

OPENING SPEECH BY MDM GUY GHAZALI, SENIOR PRESIDENT OF THE SYARIAH COURT, AT THE SYARIAH COURT'S 65th ANNIVERSARY EVENT ON 24 NOVEMBER 2023 AT 3PM AT MARINA BAY SANDS CONVENTION CENTRE

Assalamualaikum. Good afternoon and a very warm welcome to:

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

Deputy Attorney-General, Mr. Lionel Yee, SC

Chief Syariah Judge of Malaysia, The Honourable Dato' Haji Mohd Amran Bin Mat Zain

Honourable Judges from the Judiciaries of Brunei Darussalam, Malaysia and Singapore

Chief Executive of Muis, Mr. Kadir Maideen

Deputy Secretary (Community and Youth), Ms Amy Hing

Former Senior Presidents of the Syariah Court, Ustaz Sallim Bin Jasman and Ustaz Mohamad Bin Haji Rais

Partners, colleagues and friends of the Syariah Court

Introduction

1. The Syariah Court was established on 25 November 1958. It celebrates its 65th anniversary today, a day shy of its actual birthday. We are privileged to be graced by the company of our partners and friends, and our predecessors with whom we share affinity through this journey. Thank you for celebrating this day with us.

Launch of the Syariah Court's commemorative book

2. We can only forge an identity if we are aware of our history. It is fitting that the Syariah Court celebrates its anniversary with the launch of a commemorative book. This book documents our struggles and challenges. At the same time, it allows us to reflect upon and appreciate the great strides that have been made over the years. The theme "Rooted in Tradition, Ready for Tomorrow" signifies the Syariah Court's commitment to uphold Islamic principles and values as we evolve to meet the changing needs of the institution and the community.

Developments in the Syariah Court

3. The Syariah Court's developments can be attributed to three factors:
 - a) Infrastructure
 - b) Architecture; and

c) Culture.

a) "Infrastructure" - Structures in the Syariah Court's divorce framework

4. The Syariah Court's infrastructure refers to the building of structures within its framework to administer Muslim family justice. Since the Syariah Court's inception in 1958, pre-divorce counselling and the hakam (marital conciliation) process have been in place to facilitate reconciliation or resolve marital dispute. In 1999, mediation was introduced into the court process as the first court event to facilitate amicable resolution. More recently, in 2022, the court counselling framework was established to enhance child-centricity. The Syariah Court also embraced digitalisation. It launched its inheritance and divorce e-services portal in 2021 and 2022 respectively.

Launch of the Syariah Court's Child Representative scheme

5. Today, the Syariah Court will be launching its Child Representative Scheme.
6. The Syariah Court judgments have made it clear that the "welfare of the child" is a recognised principle. This is not because the Syariah Court has imported this principle from the civil courts but because the considerations pertaining to the welfare of the child are entrenched in Muslim law. The application of the welfare principle is determined on a case-by-case basis through an exercise of *ijtihad* or independent legal reasoning.
7. The term "Child Representative", or "CR", is not new in the family justice landscape. In 2014, the Family Justice Courts ("FJC") established the CR scheme with lawyers appointed as CRs. Instead of simply replicating the lawyer-CR model, the Syariah Court conducted a review of its divorce process and assessed the needs of the families who appear before the Court. We subsequently concluded that a more suitable model would be a CR scheme consisting of social science professionals.
8. The role of the CR in the Syariah Court is to assist the child in expressing views to the Court fully and accurately, and free from the influence of any person. The CR must act in the best interest of the child, and bring to the Court's attention matters or evidence relevant to advancing the interests of the child. Where necessary, the CR will also obtain information from other professionals, such as mental health professionals or school teachers, who have been involved with the child. To assist the Court in making a decision that is in the welfare of the child, the CR will submit a report to the Court containing the CR's observations and assessment from the session with the child,

including the child's views, concerns and wishes. The Court may appoint a CR in suitable cases involving children aged 7 years and above, where the issue of custody, care and control or access is in dispute.

9. Social science professionals are well-placed to perform the role of CR. They are trained to speak to children and are able to identify relevant issues pertaining to children's welfare. Additionally, the CRs empanelled by the Syariah Court have experience in dealing with divorcing families, including children.

10. Ladies and gentlemen, allow me to continue part of my speech in Malay.

11. Pada hari ini, Mahkamah Syariah menyambut ulang tahun kami yang ke-65. Sebagai mahkamah yang mengendalikan kes perceraian, matlamat kami adalah untuk memastikan bahawa hubungan kekeluargaan dapat terus terpelihara. Dalam hal ini, kebajikan anak-anak adalah kepentingan utama bagi mahkamah.

The Syariah Court celebrates its 65th anniversary today. As a court that deals with divorce cases, our objective is to ensure that family relationships are preserved. In this regard, welfare of children is of paramount importance to the Court.

12. Pendekatan yang kami ambil berteraskan prinsip ihsan yang menganjurkan kita untuk bersikap adil, berbuat baik dan mempunyai belas kasihan sesama manusia, terutama dalam kalangan keluarga.

The approach that we have taken is premised on the principle of ihsan which encourages fairness, kindness and compassion to others, especially within the family.

13. Sejajar dengan matlamat ini, Mahkamah Syariah melaksanakan penambahbaikan pada proses mahkamah dari masa ke semasa. Pada hari ini, kami akan melancarkan Skim Perwakilan Anak atau "Child Representative Scheme". Skim Perwakilan Anak ini merupakan sebahagian daripada usaha menyeluruh Mahkamah Syariah untuk memastikan bahawa kebajikan anak-anak terpelihara.

Aligned to this objective, the Syariah Court has implemented enhancements to the court process from time to time. Today, we will be launching the Child Representative Scheme. The Child Representative Scheme is part of the Syariah Court's overall efforts to ensure that the welfare of children is preserved.

14. Dengan adanya Perwakilan Anak dalam proses mahkamah, anak-anak berusia 7 tahun ke atas dalam kes-kes yang sesuai, dapat menyampaikan pandangan,

keimbangan atau hasrat mereka kepada mahkamah menerusi seorang Perwakilan Anak yang berperanan sebagai perantara antara si anak dengan mahkamah. Perwakilan Anak di Mahkamah Syariah terdiri daripada pakar sains sosial yang mempunyai pengalaman dan kemahiran mengendalikan kes-kes kekeluargaan dan juga mewawancara kanak-kanak.

With the introduction of the Child Representative scheme into the court process, children aged 7 years and above in suitable cases will get to convey views, concerns and wishes to the Court through a Child Representative who acts as an intermediary between the child and the Court. The Child Representatives in the Syariah Court consist of social science professionals who have the experience and expertise in dealing with family cases and interviewing children.

15. Sejalan dengan tema buku khas ulang tahun Mahkamah Syariah, yang juga dilancarkan pada hari ini, iaitu “Berakarkan Tradisi, Bersedia untuk Hari Esok” (“Rooted in Tradition, Ready for Tomorrow”), Skim Perwakilan Anak mencerminkan komitmen Mahkamah Syariah untuk mentadbirkan perundangan kekeluargaan Islam yang menitikberatkan keperluan masyarakat, hubungan kekeluargaan dan kebajikan anak-anak berteraskan prinsip ihsan.

Consistent with the theme of the Syariah Court’s commemorative book, which will also be launched today, “Rooted in Tradition, Ready for Tomorrow”, the Child Representative scheme reflects the Syariah Court’s commitment to administer Muslim family justice that centres on the needs of the community, family relationships and welfare of children, premised on the principle of ihsan.

b) The Syariah Court’s divorce architecture

16. This brings me to the second factor, which is the Syariah Court’s divorce architecture. This refers to the interaction between the different structures in the Syariah Court divorce process.
17. Much has been said in recent years about the importance of therapeutic justice in resolving family disputes. The Islamic principle of ihsan, where one strives to attain excellence or perfection through the performance of good deeds and righteousness, has always been the philosophy underpinning the administration of Muslim family law. This is reflected through the administration of justice that upholds the virtues of fairness,

kindness and compassion, especially between spouses, and between parents and children, even when the marriage comes to an end.

18. In order to achieve this ideal, collaboration with our various partners such as lawyers, asatizah and social science professionals is key.

19. To this end, the Syariah Court has invested in the capability-building of its partners. An example is the H.I.K.M.A.H (Hakam's Ideals: Knowledge, Methodology, Application, Heart) training and assessment framework for the Syariah Court's panel of hakam (marital conciliators), which was launched in March this year. This is in addition to thought leadership, legal education, stakeholder engagement and public education, which the Syariah Court has been driving to share knowledge, information and best practices to practitioners and the public.

SYC65 Conference

20. Another example of an initiative which brings together our various stakeholders is the SYC65 Conference ("the Conference"), which took place this morning. It was attended by about 150 participants from the legal, social science and religious sectors.

21. With the theme "FORward: For Families, For Community", the Syariah Court, together with its partner representatives, shared various topics. These topics ranged from (1) significant legal developments, (2) child-centricity in the divorce process, (3) collaboration with partners such as hakam (marital conciliators), and (4) the Syariah Court's digital transformation journey.

22. The Conference was graced by Madam Rahayu Mahzam, Senior Parliamentary Secretary, Ministry of Health & Law, who also delivered the keynote address.

23. We have prepared a short video to share some of the highlights of the Conference with you.

< video >

24. We hope you enjoyed the video and that the participants have found the Conference enriching.

c) "Culture" – The "People of the Syariah Court"

25. Ladies and gentlemen, the third and final factor is culture. The culture of an organisation is cultivated by its people. The Syariah Court has witnessed many

generations helming and supporting the Syariah Court in the last 65 years. The different generations faced challenges unique to their time and context, whether in terms of clearing case backlog, facing resource constraints, embracing technology or finding solutions to resolve gaps in service. The common thread unifying the different generations is the heart to serve, the desire to help families, and the conviction that we are capable of rising above adversity in the strive towards excellence.

26. I would like to take this opportunity to thank the “People of the Syariah Court” – past and present. Their stories speak of perseverance, sacrifices and dedication. Without our predecessors who have written the prologue and preceding chapters so compellingly, we, the successors, would not have found the words to complete the subsequent pages of the Syariah Court story.
27. I would also like to thank the Syariah Court’s stakeholders and partners for walking with us in this journey. We hope to continue collaborating with you to collectively provide better experience for the families we serve.
28. Last but not least, I would like to thank the SYC65 Organising Committee for their efforts in translating what started as a mere vision into reality. Even when the going got tough, they were resolute in delivering only the best.
29. Finally, I would like to dedicate a self-penned poem in Malay to commemorate this day and in honour of all contributions that have shaped the Syariah Court’s 65-year journey. It is titled “65 Usiamu” or “You are 65”.

65 Usiamu

Enam puluh lima
Bukan sekadar angka
Bukan sekadar usia
Ia adalah lambang
Jiwa dan usaha
Yang tidak pernah lelah
Yang tidak kenal kalah.

Ia adalah berkat
Kudrat dan keringat
Mereka yang terdahulu mengorak langkah
Menelusuri onak
Supaya kami yang kemudian dapat berpijak
Dapat berlari
Dapat merentas duri
Dapat menggapai mimpi
Menjadi dinding-dinding realiti.

Tetapi esok masih ada.
Adakah ruang
Adakah peluang
Dapatkah kita membilang
Bintang-gemintang
Di celah-celah gelombang.

Kerana enam puluh lima
Bukan sekadar angka
Bukan sekadar usia
Ia adalah lambang
Harapan dan cita-cita.

[English translation]

You are 65

*Sixty-five
Is not just a number
Is not just an age
It is a symbol
Of passion and endeavour
That is unwavering
That knows no defeat*

*It is the blessing
Of the strength and labour
Of our pioneers, the pathfinders
Who braved thorns
So that we who came after could venture
And sprint
With the courage to overcome obstacles
To achieve dreams
From which we built walls of reality*

*But there is still tomorrow
Will there be space
Will there be opportunity
Will we get to count
The glittering stars
Amidst the waves*

*Because sixty-five
Is not just a number
Is not just an age
It is a symbol
Of hope and aspirations*

With that, I thank you.