Designing a Hakam Islah Framework for Marital Discord: Socio-Legal Evidence from Negeri Sembilan and Lessons From Singapore

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ABSTRACT

Hakam is a court-linked mechanism in Islamic family law for resolving serious marital discord (*shiqaq*) through representatives or arbiters appointed for the spouses. This article develops a Hakam Islah framework for Negeri Sembilan by combining doctrinal analysis, State family-law provisions, administrative case records, stakeholder evidence and a functional comparison with Singapore. The empirical dataset comprises 121 detailed Seremban records: 85 divorce applications under section 47 from 2022 and 2024 and 36 Hakam records under section 48 from 2020 and 2023. A separate 126-case inventory was used only for administrative mapping. Communication and emotional conflict appeared in 72.9% of section 47 records and 66.7% of section 48 records. Responsibility neglect and recorded domestic violence were more frequent in the Hakam records, while 66.7% of section 48 matters lasted at least six months. Most recorded final outcomes were forms of divorce rather than reconciliation. These descriptive patterns do not establish causation, but they support stronger safety triage, clearer authority, stage-level time controls and outcome-specific data. The proposed two-tier framework retains screened family Hakam as a conditional first tier and escalates unresolved, unsuitable or unsafe cases to an accredited court panel whose authority is expressly conferred by law and court order. Singapore's statutory Hakam model and HIKMAH competency approach are used only as functional benchmarks. The article recommends a controlled pilot, transparent panel fees borne in principle by the parties subject to waiver or assistance, and legal amendment where existing Negeri Sembilan rules do not permit administrative change.

Keywords— Hakam Islah, shiqaq, Islamic family law, Negeri Sembilan, Shariah Court, socio-legal research, Singapore, family justice.

I. INTRODUCTION

Marital discord presents a family court with a problem that is simultaneously legal, relational and institutional. The court must identify the correct legal pathway, but the parties may also require a process that clarifies the real issues, protects vulnerable family members and enables an informed decision about whether the marriage can safely continue. Within Islamic family law, Qur'an 4:35 provides a distinctive response by directing the appointment of two Hakam, one connected with each spouse's family, where serious discord is feared.

In Negeri Sembilan, sections 47 and 48 of the Islamic Family Law (Negeri Sembilan) Enactment 2003 govern divorce applications and Hakam proceedings, while the Hakam Rules (Negeri Sembilan) 2017 regulate appointment and procedure in greater detail. These provisions operate within Malaysia's federal constitutional structure, under which Islamic family law is administered at State level. Practices developed elsewhere may therefore be instructive but do not automatically apply in Negeri Sembilan.

The operational difficulty is not simply whether courts should choose family members or professionals. Family nominees possess Qur'anic legitimacy and may have valuable knowledge of the relationship, yet they may lack neutrality, competence, availability or a clear understanding of authority. Professional panels can offer standardised training and more reliable court management, but a model that bypasses family participation altogether risks weakening the relational logic expressed in Qur'an 4:35. The more useful question is how family participation can be preserved without allowing unsuitable nominations to delay or compromise the process.

Authority is equally important. Classical jurists differed over whether Hakam act as adjudicators, authorised agents or conciliators. Maliki doctrine provides substantial support for an adjudicative role, while Hanafi doctrine and the dominant qaul jadid in the Shafi'i school generally emphasise agency and specific authorisation; Hanbali authorities record more than one view (al-Kasani, 1986; al-Shafi'i, n.d.; Ibn Qudamah, 1968; Ibn Rushd, 2004). The practical implication is that the title Hakam does not by itself answer what a particular appointee may lawfully do. The appointment instrument, governing law and court order must define the role.

Malaysian research reinforces the need for institutional clarity. Jusoh et al. (2022) identify qualification, procedural-compliance and infrastructure issues in the implementation of tahkim, while Mohamad Cusairi et al. (2024) emphasise ethics and role competence. Mohd Noor et al. (2023) further show that the effectiveness of tahkim cannot be reduced to a single organisational measure. These studies support a broader conception of success that includes legality, safety, procedural fairness, timeliness, comprehensible outcomes and the quality of party participation.

This article contributes to that literature by combining doctrinal analysis with descriptive court-record evidence and an operational design for Negeri Sembilan. Singapore is used as a functional comparator rather than a legal transplant. Its value lies in the way the Syariah Court manages Hakam through a formal panel, written authority, professional standards and a structured competency framework. The article asks how these institutional functions may be adapted within Negeri Sembilan's own law, Shariah choices and court structure.

II. METHODOLOGY

2.1 Research Design and Data

The study adopts a mixed socio-legal design. Doctrinal analysis examined Qur'an 4:35, relevant hadith, classical tafsir and fiqh, Malaysian State family-law legislation and Hakam rules, and Singapore's Administration of Muslim Law Act 1966, Muslim Marriage and Divorce Rules and official Syariah Court materials. The purpose was to identify the normative foundations, positive-law authority and institutional limits within which an operational Hakam Islah framework could be proposed.

The empirical component used descriptive analysis of administrative case records rather than a population survey or causal evaluation. The detailed dataset contains 121 Seremban records. Eighty-five are section 47

records, consisting of 42 matters from 2022 and 43 from 2024. Thirty-six are section 48 Hakam records, consisting of 19 matters from 2020 and 17 from 2023. A separate administrative inventory identified 126 cases across several districts and years, but because its substantive fields were incomplete it was used only for caseload mapping and was not merged with the 121-record analytical dataset.

Data source	Records	Years	Analytical use
Section 47 divorce applications	85	2022 (42); 2024 (43)	Detailed descriptive analysis
Section 48 Hakam records	36	2020 (19); 2023 (17)	Detailed descriptive analysis
Administrative inventory	126	Multiple years/districts	Caseload mapping only

Causes were coded non-exclusively, meaning a single record could contain more than one category. Percentages therefore do not sum to 100%. Categories included communication and emotion, financial problems, responsibility neglect, infidelity, domestic violence, family interference, addiction, mental-health issues, polygamy, sexual problems and legal or status issues. The codes are administrative descriptors, not clinical diagnoses or judicial findings of fault.

Quantitative analysis was limited to frequencies, percentages and descriptive averages. No inferential testing was undertaken because the records were available-case samples from selected years rather than probability samples. The section 47 and section 48 datasets are not a cohort tracking the same cases through both stages. Due to section 48 records are escalated cases, they may over-represent unresolved or complex matters; observed between-group differences are therefore treated as indicators of pathway selection, not causal effects of Hakam or estimates of population prevalence. The percentages therefore describe only the reviewed records and should not be generalized to all marital-discord applicants in Negeri Sembilan.

Several limitations follow from this design. First, the detailed dataset comprises available records from Seremban in selected years, rather than a probability sample of Negeri Sembilan cases; the separate 126-case inventory cannot correct this because its substantive fields are incomplete. Second, the groups differ by procedural stage and year: section 47 files are divorce applications, while section 48 files have already entered the Hakam route. Escalation may select matters with more persistent conflict, complexity, safety concerns or particular referral and recording practices; the present data cannot disentangle those explanations. With 36 section 48 files, percentages for less frequent categories can also shift materially with a few records. The findings should therefore generate operational questions, not estimate regional prevalence, compare procedural effectiveness or attribute outcomes to Hakam. Future work should prospectively capture consecutive eligible cases across multiple districts, record exclusions and missing data, apply common coding, and follow the same cases through each procedural stage.

2.2 Qualitative Evidence, Validation and Ethics

Qualitative evidence was obtained through engagement with judges, registrars, legal and religious officers, Sulh personnel, family Hakam and panel members, together with operational documents and observations of Hakam-related processes. A focus-group discussion with subject-matter experts on 19 September 2026 tested the clarity, feasibility and legal fit of the emerging framework. Because the available FGD material did not contain a complete voting matrix for every proposal, it is treated as content validation and expert refinement rather than statistical consensus.

The analysis linked four domains: Shariah foundations, positive law, administrative patterns and operational feasibility. A proposal was treated as stronger where it was normatively supportable, legally permissible, responsive to observed problems and practically intelligible to court stakeholders. Where those conditions were not all met, the proposal is classified either as requiring legal amendment or as suitable only for controlled pilot testing.

Names, case numbers, addresses, individual income and identifiable narratives were excluded. Results are reported only in aggregate. Safety-sensitive information is not reproduced, and the study does not determine criminal liability, diagnose mental-health conditions or infer individual wrongdoing from administrative coding.

III. SHARIAH AND LEGAL FOUNDATIONS

3.1 Qur'an 4:35 and the Meaning of Islah

Qur'an 4:35 directs that, when serious discord between spouses is feared, a Hakam should be appointed from his family and another from hers. Classical exegesis records different views on the appointing authority, including the ruler or judge, the spouses and the wider community (al-Tabari, 2001; al-Qurtubi, 2006). For a modern court system, these views can be accommodated through a combined model: parties are given a genuine opportunity to nominate; suitability is screened administratively; and the court formally appoints and defines authority.

Islah should not be reduced to preserving every marriage. Its broader sense is rectification of a harmful or disordered condition. Reconciliation is appropriate when voluntary, safe and realistic. Where continued marriage sustains harm or the relationship has irretrievably broken down, an orderly and dignified separation may constitute the more just resolution. This approach is consistent with the prohibition of harm reflected in the hadith maxim *la darar wa la dirar* and with the principle that settlement cannot make lawful what is prohibited or prohibit what is lawful (Abu Dawud, hadith no. 3594; Ibn Majah, hadith no. 2340).

3.2 Family Preference and Suitability

The Qur'anic preference for family participation is meaningful but should not be treated as absolute regardless of circumstances. Relatives may understand the history of the relationship, earlier reconciliation attempts and family responsibilities, and may be able to communicate with parties who distrust formal institutions. However, a relative who is ignorant of the dispute, openly partisan, financially interested, coercive, unavailable or unable to protect confidentiality may frustrate the purpose of islah. Classical authorities recognise circumstances in which qualified non-relatives may be preferable (al-Qurtubi, 2006; Ibn Qudamah, 1968; al-Zuhayli, n.d.).

3.3 Authority and Role Differentiation

The classical distinction between adjudicator, agent and conciliator provides the conceptual foundation for a tiered model. An adjudicative Hakam derives authority from law or court appointment and may determine matters within the lawful mandate. An agent acts through authorisation from a principal. A conciliator facilitates communication and agreement but does not independently determine marital status. These functions may overlap, but their legal sources should not be conflated (al-Mawardi, 1999).

Role ambiguity can produce serious consequences. A family nominee may wrongly assume that the title Hakam authorises a divorce; a spouse may sign a form without appreciating whether it confers authority for talak, khuluk or only negotiation; and a court may receive a report that fails to distinguish agreement, recommendation and legal decision. The solution is not to erase juristic diversity but to make the chosen legal role explicit in appointment orders, authorisation forms and reporting templates.

3.4 Safety and Coercive Control

Family dispute processes cannot assume equal bargaining power. Domestic violence and coercive control may affect a party's ability to speak freely, disclose information, reject proposals or participate in joint sessions. Beck and Raghavan (2010) emphasise the importance of assessing coercive control rather than relying only on isolated incidents. The Mediator's Assessment of Safety Issues and Concerns (MASIC) was subsequently validated as a structured screening instrument for family mediation (Pokman et al., 2014; Rossi et al., 2022).

These instruments are not proposed as legal tests for Malaysian Shariah courts. Their relevance is procedural: suitability for a conciliatory process should be assessed before parties are placed together. Family-mediation standards and the World Health Organization likewise emphasise screening, privacy, survivor-centred communication and avoidance of interventions that increase risk (Association of Family and Conciliation Courts, 2000; World Health Organization, 2014). In a family-Hakam context, additional care is required because a relative may be part of the pressure network or may disclose information to the wider family.

IV. SINGAPORE AS A FUNCTIONAL COMPARATOR

4.1 Statutory Structure and Court Control

Singapore's Syariah Court operates under the Administration of Muslim Law Act 1966. Section 50 provides for the appointment of Hakam in divorce proceedings, while rule 32 of the Muslim Marriage and Divorce Rules regulates appointment and procedure in greater detail. Rule 32(7) expressly provides that Hakam fees are borne by the parties to be divorced and are of such amount as the Court may determine. The Singapore model therefore combines court-controlled appointment, defined authority and an official fee structure rather than informal private remuneration (Administration of Muslim Law Act 1966 (Singapore), s. 50; Muslim Marriage and Divorce Rules, r. 32).

The official court process allows Hakam to seek reconciliation and to operate within authority defined by Singapore law and court procedure. That statutory power should not be copied into Negeri Sembilan through administrative guidance. Its comparative value lies in the clarity of appointment, authority, reporting and court supervision.

4.2 HIKMAH and Institutionalised Competence

Singapore also provides a useful benchmark for panel management. The Syariah Court launched the HIKMAH framework in 2023 as a structured approach to Hakam competency, combining values, knowledge, methodology, application and practical assessment. The panel approach treats quality as a managed institutional system rather than assuming that religious knowledge alone is sufficient. This functional lesson is directly relevant to Negeri Sembilan, where panel members must understand State family law, Shariah, communication, safety, ethics and report writing.

Recent Singapore scholarship also situates Hakam within a broader therapeutic-justice orientation. Ghazali and Abdol Salam (2026) describe the Syariah Court's approach through the Islamic value of ihsan, emphasising dignity, restraint and processes that reduce unnecessary harm. Again, the value is functional rather than transplantational: institutional design can support both legal resolution and humane family justice.

V. FINDINGS

5.1 Recorded Causes of Marital Discord

Communication and emotional conflict were the most frequently coded category in both datasets. They appeared in 62 of 85 section 47 records (72.9%) and 24 of 36 section 48 records (66.7%). The broad label should be interpreted cautiously because it may describe a primary relational problem or the visible expression of neglect, financial control, violence, addiction or infidelity.

Recorded cause	Section 47	Section 48	Difference
Communication / emotion	62 (72.9%)	24 (66.7%)	-6.2 pp
Responsibility neglect	21 (24.7%)	17 (47.2%)	+22.5 pp

Domestic violence	6 (7.1%)	12 (33.3%)	+26.2 pp
Infidelity	8 (9.4%)	6 (16.7%)	+7.3 pp
Financial / economic	5 (5.9%)	4 (11.1%)	+5.2 pp
Family interference	3 (3.5%)	4 (11.1%)	+7.6 pp
Addiction	2 (2.4%)	4 (11.1%)	+8.7 pp
Polygamy	0 (0.0%)	4 (11.1%)	+11.1 pp

The largest differences concern responsibility neglect and recorded domestic violence. These differences do not show that Hakam causes disputes to become more serious. The more plausible interpretation is selection: unresolved, contested, prolonged or multifaceted disputes are more likely to progress to section 48. Differences in year, record practice and sample size must also be considered.

5.2 Case Duration and Ageing

Fifty-nine of the 85 section 47 records (69.4%) were concluded within one month, 24 (28.2%) took between one and six months, and two (2.4%) took more than six months. In contrast, 24 of the 36 section 48 records (66.7%) lasted at least six months. Because the duration categories were not identical, the comparison is an operational signal rather than a formal statistical test.

The records do not separate active Hakam working time from delay caused by nomination, non-attendance, service, adjournment or other proceedings. This is itself an important management finding. A useful dashboard should capture stage-level dates, including the court order, nomination, screening, appointment, first session, final session, report, escalation and final outcome. For the pilot, registrars should record both calendar days and active Hakam session/work time, with dated milestones and coded reasons for each wait such as, service delay, non-attendance, adjournment or other proceedings. This will allow elapsed duration to be separated into active processing time and administrative waiting time. For consistency, elapsed duration should be measured from the court order to final disposition, while active Hakam time should be logged as actual session/contact time and documented casework hours. This keeps waiting between stages visible rather than folding it into time spent by the Hakam.

The broad and non-identical duration categories also conceal where time accumulates: an ‘at least six months’ record may represent six months or substantially longer, and does not identify the stage responsible. During the pilot, the registrar should use one event log for the order and service dates, completed nominations, screening, appointment, each scheduled and completed session, every adjournment and its reason, report receipt, escalation and final disposition. The dashboard should report separately (i) total calendar days from order to disposition, (ii) waiting time at each stage, coded by reason, for example, service, nomination, non-attendance or court adjournment, and (iii) actual Hakam session/contact time plus documented preparation and report-writing hours. Missing dates should be flagged rather than imputed, and measures should use the same definitions across groups. This locates bottlenecks without relabelling administrative waiting as Hakam work or assuming that duration differences were caused by Hakam.

5.3 Agreement and Final Outcome

Twelve of the 36 Hakam records were coded as involving agreement, 22 as no agreement and two as special or not readily classified. The binary field was not consistently tied to reconciliation and could include an agreement to divorce, khuluk, a husband's pronouncement, a temporary arrangement or a procedural step. A revised outcome taxonomy should therefore distinguish reconciliation, trial reconciliation, talak by the husband, khuluk, panel pronouncement, court determination, no agreement and safety escalation.

Final outcome	Number	Percentage
Talak pronounced by husband	23	63.9%
Khuluk	7	19.4%
Divorce through Panel of Hakam or court	5	13.9%
Returned to / resolved under section 47	1	2.8%

The sample therefore shows Hakam more often functioning as a pathway to legal clarity and orderly divorce than to continuation of the marriage. This does not make the process unsuccessful. A safe, lawful and informed outcome may be successful where it ends uncertainty and protects the parties from unnecessary delay. Reconciliation rate should therefore not stand alone as the principal performance indicator.

5.4 Party Profile and Process Complexity

The weighted mean ages in the section 47 group were approximately 40.3 years for husbands and 37.7 years for wives, with an average marriage duration of 10.0 years. The corresponding section 48 figures were approximately 44.9 years, 40.7 years and 14.5 years. These differences cannot be generalised to the wider population, but they suggest that Hakam cases may involve longer relational histories, children, shared assets and more established patterns of conflict.

Stakeholder evidence identified recurring operational problems: some relatives understand their role as advocacy for the nominating party; overly technical screening may discourage otherwise suitable relatives; unclear authority creates confusion about divorce; repetitive layers can prolong a case where powers do not differ; and a professional panel requires predictable training, scheduling, remuneration and document standards. The FGD therefore favoured a light-touch family screen, one reassessment opportunity, brief orientation, a written undertaking and direct escalation where family handling is unsuitable.

VI. Proposed Hakam Islah Framework

6.1 Design Principles and Two-Tier Architecture

The framework is guided by eight principles: preserve meaningful Qur'anic family participation; screen minimum competence; distinguish legal authority; control time; protect safety; create an audit trail; maintain affordability; and separate immediate administrative improvements from reforms requiring legal amendment.

Tier One consists of two family Hakam, one proposed by each party. Their primary functions are to listen, identify principal and secondary issues, explore safe reconciliation, clarify lawful options and submit a structured report. They do not hold an independent power to pronounce divorce unless a separate lawful authorisation expressly confers such power.

Tier Two consists of an accredited Panel of Hakam managed by the court. It receives cases where no suitable family nominee is available, a nominee fails or withdraws, Tier One does not resolve the matter within the time limit, or safety and conflict considerations make family handling inappropriate. Panel authority must be defined by the Enactment, Rules and appointment order. The Singapore panel is a functional benchmark for professionalisation, but the legal source of authority remains Negeri Sembilan law.

6.2 Nominee Screening and Safety Gate

The proposed family-Hakam screening instrument contains 20 plain-language questions. It assesses voluntary acceptance, availability, emotional capacity, conflicts of interest, fairness, willingness to hear both sides, rejection of threats and family pressure, confidentiality, understanding of islah, limits of authority, compliance with court directions, truthful reporting, recognition of safety risks, referral beyond competence and refusal of gifts.

A score of 15–20 indicates provisional suitability. A score of 10–14 triggers brief orientation and one reassessment. A score below 10 indicates unsuitability. Serious red flags override the numerical score. The thresholds are proposed pilot rules and should not be described as psychometrically validated cut-offs. Their purpose is administrative triage, subject to judicial discretion.

Competency screening must remain distinct from confidential safety triage. A nominee may be competent while a joint process remains unsafe because of threats or coercive control. High-risk cases may require separate sessions, shuttle communication, controlled venues, restricted disclosure, specialist referral or direct panel and judicial management.

6.3 Appointment, Reporting and Time Controls

The family-Hakam appointment order should state prominently that the appointment is for islah and reporting and does not confer independent power to pronounce talak, accept khuluk or make a binding determination unless another valid instrument expressly provides such authority. The statement should be explained orally and acknowledged in writing.

A structured report should distinguish agreed facts, disputed allegations, safety status, steps taken, options considered, agreements, unresolved issues and the recommendation to the court. Reports should avoid clinical diagnoses, findings of criminal guilt and unnecessary family detail. Outcome codes and dates should be mandatory to support both adjudication and system learning.

Stage	Pilot target	Actor	Output
Filing / triage	Day 0	Registrar / case officer	Legal pathway; safety status
Family nomination	By Day 7	Parties / case officer	Nominations or declaration
Screening / appointment	By Day 14	Court	Appointment order; authority
Family-Hakam process	By Day 30	Family Hakam	Structured report
Post-report direction	By Day 37	Court	Closure or panel appointment
Panel target	By Day 60	Panel / court	Authorised outcome and report

These periods are pilot service standards rather than statutory time limits. They cannot remove a legally required process or override judicial discretion. A high-risk matter may require an accelerated or different pathway.

6.4 Panel Competence, Governance and Fees

The Panel of Hakam requires a competency pathway rather than one-off appointment. Entry criteria should include Shariah knowledge, Negeri Sembilan family law, integrity, communication ability and relevant family experience. Training should address role boundaries, coercive control, child safety, joint and separate sessions, negotiation, report writing and simulated cases. Assessment should combine a knowledge check, observed role-play and evaluation of a sample report.

Accreditation should be time-limited and renewable. The panel register should record district, language, caseload, areas of experience, conflicts, training status and accreditation expiry. Complaints, repeated delay or quality failures should trigger proportionate mentoring, retraining, restricted allocation or suspension.

Singapore provides a useful financing benchmark but not a Malaysian fee rate. Rule 32(7) of the Muslim Marriage and Divorce Rules expressly places Hakam fees on the parties and leaves the amount to the Court. For Negeri Sembilan, the preferred principle is similarly that Tier Two fees may be borne by the couple at an official court-determined rate, with each party ordinarily responsible for the appointed Hakam or such allocation as the court prescribes. However, access to justice requires a waiver, reduction or assistance mechanism where payment would cause genuine hardship. Hakam should never negotiate private fees or accept gifts.

6.5 Gender and Legal Reform

Contemporary capacity should be distinguished from current legal eligibility. Women may possess the knowledge, trust, communication skills and relational access required for family islah, particularly in sensitive disputes. This supports a focused Shariah and legislative review of any male-only qualification at the non-adjudicative family tier. Until the existing Negeri Sembilan Rules are amended, administrative guidance cannot appoint a person contrary to the formal legal qualifications. Women may nevertheless contribute lawfully through safety screening, counselling, support and referral functions. Any reform should distinguish the conciliatory family tier from an adjudicative Hakam role and should be supported by explicit legal amendment.

6.6 Data, Performance Measurement and Pilot Evaluation

The minimum dataset should capture order, nomination, screening, appointment, first session, last session, report, escalation and final-outcome dates. It should distinguish primary and secondary causes, safety status, type of Hakam, non-attendance, reasons for adjournment, agreement type and final legal outcome. Free-text fields should be limited to reduce inconsistent coding and re-identification risk.

Domain	Indicator	Pilot expectation
Nomination	Days from order to completed nominations	7-day target
Appointment	Days from order to appointment	14-day target
Family report	Days from appointment to report	30-day target
Escalation	Days to panel appointment	7-day target
Ageing	Cases at six months or more	Reduction from baseline

Data quality	Mandatory outcome fields completed	≥95%
Safety	Red flags with documented action	100%
User experience	Understanding, voice, respect, safety	Baseline + improvement

A 12–18 month pilot should begin with legal and Shariah audit, document development, data definitions, staff training and table-top simulation. One higher-volume and one lower-volume location would permit testing of caseload and geographic constraints. High-risk cases should not be used to test an unproven joint-session model.

Implementation can be evaluated through established implementation-science frameworks without allowing those frameworks to determine Islamic legal validity. RE-AIM provides a structure for reach and organisational impact (Glasgow et al., 1999), while the updated Consolidated Framework for Implementation Research can help identify barriers in personnel, process and institutional setting (Damschroder et al., 2022). Scale-up should depend on legality, safety, fidelity, data quality and operational capacity, not speed alone. During the initial 12–18 months, Shariah Court registrars can maintain monthly site-level logs of eligible and enrolled matters, safety/legal outcomes and party feedback, staff/site uptake, adherence to screening/referral steps, and ongoing resources—covering RE-AIM's reach, effectiveness, adoption, implementation and maintenance. Monthly case-review notes can use CFIR domains to record practical barriers such as, workload, training, referral access and data systems, actions taken and protocol deviations; quarterly summaries can inform documented pilot adjustments. Each quarterly review should also identify the recurring barrier, the agreed corrective action, a responsible person and a follow-up date, linking findings to auditable pilot adjustments.

For a practical RE-AIM register, reach should count all eligible cases and record whether the pathway was offered, accepted, declined or withdrawn; effectiveness should capture final legal/procedural outcome, safety action, stage times and voluntary party feedback on voice, understanding and respect, collected only when it is safe. Adoption should record participating sites and trained, active staff; implementation should track completion of screening, appointment, reporting and safety steps, reason-coded delays, protocol deviations and data completeness; maintenance should monitor panel availability, workload, staffing and recurrent costs. CFIR reflections in registrar-led reviews can identify the stage and organisational context of each barrier, who is affected, the agreed action and whether it helped by the next quarterly review. Registrars should retain numerators and denominators, note missing fields, report only aggregated and de-identified themes, and compare with baseline only where definitions match. These findings support implementation improvement; they do not establish legal validity or causal impact.

6.7 Legal Pathway for Implementation

The proposed framework separates measures that can be introduced through administrative practice from measures that require formal legal change. This distinction is essential because administrative efficiency cannot cure an absence of legal authority. Orientation materials, standardised screening support, case-management timestamps, report templates, panel training modules and internal quality review may generally be developed within existing administrative powers, subject to confirmation by the court's legal advisers. By contrast, any proposal that alters the statutory qualifications of Hakam, creates a new divorce power, removes a legally required procedural stage or changes the legal effect of an appointment must proceed through amendment, gazettement or another legally recognised mechanism.

This staged approach also reduces implementation risk. The first phase should consist of a legal and Shariah mapping exercise that identifies the precise provision supporting each proposed operational change. The second phase should develop forms, training, data definitions and referral protocols. The third phase should

test the model on a limited basis under close judicial supervision. Only after evaluation should the court consider wider adoption. In this way, institutional innovation remains subordinate to legality rather than the other way around.

A written implementation matrix would be useful. Each reform item should be classified as: already permitted; permitted subject to administrative approval; requiring practice direction; requiring amendment to the Hakam Rules; or requiring amendment to the Enactment. This would prevent operational staff from treating all proposals as equally simple and would give policymakers a clear sequence for reform.

Before pilot launch, registrars should audit each pending appointment against the Enactment, Rules and appointment order, and refer any suspected mismatch for legal-adviser review. Administrative staff must not retrospectively validate an appointment or infer powers not expressly conferred. Where authority cannot be confirmed, the registrar should pause any further Hakam action dependent on that authority and place the file before the judge; after direction, notify the parties and if required, issue a fresh lawful appointment or return the matter to an existing lawful pathway; the decision and any timetable adjustment should be logged. The audit should list steps already completed and reports already submitted for the judge's case-specific direction; administrative review alone should not be treated as determining their legal effect.

Before pilot intake, the court should establish a transition register for every open section 48 file appointed under the pre-pilot procedure. For each file, record the appointment date and source, the governing instrument, the nominee's eligibility as then recorded, the precise authority stated in the order, steps already completed, reports filed, pending sessions, safety measures and the next court deadline. A registrar may flag a file as verified, requiring legal clarification, or not yet confirmed for routing purposes; these are administrative flags, not findings that an appointment is valid or invalid. Any mismatch should be reviewed by the court's legal adviser and placed before the judge before a further Hakam step that depends on the disputed authority.

For a flagged file, pause only the authority-dependent Hakam action while the issue is before the judge; continue urgent safety measures, ordinary case management and other lawful steps not affected by the question. The judge should determine case by case whether completed work or a submitted report can be relied on, needs clarification, should be repeated, or should not be used. Depending on the law in force, directions may confirm an existing mandate, clarify its prospective operation where permitted, require a fresh lawful appointment, or return the matter to another lawful pathway. The registrar should give the parties and appointees a written explanation of the direction, next step and timetable, and record the decision, responsible officer and any delay. Review the exception register regularly during the pilot so no file remains in an uncertain pathway.

6.8 Practical Workflow and Escalation Logic

A practical workflow should begin at the point when the court determines that the Hakam pathway is legally appropriate. The parties should immediately receive a short explanation of the purpose of Hakam, the difference between family Hakam and the accredited panel, the expected timetable, the confidentiality obligations and the possible legal outcomes. This explanation is important because party misunderstanding at the beginning can later appear as resistance or non-compliance.

Family nomination should then occur within a defined period. Each proposed nominee should complete the light-touch suitability screen and a conflict-of-interest declaration. Where both nominees are suitable and no safety concern requires a different process, Tier One may begin. Where a nominee is unsuitable, unavailable or unwilling, one replacement opportunity may be offered. Repeated nomination cycles should not be allowed to create indefinite delay. If no suitable nominee is produced within the time allowed, the case should move directly to Tier Two.

At the end of Tier One, the Hakam report should trigger one of several coded directions rather than an open-ended return to the same process. The court may close the matter because the parties have reconciled; record an agreed lawful divorce pathway; give a short trial-reconciliation direction where both parties freely request

it; escalate to the accredited panel; refer a discrete issue to another court process; or activate safety and protection pathways. The objective is to ensure that every report leads to a clear procedural consequence.

Escalation to Tier Two should therefore represent a change in institutional function rather than a repetition of Tier One with different personnel. The accredited panel should have enhanced training, explicit authority, more structured documentation and closer court supervision. This functional distinction is critical to justify the additional cost and to prevent the two-tier model from simply adding another layer of delay.

VII. POLICY IMPLICATIONS

First, role clarity is a substantive legal safeguard. Family Hakam and the accredited panel should use different appointment forms and reporting templates where their authority differs. Identical titles attached to materially different powers create avoidable confusion.

Second, several improvements can be pursued administratively after legal review: orientation, light-touch screening, written undertakings, structured reports, timestamps, panel training and data dashboards. Changes to legal qualifications, divorce authority or mandatory process sequence require amendment or gazettement rather than administrative assumption.

Third, safety must be institutionally owned. Confidential triage should be controlled by trained court personnel rather than delegated to family nominees. Referral pathways should be documented, and Hakam should understand when to stop a conciliatory process and refer the matter for judicial or specialist intervention.

Fourth, affordability is part of access to justice. Tier Two may adopt the principle that parties bear official Hakam fees, as in Singapore, but the fee schedule should be transparent and accompanied by waiver, reduction or assistance for those unable to pay. A pilot cost study should include staff time, travel, adjournments, interpretation and party expenses rather than only the Hakam's session fee.

Finally, the framework offers a basis for cross-State learning without assuming uniformity. Other Malaysian jurisdictions may adapt its functional distinctions, safety principles and performance measures only after mapping them to their own enactments, rules and institutional practices.

VIII. CONCLUSION

The Hakam process should not be redesigned as a choice between family legitimacy and professional competence. Qur'an 4:35 gives family participation a meaningful role, while the juristic tradition shows that legal authority depends on the character and mandate of the Hakam. The appropriate operational response is a two-tier framework with explicit roles and a controlled transition between them.

The record analysis supports the need for safeguards. Section 48 records contained higher proportions of responsibility neglect and recorded domestic violence, greater multiple-cause complexity and substantially more long-running cases. Most final outcomes were forms of divorce rather than reconciliation. Success should therefore be defined as safe, lawful, timely and comprehensible resolution rather than reconciliation alone.

The proposed framework retains screened family Hakam as a time-limited first tier without independent divorce power unless lawfully authorised. Unresolved, unsuitable or unsafe matters escalate to an accredited panel operating under explicit legal authority. Separate safety triage, one reassessment opportunity, structured reporting, panel competency management, official fees with affordability protection, and outcome-specific data make the pathway auditable and capable of evaluation.

Singapore's HIKMAH framework, statutory panel management and official fee principle demonstrate the value of institutionalising competence and accountability. They serve strictly as functional benchmarks, not direct legal transplants or sources of legal authority in Negeri Sembilan; any adaptation must derive from Negeri Sembilan's own Enactment, Rules and court orders and remain consistent with Malaysia's

constitutional allocation of Islamic family law to the States. The resulting model is therefore a locally bounded reform hypothesis that should proceed through controlled pilot testing and legal amendment where required. Potentially adaptable lessons concern institutional practices such as competency management, reporting, safety and monitoring, where permitted; panel authority, eligibility, fees and legal outcomes remain matters for Negeri Sembilan law.

For each Singapore-derived practice considered for the pilot, the implementation matrix should identify the Negeri Sembilan legal basis, approving authority and required instrument before testing. This makes clear that similarity of institutional function does not transfer Singapore's jurisdictional powers.

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