is talak? Talak is pronouncement of divorce by the husband. If you imagine both parties, the husband and the wife, being present in Court before the judge, a talak pronouncement is as simple as the husband uttering the words "I divorce my wife". With that, the Court can decree a divorce.

12. In the last three years, between 2021 and 2023 (both years inclusive), the divorces registered on the ground of talak constitutes **95%** of the total divorces registered by the Syariah Court during this period. This means that for **95%** of divorces registered in the last three years, the party seeking divorce did not need to show fault on the part of his or her spouse. There was no need for voluminous documents to be filed, or for a party to set out a laundry list of why the other party had caused the breakdown in the marriage, or for the Court to get the parties and their witnesses to take the stand to give evidence and be cross-examined by the other side. There is no need for all of that.
13. Since talak is pronounced by the husband, some of you may wonder whether a wife can avail herself of the ground of talak or whether this is a ground that can only be relied on by the husband. In this regard, you may wish to know that the ground of talak can be relied on by either the wife or the husband to obtain a divorce. In fact, in the last three years (for the same period 2021-2023), if we look at the divorces registered on the ground of talak, in **68%** of these cases, the plaintiff is the wife. Hence, even though talak is pronounced by the husband, it is being relied on by the wife to achieve a non-contentious divorce.
14. We are nevertheless mindful that human beings have shortcomings and husbands need reminders from time to time that talak should be pronounced ethically. To ensure that talak is effected ethically by the husband, the Syariah Court has expended efforts in public education. Husbands are encouraged to pronounce talak in Court, and not out-of-Court, so that there is no ambiguity on the validity of the talak pronouncement or calculation on the count of talak (for example, whether it is the first, second or third talak – this will be elaborated in the presentation later).
15. So far, we have discussed how the talak, as a ground of divorce, facilitates a non-contentious divorce, and that it should be pronounced ethically. But what if the husband refuses to pronounce talak? This is where the marital conciliation or hakam process comes in. Our marital conciliators or hakam play an important role in the Syariah Court divorce process.
16. Where the issue of divorce is contested, 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.

17. The role of the hakam is to explore the possibility of reconciliation between the parties. If reconciliation cannot be achieved, the role of the hakam is to facilitate an amicable divorce. Through the hakam process, what started as a contested divorce becomes uncontested. This again means that no fault is required to be proven, in this case by the wife, to obtain the divorce. What both hakam need to be satisfied is the existence of marital discord between the parties such that if they were to remain in the marriage, this will cause harm to the parties and their relationship.
18. This is an important outcome of the hakam process because if the wife has to rely on a fault-based ground and prove fault on the part of the husband, she will have to produce witnesses in Court. Witnesses in Syariah Court divorces are typically family members. They can be the husband's father-in-law, brother-in-law or even the parties' son. Through the hakam process, we are averting the awkwardness of a family member testifying against another family member. This is an important consideration because ultimately, we want to preserve relationships among family members even in a post-divorce state.
19. Where there are young children, the hakam process allows parties to achieve closure so that they can move on harmoniously and be effective co-parents for their children.
20. The Muslim divorce framework, including the hakam process, is premised on an administration of justice that upholds the principles of fairness, kindness and compassion. As I mentioned at the Hakam Empanelment Ceremony event in March last year, in Islam, we are constantly reminded to treat our spouses with fairness and if the marriage has to come to an end, it must be done in kindness. This is the recurring theme in the Syariah Court divorce process.

2nd segment: "Shield the Child"

21. As for the second segment of the Forum, you will notice that most of our speakers and panellists are social science professionals. The Syariah Court recognises that the resolution of family disputes requires a multi-disciplinary approach. It is not just about the law. There are the social science elements. For Syariah Court divorces, religious elements are also involved. The Court cannot do this alone, and realistically speaking, the Court is not the only actor in the ecosystem.

22. In the Syariah Court context, this involves the collaboration of three main groups. They are, in no particular order of importance, legal professionals, social science professionals and religious professionals or asatizah. We are very heartened to have with us today representatives from all three groups. We hope you would take some time to know one another and learn about one another's role and work in the family space, and that this interaction and connection will be of benefit to you.
23. We are also privileged to have with us our esteemed colleagues from the Counselling and Psychological Services of the Family Justice Courts and the Child Protective Services of the Ministry of Social and Family Development. They have set aside their precious work time to share their expertise and experiences with us. Thank you for partnering us at today's forum.
24. Disputes relating to children are never straightforward. There is no one size fits all solution. The Court has to take into account the children's specific circumstances, their experiences, their ages, their needs, their wishes, their environments in ascertaining what their welfare requires. The matter becomes even more complex where there are issues or allegations relating to child protection or family violence. This challenge is not unique to the Court. The same challenge is also faced by the professionals who encounter these families in the course of their work or in the community.
25. We trust you will gain valuable insights from the various speakers. You will have the opportunity in the later part of the afternoon to apply the considerations that you have learned from the speakers when you unpack the real-life case studies that have been prepared for you.

Theme for SYC Practice Forum 2024: "The Ties that Bind"

Ladies and gentlemen,

26. The theme for today's Practice Forum is The Ties That Bind. This theme is significant for two reasons.
27. First, as a divorce court, it is often inevitable for us to witness the end of a marriage. But even when the family structure changes, the family relationships remain. Because of that, the Syariah Court is committed towards preserving family relationships. Our various initiatives, including how we administer the Syariah Court divorce process and our cases, are geared towards fulfilling this objective.

28. Secondly, the ties that bind represent all of us. We have different roles in the family justice system, but we work towards one common goal which is to support divorcing families and children. If we understand each other's roles and have opportunities to learn and share experiences with one another, as we are doing today, we become better informed and that would enable us to discharge our roles better.
29. So let us remind one another, today and henceforth, that what is utmost in mind, are the ties that bind.
30. Thank you, and I wish you a fulfilling forum ahead.