

LEGAL BARRIERS AND WOMEN'S RIGHTS IN MUSLIM MARRIAGES: SHARIAH LAWYERS' THOUGHTS ON EMOTIONAL ABUSE IN TERENGGANU

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ABSTRACT

Increasing mental health concerns in Malaysia have intensified the focus on emotional harm within marriage, specifically cumulative and private abuse that lacks physical evidence. This study investigates the legal and procedural barriers faced by women seeking fasakh (divorce) on grounds of emotional abuse within the Shariah court system of Terengganu. Despite Terengganu recording the highest score in the Malaysia Happiness Index 2024 (8.64), psychological harms remain a hidden challenge. Adopting a mixed-method design, the research analyzed a cross-sectional survey of 31 Shariah lawyers via SPSS and performed a structured content analysis of 33 fasakh case documents. The findings reveal three critical challenges to women's rights: (1) evidentiary limitations and social stigma that complicate the burden of proof; (2) legal ambiguity in the framing of emotional abuse leading to inconsistent judicial outcomes; and (3) a lack of integrated psychological support within court processes. The study concludes that to protect women's matrimonial rights, there is an urgent need for clearer operational guidelines on emotional abuse, enhanced procedural directions for non-physical evidence, and strengthened court-linked psychological referral pathways.

Keywords: Emotional Abuse, Islamic Family Law, Women's Right, Fasakh, Shariah Courts.

1. INTRODUCTION

Mental health is increasingly recognised as a core dimension of human well-being. Within *maqasid al-shariah*, it aligns closely with the protection of life (*hifz al-nafs*) and intellect (*hifz al-aql*), while also supporting the broader safeguarding of religion, lineage, and wealth. Drawing on Ibn 'Āshūr's view that *maqasid* aims to secure social order, realise well-being, and prevent harm, emotional stability becomes a key condition for holistic flourishing and for sustaining quality and satisfaction in life (Ibn 'Āsyūr, 2006). This concern has become more urgent in Malaysia as national evidence indicates a measurable burden of mental health problems among adults. The Institute for Public Health Malaysia (2023) reports that depressive symptoms among adults are 4.6 percent, a figure widely communicated as affecting about one million adults. Women are also reported to be at higher risk of mental health impacts than men, which strengthens the need to examine stressors that disproportionately affect women's psychological well-being (Zulkipli et al., 2023).

One stressor that directly intersects with women's mental health is emotional abuse within the marital bond (Lortkipanidze et al., 2025). Unlike physical abuse, which often produces visible injuries, emotional abuse is frequently subtle, relational, and cumulative, making it difficult to identify and to prove in formal settings. Abusbaitan et al. (2025) note that emotional abuse rarely leaves tangible traces, yet it can be pervasive and damaging. Fernandes et al. (2023) describe common patterns such as humiliation and verbal insults, psychological manipulation, excessive control and isolation, intimidation, emotional neglect, and denial of marital rights. Although such conduct does not necessarily leave physical scars, it can produce serious psychological harm, including prolonged emotional distress and long-term trauma (Hayati & Ali, 2021; Joshi et al., 2023).

Islamic jurisprudence provides a principled basis for treating emotional abuse as a legally relevant harm. Al-Hājirī (2008) explains that harm (*darar*) is generally classified into material harm (*al-darar al-maddī*), such as bodily injury and financial loss, and non-material harm (*al-darar al-maknawī*), which concerns injury to dignity, honour, reputation, and emotional well-being. Ibn al-Tāhir (2021) situates disturbance to emotions and feelings within non-material harm, which frames emotional abuse as a form of injurious conduct rather than ordinary marital disagreement. This framing is consistent with the normative principle that harm must be removed (*al-darar yuzāl*), which al-Suyūtī (1983) associates with restraining harmful conduct, especially when it leads to wider suffering. In marital relations, al-Zuhaylī (2011) defines

wrongful conduct by the husband (*nusyūz al-zawj*) as neglect of rights and causing injury, and al-Khin et al. (1992) emphasise that injury can occur through words or actions, which supports judicial intervention when harm persists.

In Malaysia, these principles operate within a dual legal structure where Muslim family matters are governed by state Islamic family law and adjudicated by the Shariah courts. In Terengganu, the Islamic Family Law (Terengganu) Enactment 2017 provides the wife's right to apply for *fasakh* under Section 50 on grounds of harm, including conduct that may be pleaded as psychological suffering (Islamic Family Law (Terengganu) Enactment, 2017). Terengganu was selected because the practical resolution of emotional abuse claims remains challenging due to evidentiary limitations, procedural constraints, and uncertainty about how emotional harm is operationalised in litigation. In Terengganu specifically, women face acute difficulty proving emotional abuse in *fasakh* claims due to insufficient evidence, procedural delay, and social stigma, alongside challenges for lawyers who require credible psychiatric or psychological support to substantiate allegations (Md. Supi et al., 2017). Empirical findings from Ayob et al. (2022) found that employment status significantly relates to multiple forms of domestic violence, including emotional abuse in Terengganu. While community awareness of domestic violence is generally high, knowledge about legal protections remains limited, especially concerning emotional and psychological abuse under the Domestic Violence Act. The findings also highlight Terengganu's importance, as many drug-dependent respondents noted changes in their emotional responses and their treatment of spouses after drug use. Several spouses expressed feelings of fear, anxiety, and insecurity living with an addicted partner. These results show that mental abuse often manifests not through physical violence but through emotional instability, paranoia, verbal aggression, and coercive behaviour driven by substance dependency (Isaacs, Mohamad, Mohd Adnan, Wan Rosdi, Mustafa, Md Fauzi & Zakaria, 2019). This suggests that mental abuse may be normalised, minimised, or seen as a private marital issue rather than a legally recognisable harm.

2. LITERATURE REVIEW

2.1 *Emotional Abuse in Marriage*

Across intimate partner violence (IPV) and domestic violence (DV) scholarship, emotional abuse is increasingly conceptualised as cumulative harm generated through recurring relational tactics rather than visible injury. Abusbaitan et al. (2025) characterises emotional abuse through defining attributes including humiliation, indifference, control, threats, and

intimidation, and links these patterns to harmful psychological, perinatal, and relationship consequences. Complementing this attribute-based framing, repeated emotional harm is also communicated through verbal tactics such as dishonouring language and persistent criticism, alongside non-verbal relational dynamics such as minimising, blaming, neglect, infidelity, and disrespect that progressively erode dignity and safety (Shaari et al., 2019). Taken together, these studies converge on the view that emotional abuse is patterned, relational, and damaging even when it leaves no physical trace. This convergence positions emotional abuse as a distinct form of IPV and DV that requires analytical clarity.

Despite this convergence, definitional boundaries remain contested, creating tension between broad descriptions of “emotionally harmful behaviour” and narrower accounts that specify what qualifies as abuse. Hotz (2024) argues that disagreement persists because definitions reflect underlying moral judgments about severity, legitimacy, and social condemnation, meaning definitional work is not only empirical but also evaluative. In parallel, Brake (2023) conceptualises emotional abuse as a justice-relevant wrong when it functions as coercion, specifically through a standing threat of severe emotional harm that restricts freedom without requiring physical force. This coercion-based framing overlaps with the behavioural attributes identified in the IPV and DV literature, yet it narrows the analytic lens by emphasising thresholds that may justify legal intervention (Abusbaitan et al., 2025). The tension is therefore not about whether emotional abuse is harmful, but about where to set definitional and legal thresholds for consistent identification. This tension helps explain why emotional abuse remains difficult to regulate and prove, even when its effects are widely acknowledged.

Social environments shape whether emotional abuse is recognised and acted upon, with direct implications for disclosure and access to remedies. Murvartian et al. (2024) associates public stigma with patriarchal gender roles and the treatment of partner violence as a private matter, patterns that generate victim blaming, social isolation, and devaluation of women who report harm. Barriers to disclosure and help seeking among Muslim women have likewise been grouped into social context, family context, individual factors, and service-provider expectations, alongside the observation that structural obstacles remain insufficiently examined and that several Muslim-majority settings remain under-studied (Afrouz et al., 2020). Ghafournia (2017) adds further nuance by showing that religious values and spirituality may operate as coping resources, while some responses from religious leaders may discourage reporting or reinforce harmful norms. Overall, the literature indicates that stigma and social regulation interact with definitional ambiguity to reduce disclosure and constrain pathways to support. This pattern clarifies

why emotional abuse frequently remains hidden, normalised, and legally under-addressed.

2.2 *Islamic Perspectives on Emotional Abuse*

In Islamic legal and ethical discourse, emotional harm is commonly assessed through the juristic concepts of *darar* and *mudarat*, which operate as normative thresholds for identifying conduct that breaches justice, dignity, and marital duties. Muda et al. (2017) explain that Qur'anic commentaries frame *darar* across multiple registers, including grief, fear, distress, illness, and hardship, and translate this moral vocabulary into enforceable obligations such as the husband's duty of financial maintenance. These framing treats harm not only as a personal experience but also as a violation of rights and duties that may justify judicial dissolution when sustained failure results in continuing injury. Dimon (2018) similarly argues that prolonged conflict and persistent mental pressure within marriage constitute *mudarat* that contradicts the objective of preserving the intellect, while also underscoring that unresolved harm can extend its effects to family stability and children's welfare. Taken together, these perspectives converge in treating non-physical suffering as legally and ethically relevant marital harm. This convergence supports the position that Islamic norms recognise psychological injury as actionable within marital governance.

A parallel strand grounds the discussion in ethical principles governing spousal relations, particularly *mu'asyarah bi al-ma'ruf* and the prohibition of psychological injury. Mulia et al. (2025) finds that forced sexual intercourse violates good companionship and produces psychological harm, positioning coercion as incompatible with justice and compassion between spouses. Although the harm examined is linked to sexual coercion, its conceptual implication is broader because it affirms that psychological violation is central, rather than incidental, to evaluating marital wrongdoing. In this respect, Islamic ethical framing converges with contemporary IPV literature by recognising that harm can be cumulative, private, and psychologically severe even when it is not physically observable. The convergence lies in treating emotional and psychological injury as substantive harm, while the distinctiveness lies in grounding that recognition within normative marital ethics. This positioning strengthens the legitimacy of approaching emotional abuse as serious marital harm within Islamic frameworks.

However, a persistent tension remains between doctrinal recognition and practical protection when emotional abuse must be translated into workable legal claims. Azmi et al. (2024) conceptualises emotional abuse as *darar emosi*, including psychological manipulation, humiliation, and coercive control, and

links this harm to the permissibility of *fasakh* as a protective remedy under Islamic law. At the same time, evidentiary constraints and procedural realities can restrict the effectiveness of this remedy in Syariah adjudication, indicating a gap between principle and implementation. This study further reports that Malaysian enactments draw on Maliki reasoning to permit dissolution for continuing emotional injury, yet access to protection remains constrained by difficulties in producing strong evidence, limited awareness among women, and protracted court procedures. Istratii and Ali (2023) argues that research on religion-related IPV remains fragmented across disciplines, which weakens the design of coherent, theologically grounded, and trauma-informed responses that engage religious leaders and counselling providers. Collectively, this literature suggests that doctrinal standards exist, but institutional and community mechanisms remain uneven in translating those standards into accessible protection. This tension motivates a closer focus on legal and procedural barriers within specific court settings.

2.3 *Emotional Abuse Claims in Court*

Literature on courtroom engagement with emotional abuse consistently identifies a gap between the normative recognition of psychological harm and the evidentiary demands required to secure remedies. Ghodrati (2024) defines psychological verbal violence as encompassing humiliation, intimidation, threats, and attacks on spiritual standing, while also noting that formal sanctions may exist within a Shari'a-informed framework. At the same time, this work emphasises that the core difficulty lies less in the availability of legal concepts and more in practical obstacles that make such conduct difficult to evidence within domestic settings and court processes. Within Malaysia, legal protections exist under civil and Islamic family law, yet emotional *darar* claims face a demanding burden of proof because the harm often lacks the tangible indicators commonly relied upon in litigation (Dimon, 2019). Taken together, these studies suggest that recognition alone is insufficient when evidentiary structures are poorly aligned with cumulative, private, and speech-based harm. Accordingly, proof emerges as the primary bottleneck in emotional abuse litigation.

The second issue concerns the extent to which procedural design and burden allocation shape outcomes in *fasakh* proceedings, particularly when claims depend heavily on testimony and relational narratives. Mustapa et al. (2025) notes that Islamic *fiqh* does not always locate the burden on the plaintiff, since the defendant may bear proof of responsibility when asserting matters that contradict *al-asl*, *al-żāhir*, or *al-‘ādah*. Nevertheless, the literature suggests that inconsistencies between *fiqh* principles and courtroom practice can generate judicial discrepancies, delay, and an unjustly intensified burden on claimants,

especially in disputes involving domestic abuse allegations and related family law claims. Across these accounts, emotional abuse claims are repeatedly channelled into proof models that privilege visible injury and narrowly framed evidence. This convergence indicates that procedural alignment and evidentiary guidance are decisive for rendering emotional abuse legally actionable.

Comparative insight emerges when emotional abuse is read alongside other harm-based grounds for dissolution that are more explicitly operationalised within enactments and court practice. Harun et al. (2021) report that Section 50 of the Islamic Family Law Enactment (Terengganu) 2017 provides a clear basis for dissolution due to sexual disability, where harm elements can be identified from pleadings and assessed through evidence and witness evaluation during trial. This contrast is instructive because it indicates that when harm categories are clearly framed and evidentiary pathways are more standardised, adjudication may proceed with greater consistency and predictability. By comparison, emotional *darar* remains difficult to translate into claimable elements and persuasive proof, which can compound delay, inconsistency, and unequal burdens within litigation processes. Across studies, the implication is that litigation depends not only on acknowledging harm, but also on providing practical operational and evidentiary routes that legal actors can apply consistently. Therefore, operational clarity and usable evidentiary pathways are central to effective adjudication of emotional abuse claims.

Overall, scholarship converges on emotional abuse as a patterned, cumulative, and consequential form of IPV and DV, yet it diverges on definitional thresholds and the most workable legal characterisation for consistent recognition. Islamic scholarship similarly recognises psychological harm through concepts such as *darar*, *mudarat*, and *darar ma'nawi* and treats marital wrongdoing as incompatible with justice, compassion, and good companionship, but practical implementation remains constrained by proof limitations, awareness gaps, and procedural burdens in Syariah adjudication. Court-focused studies further show that evidentiary standards, procedural delay, and inconsistent burden allocation can prevent doctrinal recognition from translating into effective protection, especially where harms are private and rarely accompanied by physical evidence. Yet, it remains insufficiently resolved how these constraints operate together in a specific state setting, and how Shariah legal actors manage legal ambiguity, proof demands, and limited psychological integration when constructing *fasakh* claims based on emotional abuse. This gap supports a focused inquiry into Shariah lawyers' perspectives and case-pattern evidence in Terengganu to clarify barriers and strengthen protection pathways.

3. METHODOLOGY

This study adopts a mixed-methods design to examine legal and procedural barriers faced by women pursuing *fasakh* on the basis of emotional abuse in Terengganu, Malaysia. Mixed methods is suitable because it intentionally integrates quantitative and qualitative evidence to explain a phenomenon more fully than either strand alone (Maxwell, 2022). This approach fits the research questions, which require both (i) Shariah legal actors' interpretations of emotional abuse and (ii) documentary evidence of how such claims are framed, evidenced, and processed in court. This method is consistent with family law scholarship on custody evaluations, which argues that robust assessment requires multiple methods and highlights questionnaires as a distinct tool that complements documentary review and other inquiry modes (Garber et al., 2023). Taken together, the two strands enable triangulation between professional perceptions and observable case patterns, strengthening the credibility of inferences about barriers to *fasakh* claims based on emotional abuse (Howes, 2017; Protheroe et al., 2007).

3.1 *Study population and data sampling*

The study population comprised registered Shariah lawyers in Terengganu in 2025 (N = 141), based on an official list obtained from the Terengganu Shariah Court. A census-based invitation strategy was used. The online questionnaire link was sent to all 141 lawyers using the court-provided contact list, followed by one reminder to non-respondents. A total of 31 lawyers completed the questionnaire (22.0% response rate). Although smaller than the full population, this sample size meets the commonly cited minimum of 30 for basic statistical analysis in behavioural research (Roscoe, 1969) and is consistent with exploratory questionnaire studies conducted within specialised or bounded populations, where samples similar $n \approx 30$ is frequently operationalised (Ithnin et al., 2025; Mohammad et al., 2024; Wan et al., 2022). Accordingly, the survey findings are presented as exploratory and practice-informed, intended to map key barriers in a state-specific professional context and to provide a baseline for subsequent, larger-scale research.

To complement the survey findings, 33 *fasakh* case documents were examined. The cases were selected by the Shariah Court research officer, who identified eligible files from the most recent five-year period (2021–2025). This ensured that the documentary evidence reflects contemporary procedural expectations and current evidentiary practice in Terengganu's Shariah courts. The study treats the file set as an institutional access-based sample designed to capture recent patterns in the management of emotional-abuse-based *fasakh* claims.

3.2 Data analysis

Survey responses were analysed in SPSS version 26 using descriptive statistics, mainly frequencies and percentages, to summarise Shariah lawyers' dominant perceptions and the most recurrent barriers reported. As Pilny et al. (2022) explain, quantitative data analysis software offers an efficient and standardised way to conduct descriptive and inferential calculations that would otherwise be impractical to compute manually, which supports accuracy and consistency in reporting. The *fasakh* case documents were then examined through structured content analysis focused only on the types of emotional abuse alleged in the files, enabling systematic coding and comparison across cases. This systematic content analysis is a replicable technique for analysing legal texts in a manner that promotes transparency and methodological rigour (Salehijam, 2018). Findings from both strands were subsequently integrated to clarify how definitional ambiguity, proof demands, and limited psychological integration jointly shape barriers to emotional-abuse-based *fasakh* proceedings in Terengganu.

4. RESULTS & DISCUSSION

4.1 The Perspectives of Shariah Lawyers on Emotional Abuse in Terengganu

This section presents the quantitative survey results on Shariah lawyers' perspectives of emotional abuse in *fasakh* proceedings in Terengganu. Responses from 31 Shariah lawyers were analysed across the main survey components, focusing on respondent background and lawyers' understanding and practice-based assessments of emotional abuse. Participants answered items using Yes or No options and, where relevant, selected from multiple-choice response categories. The findings are reported using frequencies and percentages to summarise the dominant response patterns that inform the subsequent discussion.

4.1.1 Respondent Profile

This section presents the demographic distribution of respondents by gender and years of experience in Shariah legal practice. Overall, 31 Shariah lawyers participated in the survey. In terms of gender, 20 respondents (64.5%) were female, while 11 respondents (35.5%) were male as shown in Figure 1. This indicates that female Shariah lawyers formed most of the sample.

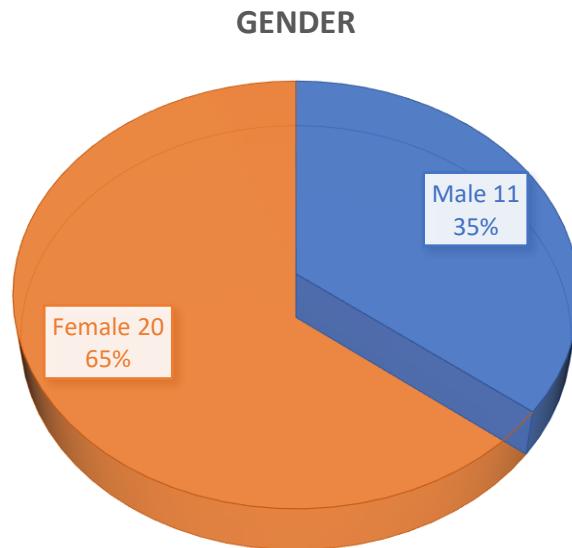


Figure 1: Respondents' Gender, N = 31

Figure 2 shows respondent profile by years of Shariah legal practice. It indicates that the largest group comprised lawyers with less than 5 years of experience, with 15 respondents (48.4%). This was followed by those with 20 years and above, totaling 7 respondents (22.6%). In comparison, only 5 respondents (16.1%) reported 5 to 10 years of experience, while the smallest group consisted of lawyers with 11 to 20 years of experience, with 4 respondents (12.9%).

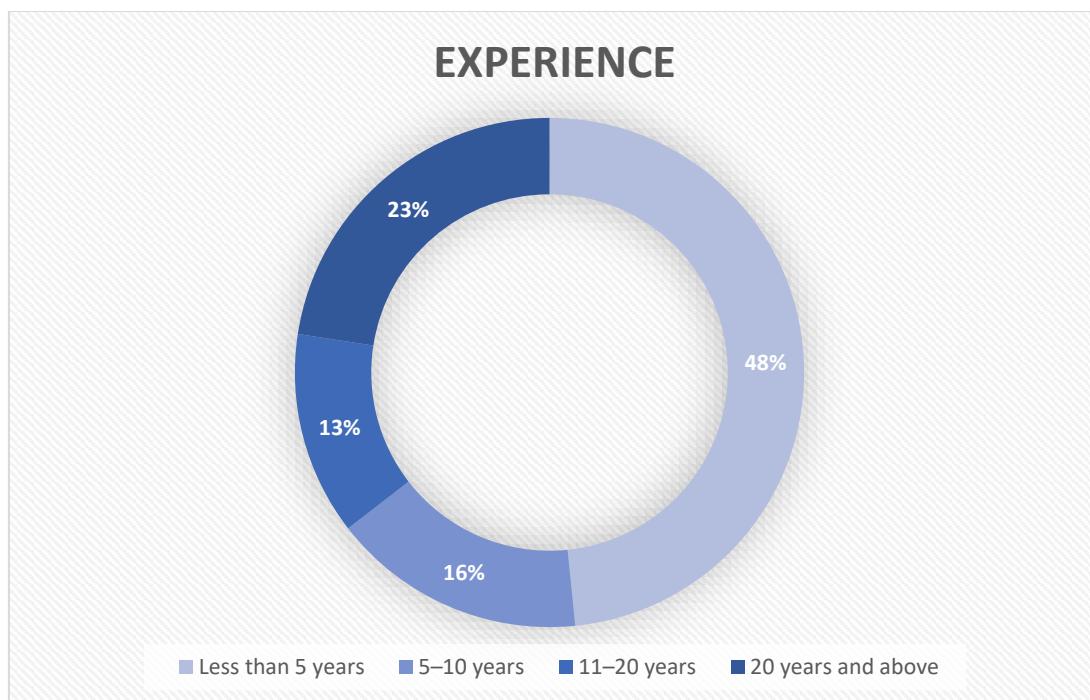


Figure 2: Respondents' Years of experience in Shariah legal practice, N = 31

4.1.2 *Shariah Lawyers' Understanding of Emotional Abuse Claims*

Table 1 below shows the descriptive analysis to examine Shariah lawyers' understanding of emotional abuse in *fasakh* cases and their views on the practical requirements for proving such claims.

Table 1. Lawyers' understanding of emotional abuse in *fasakh* (N = 31)

No.	Items	Frequency	Percentage
Q1	Is emotional distress a valid and recognized reason in Shariah law to demand a <i>fasakh</i> divorce?	Yes 29	93.5%
Q2	In your opinion, to what extent is emotional abuse defined in the Islamic Family Law Enactment (Terengganu) 2017?	Very detailed 2 Not detailed 4 Moderate 11 Detailed 10 Very detailed 4	6.5% 12.9% 35.5% 32.3% 12.9%
Q3	The involvement of a psychological assessment (such as a psychiatric report) is essential to prove claims of emotional abuse in a <i>fasakh</i> case.	Yes 31	100%
Q4	In your opinion, do wives (victims of emotional abuse) in Terengganu have enough exposure and awareness to seek psychiatric services?	No 28	90.3%

Source: Survey 2025

The results in Table 1 indicate strong professional consensus that emotional distress is legally cognisable in *fasakh*, with 29 of 31 Shariah lawyers answering "Yes" (93.5%). This suggests that practitioners generally treat emotional harm as an actionable marital injury rather than a merely private grievance, which is consistent with IPV research that conceptualises emotional abuse as patterned, cumulative, and consequential (Abusbaitan et al., 2025). Yet this clear recognition sits alongside ambivalence about how far the Islamic Family Law Enactment (Terengganu) 2017 provides an operationally usable definition. While 10 respondents rated the definition as "Detailed" (32.3%) and four as "Very detailed" (12.9%), a comparable share viewed it as only "Moderate" (11,

35.5%) or insufficiently detailed (6 total, 19.4%, combining “Not detailed” at 12.9% and “Very not detailed” at 6.5%). This distribution implies that the practical challenge is less about whether emotional abuse matters in law, and more about definitional clarity that can support consistent claim construction and judicial recognition, particularly when legal categories must be translated into specific pleadings and thresholds (Hotz, 2024).

Evidentiary expectations appear even more decisive. All 31 respondents agreed that psychological assessment, such as a psychiatric report, is essential to prove emotional abuse in *fasakh* (100%), signalling that lawyers see expert documentation as the key route for making a private and cumulative harm legible to court processes. This aligns with legal-theoretical arguments that emotional abuse can operate as coercion without physical injury, so conventional proof models often require credible forms of corroboration that translate psychological harm into court-recognisable evidence (Brake, 2023). However, this evidentiary reliance is constrained by perceived access and awareness barriers: 28 of 31 respondents answered “No” (90.3%) when asked whether victims in Terengganu have sufficient exposure and awareness to seek psychiatric services. The combined pattern indicates a structural mismatch between what practitioners regard as necessary proof and what victims are perceived to be able to obtain, echoing findings that stigma and socio-cultural constraints can suppress disclosure and reduce engagement with formal support services (Afrouz et al., 2020; Murvartian et al., 2024). In practice, the gap may therefore be reproduced not only through legal ambiguity, but also through uneven access to the evidentiary pathways that lawyers consider essential (Istratii & Ali, 2023).

4.2 Challenges in Prosecuting Emotional Abuse Cases in Shariah Courts

Table 2 below shows the analysis found to examine Shariah lawyers' perspectives on the challenges in prosecuting emotional abuse cases in Kuala Terengganu Shariah courts.

Table 2. Legal challenges in emotional abuse cases, (N = 31)

No.	Items	Frequency	Percentage	
Q1	What are the main challenges faced by wives in proving claims of emotional abuse in <i>fasakh</i> cases?	Lack of physical evidence	21	67.7%
Q3	To what extent do you feel that current laws are	Very inadequate Inadequate	4 13	12.9% 41.9%

	sufficient to protect victims of domestic emotional abuse?	Moderate	8	25.8%
		Adequate	4	19.4%
		Very adequate	3	12.9%
Q4	To what extent does societal stigma make it difficult for women to file emotional abuse cases?	Very difficult	0	0%
		Not difficult	4	12.9%
		Moderate	13	41.9%
		Difficult	8	25.8%
		Very Difficult	6	19.4%
Q5	What are the most common procedural court obstacles you have observed in emotional abuse cases?	Lengthy court process	20	64.5%
		Unclear interpretation of legal provisions	2	6.5%
		High legal or legal costs	4	12.9%
		Others	5	16.1%
		Lengthy court process	20	64.5%

Source: Survey 2025

The pattern of responses suggests that evidentiary constraints are perceived as the most immediate barrier to succeeding in emotional-abuse-based *fasakh* claims. A clear majority of lawyers selected “lack of physical evidence” as the main challenge (21/31, 67.7%), signalling that emotional harm is still being filtered through proof expectations that privilege visible and easily corroborated markers of injury. Dimon (2019) similarly notes that emotional *darar* claims are often difficult to sustain because the harm is private and rarely accompanied by tangible indicators typically relied upon in litigation. At the same time, a notable minority identified “lack of awareness of legal rights” (5/31, 16.1%), indicating that barriers are not only evidentiary but also capacity-related, where victims may struggle to frame experiences as legally actionable or to navigate court-facing requirements (Afrouz et al., 2020). The comparatively low selection of “community stigma” (2/31, 6.5%) and “time-consuming procedures” (2/31, 6.5%) as the single “main challenge” should not

be read as unimportant, but rather as reflecting how lawyers prioritise the proof problem when forced to choose one dominant constraint (Murvartian et al., 2024). Overall, the findings position proofability, rather than mere legal recognition, as the primary bottleneck in these cases.

Perceptions about the protective adequacy of current legal arrangements further reinforce this implementation problem. Most respondents assessed the laws as "inadequate" (13/31, 41.9%) or "very inadequate" (4/31, 12.9%), while fewer viewed them as "adequate" (4/31, 19.4%) or "very adequate" (3/31, 12.9%), with 8/31 (25.8%) selecting a "moderate" position. This distribution suggests that, from practitioners' standpoints, formal provisions alone do not reliably translate into predictable protection, especially where emotional abuse lacks operational detail or where evidentiary routes are not consistently workable (Hotz, 2024). Importantly, responses on stigma indicate that social pressures remain a meaningful constraint on legal mobilisation: 14/31 rated stigma as "difficult" or "very difficult" (25.8% and 19.4%), and 13/31 (41.9%) placed it at a "moderate" level, whereas only 4/31 (12.9%) viewed it as "not difficult." Murvartian et al. (2024) explains that stigmatizing environments can discourage disclosure and shape whether women pursue formal remedies, which helps interpret why stigma may still impede filing even when lawyers prioritise evidentiary issues. Taken together, these findings indicate that perceived legal insufficiency is closely tied to both social constraints and the practical demands of building a court-ready case.

Procedural obstacles reported by the lawyers point to institutional dynamics that can compound evidentiary and social barriers. The most frequently observed obstacle was a "lengthy court process" (20/31, 64.5%), far exceeding "high legal or related costs" (4/31, 12.9%) and "unclear interpretation of legal provisions" (2/31, 6.5%), with 5/31 (16.1%) selecting "others." This pattern aligns with courtroom-focused work showing that delays and procedural design can become decisive determinants of whether non-physical harms are translated into effective remedies, particularly when cases depend on testimony, narrative coherence, and corroboration over time (Mustapa et al., 2025). Md. Supi et al. (2017) likewise highlights that, in Terengganu, delays and evidentiary challenges can interact to weaken women's ability to sustain *fasakh* claims grounded in emotional abuse. In short, the results suggest a reinforcing cycle in which the difficulty of proving emotional abuse is intensified by process length, and both factors operate within a broader environment where stigma remains a substantial deterrent to filing and persistence.

4.3 *Types of Emotional Abuse Alleged in Fasakh Case Files*

This section presents the document analysis of emotional abuse types

alleged in selected *fasakh* case files from Terengganu (2021–2025). The focus is on how emotional harm is described and categorised in the records.

Table 3. Types of Emotional Abuse against Women in Terengganu.

No.	Type of Emotional Abuse	Number of Cases
1	Threats of violence or death	5
2	Verbal abuse, insults or degrading language	8
3	Gaslighting (manipulation causing self-doubt)	1
4	Restricting personal freedom or isolation	2
5	Deception or defamation	3
6	Other forms	4

Source: Shariah high court of Terengganu

Table 3 indicates that the most frequently pleaded forms of emotional abuse are those that can be articulated as discrete, recognisable acts with clear injurious meaning. Verbal abuse, insults, and degrading language appear most often (8 cases), which corresponds to classical and contemporary juristic illustrations of *darar* such as cursing, humiliating, and degrading the wife or her family in ways that damage honour and dignity (Hashim, 2022). Threats of violence or death (5 cases) likewise fit the Qur'anic-exegetical framing of *darar* as fear, distress, and hardship that undermines marital security (Muda et al., 2017). The presence of deception or defamation (3 cases) and “other forms” (4 cases) reinforces the point that *darar* *emosi* is not limited to overt hostility but may also include relational and reputational injury that destabilises the marital bond.

Less frequently recorded categories highlight an important tension between lived harm and legal legibility. Restricting personal freedom or isolation (2 cases) resembles patterns of neglect and harsh treatment that jurists link to a husband's failure to fulfil spousal rights and to harmful conduct that may be treated as a form of *nusyuz* by the husband (Al-Khin et al., 1992; Al-Zuhayli, 2011). Gaslighting appears only once, yet this low count should not be read as triviality. It reflects the “abstract” character of some emotional harms, where the injury is psychologically real but difficult to translate into court-ready allegations unless supported by corroborating indicators. This is consistent with the juristic insistence that actionable *darar* must be demonstrated clearly before the judge and must reach a level that makes continuation of the marriage intolerable for the wife (Ibn al-Tāhir, 2021).

These variations are relevant to judicial outcomes because Shariah adjudication often turns on whether an allegation can satisfy evidentiary expectations and trigger the graduated remedial logic described in *fiqh*. Where abuse is concrete and corroborable, such as explicit threats or sustained verbal degradation, the

claim is more likely to be treated as a legally cognisable harm once proven, enabling stronger judicial interventions beyond advice, including escalation when harmful conduct persists (*Al-Mawsū'ah al-Fiqhiyyah al-Kuwaitiyyah*, 2006). By contrast, subtle harms like manipulation or isolation risk being reclassified as ordinary marital discord if they are not supported by testimony, circumstantial indicators, or community corroboration, which classical discussions consider in private domestic settings (*Al-Kāsānī*, 1910). When harm is continuous and credible, *fasakh* may also be justified through the maxims that harm must be removed (*al-darar yuzāl*) and that a lesser harm may be borne to avert a greater one (*Al-Suyūtī*, 1983; *Ibn Nujaim*, 1999). In this respect, the pattern in the files complements Ismail's (2021) call for a standard operating procedure at the state religious affairs level, because clearer pathways for identifying and documenting manipulation-based abuse can reduce under-pleading, strengthen case construction, and improve consistency in adjudication.

5. CONCLUSION

This study shows that, while emotional harm is widely acknowledged as a legitimate basis for *fasakh* in Islamic Family Law in Malaysia, its translation into effective protection remains uneven in practice. The findings show a clear professional recognition that emotional distress is legally cognisable, but that statutory framing is not consistently perceived as operationally precise. In practice, proofability emerges as the main constraint, with lawyers treating psychological assessment as essential while simultaneously perceiving that victims lack sufficient awareness and access to pursue such support. The reported challenges also indicate that lengthy processes and the difficulty of evidencing non-physical harm can weaken protection even when legal concepts are accepted. Consistent with this, the case files show that pleaded harms tend to cluster around more concrete, articulable acts such as verbal degradation and threats, while more subtle forms appear less visible in formal pleadings.

The results are practically important for court institutions and support organisations because they identify where protection pathways become blocked, not at the level of moral recognition, but at the level of translation into court-ready claims and evidence. At the court administration level, Department of Syariah Judiciary Malaysia can support standardisation by developing practical guidance for Shariah courts on how emotional abuse may be pleaded and evidenced in *fasakh*, including clearer checklists for relevant indicators and consistent case management practices to reduce delay. Ministry of Women, Family and Community Development can strengthen community-facing protection by coordinating targeted awareness on legal rights and help-

seeking, and by improving referral pathways so victims can access appropriate professional assessment and documentation when needed. National Population and Family Development Board can complement this by embedding early screening, marital counselling triage, and structured psychoeducation on emotional abuse and help-seeking into its programmes, so that women receive timely guidance before harms escalate and before evidentiary opportunities are lost.

The study is limited by its exploratory sample size and response rate within a specialised population, its focus on a single state setting, and reliance on self-reported perceptions. The document analysis is also bounded by file availability and by the scope of coding, which focused on abuse types rather than the full range of procedural detail. Future research should extend the design across multiple states with larger samples, include additional legal actors and service providers, and examine how evidentiary strategies and pleading choices shape judicial reasoning and case outcomes. Further work can also evaluate whether clearer guidance, improved service coordination, and process streamlining measurably enhance access to protection for women seeking *fasakh* on the basis of emotional abuse.

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