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# Issues and Perspectives in Business and Social Sciences

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## Enhancing mediation processes in matrimonial property disputes in Malaysia through artificial intelligence

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### Abstract

Mediation has become an essential mechanism in resolving family disputes in Malaysia, particularly in matrimonial property cases under both civil and Syariah legal systems. However, current mediation practices face challenges such as delays, emotional distress, and power imbalances. This article adopts a doctrinal legal analysis to examine the statutory and institutional foundations of mediation in matrimonial property disputes. It further explores the potential of integrating Artificial Intelligence (AI) in mediation within the legal framework to address procedural inefficiencies, enhance access to justice, and support equitable outcomes. By analysing relevant legislation and regulatory gaps, this study proposes hybrid models of mediation and legal reforms for AI-assisted mediation that is aligned with Malaysia's dual legal structure.

### Keywords:

Artificial intelligence;  
Hybrid model of mediation;  
Matrimonial property;  
Family disputes;  
Sulh;  
Online dispute resolution.

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## 1. Introduction

Mediation, as an alternative dispute resolution mechanism, plays a pivotal role in family law disputes in Malaysia. Mediation provides a platform for parties to reach amicable solutions outside of the traditional court system (Leow, 2024). This method encourages open communication and collaboration, allowing individuals to express their concerns and needs more freely. However, in matrimonial property disputes specifically among non-Muslims, the procedural burdens of the civil system often complicate and hinder the mediation process, making it less accessible and efficient for those seeking resolution. The complexities involved, such as lengthy protocols and legal formalities, can deter individuals from pursuing mediation as a viable option (Tanifum and Fabien, 2024). As a result, many may feel overwhelmed and resort to conventional litigation, which can often prolong conflicts and increase stress.

On a global scale, there has been a notable integration of artificial intelligence (AI) into Online Dispute Resolution (ODR) systems. This technological advancement has been instrumental in streamlining case management, enhancing objectivity, and supporting equitable settlements in various dispute contexts. Globally, AI has been adopted in online dispute resolution (ODR) platforms, chatbot legal assistants, and intelligent case triaging systems that guide litigants towards fairer and faster outcomes. However, the integration of AI in the context of family law remains nascent and largely unexplored in Malaysia. AI-driven platforms can facilitate the negotiation process by providing data-driven insights and recommendations, helping parties

understand the implications of their decisions in real time (Mohsen et al, 2024). For example, these systems can analyse past case outcomes to suggest strategies that may lead to favourable results, thus empowering individuals to make informed choices regarding their legal actions.

This study explores the potential for similar AI integration in Malaysia's mediation practices, specifically focusing on how such advancements could address existing challenges. By examining the capabilities of AI to support mediators, enhance communication, and improve overall process efficiency, this study aims to identify actionable strategies that could revolutionise the mediation landscape in Malaysia. This integration could not only streamline the process but also build trust in mediation as an effective route for families navigating the complexities of divorce and property settlement. Ultimately, the objective is to create a mediation environment that is more accessible, effective, and aligned with the needs of modern families.

## **2. Literature review**

The literature on AI and mediation reflects its evolving utility in family law, illustrating how technological advancements are reshaping traditional practices and enhancing their effectiveness. Zeleznikow (2021) and Rule (2024) outline various ways in which AI can improve fairness in decision-making processes. Their research suggests that algorithms have the potential to significantly reduce bias and enhance outcome transparency, which is particularly crucial in sensitive family law cases. By utilising AI, legal practitioners can rely on data-driven insights that help ensure that decisions are more equitable. Furthermore, these technological tools could provide parties with a clearer understanding of the reasoning behind decisions, thus building trust in the process and its outcomes.

In addition, studies conducted by Fatima (2023) and Wilson-Evered and Zeleznikow (2021) delve into the adaptability of AI in online mediation. They emphasised how AI tools can facilitate communication and streamline negotiations between disputing parties, creating an environment that fosters more productive dialogue and resolution. These tools assist in monitoring conversations and guide users through complex discussions by suggesting relevant questions or points for consideration. This proactive approach can help keep conversations focused and lead to quicker and more effective resolutions. As a result, parties can engage in dialogue that is less adversarial and more collaborative, which is often a key factor in successful mediation outcomes.

In Malaysia, scholars such as Azahari (2010) and Rahmat et al. (2022b) have provided valuable insights into local mediation practices. Their research focuses on the challenges of procedural fragmentation, which often complicates family dispute resolution, and highlights the urgent need for reform. They argue that the integration of AI tools can address these inefficiencies, thus providing a more cohesive framework for resolving family disputes effectively. By streamlining processes, AI can assist mediators in maintaining a structured approach and ensure that all relevant issues are addressed in a timely manner. This can be especially helpful in a landscape where legal procedures can be lengthy and stressful for families.

Through a comprehensive evaluation of both international and local perspectives, the literature emphasises the necessity of embracing technological innovations to enhance mediation outcomes. This is crucial for ensuring broader access to justice in family law contexts, an area where the stakes can be especially high. As family dynamics and societal norms continue to evolve, the legal system must adapt, and embracing AI is one way to achieve this meaningful change. Ensuring that all parties can effectively navigate the legal landscape without being overwhelmed by its complexities is essential for fostering a more just society.

The integration of AI into mediation holds promise for improving processes and better serving the needs of families navigating complex legal challenges. By modernising the approach to

mediation, stakeholders can better align themselves with the principles of fairness and accessibility. This forward-looking perspective positions AI not only as a tool for efficiency but also as an essential component of a more compassionate legal framework. As the landscape of family law evolves, AI may play a pivotal role in transforming how families resolve disputes and rebuild their lives post-conflict.

### **3. Research methodology**

This study adopts a doctrinal legal research methodology, which focuses on the analysis, interpretation, and critical evaluation of existing legal principles and statutes relevant to matrimonial property disputes and mediation practices in Malaysia. The doctrinal approach is appropriate for this research as it seeks to examine the adequacy and coherence of the current legal framework governing post-divorce matrimonial property division, both under civil law (Law Reform (Marriage and Divorce) Act 1976) and Islamic family law enforced at the state level.

Primary sources of law, including statutes, subsidiary legislation, and reported judicial decisions from both civil and Syariah courts, were examined to identify gaps, inconsistencies, and procedural challenges in existing mediation mechanisms. Secondary sources, such as journal articles and textbooks relevant to matrimonial property disputes and mediation, were analysed to support a comprehensive understanding of the doctrinal and conceptual underpinnings of family mediation.

The comprehensive Statutes and Case Law Matrix presented in Table 1 underscores the rigorous doctrinal methodology employed in this study. By systematically examining these statutes and judicial precedents, the analysis reveals that matrimonial property disputes in both civil and Syariah courts are fundamentally characterised by broad judicial discretion, challenges to evidence, and procedural complexity. These findings serve as a critical legal foundation justifying the exploration of AI integration as a decision-support tool. Specifically, this doctrinal depth ensures that any proposed AI framework for mediation and *sulh* remains rooted in existing legal principles, supporting the process without encroaching on judicial interpretation or statutory authority.

In addition, the study reviews current legal literature on the application of Artificial Intelligence (AI) in dispute resolution, with a view to evaluating the feasibility and normative compatibility of integrating AI into mediation processes for matrimonial property disputes. Comparative insights were also drawn from jurisdictions such as Australia and New Zealand to identify best practices and legal innovations that could inform reforms in the Malaysian context.

### **4. Legal framework of mediation for matrimonial property disputes in Malaysia**

Malaysia practices a dual legal system in family law matters, distinguishing between civil law (for non-Muslims) and syariah law (for Muslims). Mediation plays a significant role in both systems as a means of amicably resolving disputes, particularly matrimonial property disputes. The practice of mediation in matrimonial property disputes reflects not only procedural divergence but also deeper philosophical and structural differences between the Syariah and civil legal systems. In the civil legal framework, mediation is supported by several statutory and institutional mechanisms (Nur Farahiyah, 2022). The Courts of Judicature Act 1964 and Rules of Court 2012 empower judges to refer parties to mediation, including through structured programs such as the Court-Annexed Mediation System. The Malaysian Mediation Centre (MMC), established by the Bar Council in 1999, plays a pivotal role in offering trained mediators and promoting the practice of mediation in civil and commercial disputes, including family disputes.

Civil courts have institutionalised mediation through judicial practice directions and dedicated mediation centres, such as the Kuala Lumpur Court Mediation Centre, reflecting a professional and formalised approach to alternative dispute resolution.

**Table 1: Statutes and case law matrix**

Authors/ case name	Source title/ citation	Source type	Significant finding/contribution
Parliament of Malaysia	Courts of Judicature Act 1964 & Rules of Court 2012	Statute	Empowers civil judges to refer parties to mediation through structured programs like Court-Annexed Mediation.
Dept. of Syariah Judiciary (JKSM)	Manual Kerja Sulh	Manual / Guidelines	Standardized sulh practices across states to ensure procedural consistency despite decentralized authority.
Dept. of Syariah Judiciary (JKSM)	Practice Direction No.1, 2010	Practice Direction	Identifies matrimonial property as one of the 18 categories of disputes eligible for mediation in Syariah Courts.
Parliament of Malaysia	Mediation Act 2012	Statute	Provides the general legal framework for mediation processes and the role of mediators in Malaysia.
Parliament of Malaysia	Law Reform (Marriage and Divorce) Act 1976	Statute	Governs matrimonial property and divorce proceedings for non-Muslims in the civil legal system.
Parliament of Malaysia	Islamic Family Law Act (Federal Territories) 1984	Statute	Provides the statutory basis for harta sepencarian and family matters for Muslims in the Federal Territories.
Boto' binti Taha v Jaafar bin Muhamad	High Court [1985]	Case Law	Recognized harta sepencarian as a part of Malaysian law, influenced by Malay customary law (adat).
Lee Yu Lan v Lim Thain Chye	Federal Court [1984]	Case Law	Establishes that non-financial and domestic contributions are legally recognizable in property division.
Ching Seng Woah v Lim Shook Lin	High Court [1997]	Case Law	Rules that both direct and indirect contributions must be considered, increasing the complexity of judicial reasoning.
Manokaram Subramaniam v Ranjid Kaur	High Court [1985]	Case Law	Confirms the court's wide discretion to ensure fairness and equity rather than following rigid rules.
Latifah Mat Zin v Rosmawati Sharibun	Federal Court [2007]	Case Law	Clarifies jurisdictional boundaries; civil courts cannot interfere in matters within Syariah Court jurisdiction.
Wan Khairani v Ismail bin Mohd Salleh	Syariah Court [2011]	Case Law	Illustrates Syariah judicial reasoning focusing on the duration of marriage and specific types of contribution.
Noraishah binti Ismail v Abdul Aziz	Syariah Court [2010]	Case Law	Emphasizes the burden of proof on the claimant to demonstrate existence and contribution to the property.
Halimaton Saadiah v Mohd Hilmi	Syariah Court [2014]	Case Law	Demonstrates the institutional commitment to Sulh as a mandatory preliminary step in family disputes.
Rokiah binti Ahmad v Mohd Zainal Abidin	Syariah Court [2016]	Case Law	Confirms that Sulh agreements recorded by the court are legally binding and enforceable as court orders.

In contrast, the Syariah legal system operates under state jurisdiction, and mediation is institutionalised through court-annexed mediation, recognised as *Majlis Sulh*, which is administered by the Syariah Court for post-divorce cases, including matrimonial property disputes. The requirement for mediation or *sulh* is embedded in the Syariah Court's procedures. The implementation of the Sulh Work Manual, known as *Manual Kerja Sulh*, helps standardise *sulh* practices across states, although differences still exist due to decentralised religious

authority. While both systems encourage mediation to achieve amicable settlements, their underlying assumptions about marriage, property rights, and the role of the state and religion in personal matters lead to fundamentally different mediation experiences for Muslim and non-Muslim litigants.

Matrimonial property is one of the 18 categories that fall under the list of disputes that can be mediated as provided under Practice Direction No.1, 2010 of the Department of Syariah Judiciary Malaysia (Department of Syariah Judiciary Malaysia, 2010). The resolution of matrimonial property disputes is not seen solely as a legal transaction but as a continuation of ethical responsibilities between former spouses (Zuraidah et al., 2021). The concept of *harta sepencarian*, or marital property, is not expressly provided for in classical Islamic jurisprudence but has been adapted into Malaysian Islamic family law as a mechanism for justice and fairness, particularly in recognising the contributions of wives in domestic and supportive roles. Mediation is shaped by religious values and community expectations, where fairness is not measured purely in legalistic or monetary terms but in accordance with spiritual and social considerations. These values are tangibly manifested through judicial decisions, where Syariah cases relating to *sulh*, including *Halimaton Saadiah v Mohd Hilmi* and *Rokiah binti Ahmad v Mohd Zainal Abidin*, demonstrate the judiciary's institutional commitment to mediation as a preliminary and binding mechanism for resolving family disputes. The enforceability of *sulh* agreements as court orders underscores mediation's legal significance rather than its informal character. However, these cases also expose structural limitations within existing mediation frameworks, such as scheduling delays, reliance on physical attendance, and administrative constraints.

In contrast, mediation in civil courts is governed under Mediation Act 2012 and together with the Law Reform (Marriage and Divorce) Act 1976. Matrimonial property being treated as a matter of equitable entitlement based on tangible and intangible contributions under the Law Reform (Marriage and Divorce) Act 1976 (Zuraidah et al, 2021). For instance, early civil cases such as *Boto' binti Taha v Jaafar bin Muhamad*, *Lee Yu Lan v Lim Thain Chye*, and *Ching Seng Woah v Lim Shook Lin's* case demonstrate the courts' recognition of both direct and indirect contributions, including domestic labour, in the division of matrimonial assets. While these decisions affirm substantive fairness, they also illustrate the inherently fact-sensitive and discretionary nature of matrimonial property adjudication, which often leads to uncertainty, prolonged proceedings, and inconsistent outcomes. This discretion is further underscored in *Manokaram Subramaniam v Ranjid Kaur*, where the court emphasised equitable considerations rather than rigid formulae, thereby increasing the burden on litigants to substantiate their claims through extensive evidence.

Mediators in civil proceedings often approach the process from a legal and contractual standpoint, with the goal of ensuring that both parties receive a just share based on documented ownership, financial input, or household contributions. The process is typically more structured, with parties represented by legal counsel, and outcomes framed within the doctrine of fairness rooted in secular legal theory.

The most critical difference lies in the philosophy and purpose of mediation in each country's system. In Syariah law, mediation is not merely about resolving disputes but about repairing relationships where possible, preserving dignity, and upholding Islamic principles such as *ihsan* (compassion), *adl* (justice), and *maslahah* (public interest) (Rasool et al., 2024). Therefore, even the notion of "contribution" in dividing matrimonial property may be interpreted broadly and sometimes with discretion by religious officers or judges, leaving space for moral persuasion rather than strict legal entitlement.

In the civil system for non-Muslim families, however, the emphasis on procedural fairness and evidentiary support means that negotiations during mediation are guided more by documented proof and legal argumentation (Rahmat et al., 2022a). This can sometimes disadvantage non-earning spouses, most often women, whose domestic and emotional labour, although

acknowledged of the rights of matrimonial property under Section 76 of the Law Reform (Marriage and Divorce) Act 1976, may still be undervalued without strong legal representation.

The Syariah mediation system in Malaysia lacks uniformity and standardisation because of the state-based nature of Islamic family law, resulting in procedural and practical differences across jurisdictions. While some states have institutionalised mediation through established Majlis Sulh units, others face constraints, such as limited resources and a shortage of trained mediators, leading to inconsistencies in both the process and outcomes. In contrast, civil courts, despite being similarly decentralised, demonstrate a more structured approach by professionalising mediation through court-annexed services and involving legally trained mediators. This contributes to a higher degree of procedural consistency across civil law jurisdictions.

## **5. Judicial interpretation of matrimonial property and its implications for technology-assisted mediation**

The judicial interpretation of matrimonial property in Malaysia reveals a highly complex landscape, often characterised by subjective assessments and procedural blockages. A doctrinal analysis of established case law highlights three primary challenges that justify the integration of Artificial Intelligence (AI) as a supportive mechanism in mediation and *sulh*.

### **5.1 Inconsistency of principles**

The transition from a trial-based system to a mediation-based one is frequently hindered by a core systemic issue: the inconsistency of principles in asset division. Unlike litigation, which is inherently adversarial and often depletes matrimonial assets through protracted legal fees, mediation offers a confidential and flexible environment conducive to amicable settlements to preserve post-divorce relationships and ensure a more holistic form of justice for all parties involved. (Md Sayuti et al., 2020). The legal significance of this process is underscored by its enforceability. For instance, in *Rokiah binti Ahmad v Mohd Zainal Abidin [2016]*, it was demonstrated that a *sulh* agreement recorded by the court carries the same legal weight as a formal judicial order.

The legal landscape in Malaysia dictates distinct guidelines for dividing matrimonial assets based on the parties' religious status. For non-Muslim families, the division is governed by Section 76 of the Law Reform (Marriage and Divorce) Act 1976 (LRA 1976), while Muslim families fall under the concept of harta sepencarian, as provided by the Islamic Family Law Act (Federal Territories) 1984 (IFLA 1984). Although both frameworks aim to achieve equity, their application is frequently inconsistent because of the broad judicial discretion granted to presiding officers (Hamid & Trakic, 2015). This inconsistency creates a "shadow of uncertainty" over the mediation table, as parties cannot easily predict how a judge might interpret the specific facts of their marriage.

Landmark cases such as *Boto' binti Taha v Jaafar bin Muhamad* and *Lee Yu Lan v Lim Thain Chye* represent pivotal evolution in the recognition of non-financial contributions. These rulings established that the domestic efforts of a spouse possess intrinsic economic value, entitling them to a share of the assets despite the lack of direct monetary contribution. However, the absence of a fixed mathematical formula to quantify these contributions often leads to unpredictable judicial outcomes, complicating the negotiation process during mediation. For instance, the weightage given to a homemaker's contribution may differ from one court to another, complicating the negotiation process during mediation. Parties often enter mediation or *sulh* sessions with disparate expectations of fairness, which frequently results in a deadlock because the legal principles they rely on are applied subjectively.

In this context, the integration of Artificial Intelligence (AI) is a critical mechanism for harmonising these inconsistencies. By leveraging AI as a Decision Support System (DSS), the mediation process moves beyond subjective bargaining and towards algorithmic transparency. AI can mitigate unpredictability by analysing historical data from cases such as *Wan Khairani binti Wan Yusuf v Ismail bin Mohd Salleh* to provide predictive benchmarks (Zelevnikow, 2017). This allows mediators to present a "neutral baseline" based on established judicial trends, helping parties reach a consensus anchored in data rather than emotional conjecture. Ultimately, AI transforms abstract and inconsistent judicial principles into quantifiable insights, ensuring that the recognition of domestic efforts remains consistent and fair across both the Civil and Syariah systems.

## **5.2 Procedural delays and administrative constraints**

Despite the institutionalisation of mediation through the *Manual Kerja Sulh* and Practice Direction No. 1 of 2010, the system remains plagued by structural limitations that mirror the inefficiencies of traditional litigation processes. In the adversarial litigation model, procedural rigidity often leads to procedural attrition, where years of interlocutory applications and postponement of hearings deplete the parties' financial resources and emotional well-being. While mediation is designed to bypass these hurdles, the cases of *Halimaton Saadiah v Mohd Hilmi* and *Rokiah binti Ahmad v Mohd Zainal Abidin* underscore that even within the *sulh* framework, efficiency is frequently hampered by scheduling delays, administrative backlogs, and the necessity for physical attendance (Md Sayuti et al., 2020). These delays effectively replicate the "justice delayed" scenarios of the courtroom, where the backlog of cases prevents timely resolution, leaving families in a state of legal and financial limbo.

The primary weakness of the current mediation system is its heavy reliance on manual administrative processes. Traditional *sulh* sessions require the physical presence of all parties and the manual verification of voluminous evidence, such as bank statements, property valuations, and proof of domestic contributions which often leads to multiple adjournments. To overcome these constraints, digital transformation in the Syariah and Civil judiciary is no longer an option but a necessity (Nordin et al., 2021). Technology-assisted mediation (TAM) provides a transformative alternative to the traditional model by shifting the "administrative heavy lifting" from human officers to automated systems.

By integrating Artificial Intelligence (AI) into the mediation framework, the procedural blockages of litigation and face-to-face mediation can be systematically dismantled. AI-driven platforms can facilitate asynchronous preliminary evidence gathering, allowing litigants to upload documents and respond to enquiries at their convenience, thus eliminating the scheduling conflicts that plague cases such as *Halimaton Saadiah*. Furthermore, AI algorithms can automate the "triage" phase of a dispute, such as organising facts and identifying areas of agreement before the parties ever meet. This ensures that the actual mediation session is reserved for high-level negotiations rather than administrative paper-shuffling. When AI is utilised to streamline these administrative constraints, it does not merely speed up the process but enhances the accessibility of justice and ensures that the mandatory nature of *sulh* functions as a streamlined conduit for equitable settlement rather than a redundant bureaucratic obstacle.

## **5.3 Heavy reliance on judicial discretion**

Perhaps the most significant challenge in matrimonial property disputes is judicial discretion, a principle firmly established in cases such as *Manokaram Subramaniam v Ranjid Kaur* and *Ching Seng Woah v Lim Shook Lin*. While judicial discretion is intended to allow for equity and tailored justice, it inherently introduces a high degree of subjectivity in the decision-making process. This issue is particularly pronounced in the valuation of domestic labour, where the absence of a standardized formula leaves the assessment of a homemaker's contribution to the individual

perception of the presiding officer (Tajuddin et al., 2018). Within a litigation framework, such heavy reliance on personal interpretation often results in unpredictable outcomes, where substantially similar factual matrices yield disparate results across jurisdictions.

Mediation offers a distinct advantage over litigation by decentralising the decision-making power, shifting it from the bench to the disputing parties. Unlike the rigid, top-down structure of a trial, mediation fosters a party-driven form of fairness that accounts for ethical and social responsibilities beyond narrow legal technicalities. However, mediation is not immune to the pitfalls of subjective interpretation. For example, mediators frequently struggle to guide parties towards a settlement, especially when evidentiary challenges if there is no objective benchmark as highlighted in *Noraishah binti Ismail v Abdul Aziz's* case by creating a deadlock. When the factual basis is unclear, the lack of standardised guidance often leads to stalled negotiations or settlements that may be perceived as coerced rather than collaborative.

To address these limitations, the integration of Artificial Intelligence (AI) provides a transformative solution by acting as a sophisticated Decision Support System (DSS). Rather than replacing human judgment, AI processes complex variables that often overwhelm manual assessment. By analysing a comprehensive Case Law Matrix, AI can establish a neutral baseline for negotiations, effectively narrowing the gap caused by inconsistent judicial interpretations (Lodder & Zeleznikow, 2010). For instance, AI can quantify indirect contributions by cross-referencing the current dispute with thousands of historical precedents, offering a data-driven fairness range. This technological intervention removes the element of guesswork from the valuation of domestic roles, ensuring that the mediation process achieves the stability of a judicial ruling while retaining the empathy.

## **6. Artificial intelligence in mediation for resolving matrimonial property disputes**

### **6.1 Potential benefits**

The integration of Artificial Intelligence (AI) into the mediation process offers a compelling pathway towards enhance fairness, efficiency, and standardisation in matrimonial property disputes (Alessa, 2022). AI-based systems, if designed with sensitivity to Malaysia's dual legal context, could serve as neutral, data-driven tools to assist in property evaluation, contribution assessment, and equitable division, thereby reducing human bias, procedural delay, and variability in interpretation.

One of the key advantages of AI in this context is its capacity to process large volumes of data swiftly, including the documentation of property ownership, financial transactions, and domestic contributions, which can often be tedious and complex in manual mediation (Sukindar et al, 2024). AI tools can assist mediators by generating preliminary assessments based on pre-fed algorithms aligned with legal principles or agreed-upon guidelines. AI tools may use mediation algorithms to match parties with mediators and analyse dispute data and recommend settlement options based on patterns (Khan, 2025). For instance, in cases under the Syariah system, where the concept of matrimonial property (*harta sepencarian*) lacks uniform computation methods, AI can help standardise the treatment of indirect contributions by referencing previous cases, patterns of judicial discretion, and equitable benchmarks set by state enactments.

Moreover, AI can help bridge information gaps and empower parties, particularly vulnerable litigants, such as non-earning spouses or those without legal representation, by providing interactive platforms that explain rights, entitlements, and mediation options in clear and accessible language. This could significantly reduce power imbalances, which are especially evident in civil mediation, where legal literacy and access to legal counsel often influence the outcome (Carneiro et al., 2013).

AI could also serve as a tool for harmonisation across jurisdictions, offering consistent mediation support regardless of the state, court, or mediator involved (Alessa, 2022). This would be especially beneficial within the Syariah framework, where procedural and interpretive inconsistencies persist between states. With appropriate safeguards, AI could offer scenario-based recommendations to mediators or judges based on existing jurisprudence and socio-economic data, allowing a more predictable and transparent process.

Furthermore, AI supports the confidential and non-adversarial nature of mediation. Through secure online dispute resolution (ODR) platforms, couples can engage in guided dialogue remotely, aided by AI-generated proposals that reflect religious, cultural, and legal sensitivities (Abuzar et al., 2025). This aligns well with the Islamic concept of *sulh*, which values conciliation and privacy, while also resonating with the efficiency-driven ethos of civil mediation.

However, the deployment of AI in this domain must be approached with caution. Legal pluralism, religious diversity, and cultural norms require AI systems to be ethically programmed, contextually aware, and transparent. AI must complement, not replace, human discretion, especially in areas where moral and religious judgment remains paramount. The legitimacy of mediation outcomes still depends on trust in the process; thus, human oversight and religious/legal authority must remain central in AI-assisted mediation under both Syariah and civil systems.

## **6.2 Challenges**

One of the main concerns with AI in mediation is the lack of human empathy and the potential for biased decisions based solely on algorithms (Suárez Xavier, 2024). The emotional intricacies inherent in human interactions are often difficult for machines to replicate, which raises questions about the effectiveness of AI in understanding the complexities of interpersonal conflicts (Fatima, 2023). Ensuring fairness in the mediation process is essential, as even minor biases can significantly affect the outcomes for the parties involved. Moreover, the reliance on algorithms may inadvertently favour certain outcomes based on historical data, perpetuating existing inequalities and failing to account for unique contextual factors relevant to each dispute (Osasona et al., 2024). Thus, maintaining the human element in mediation is critical not only for achieving equitable solutions but also for fostering an environment where individuals feel understood and valued. The integration of AI in this context should therefore be approached with caution, emphasising the importance of complementing technological advancements with human insight and emotional intelligence. By striking a balance between algorithmic efficiency and empathetic engagement, practitioners can enhance the mediation process while safeguarding the interests and dignity of all participants involved.

Additionally, the challenge lies in creating a framework in which AI systems are not only employed to streamline processes but also to bolster the human aspect of mediation. This involves developing tools that can assist mediators in recognising emotional cues and understanding the unique circumstances surrounding each case. Rather than replacing mediators, AI could serve as a valuable resource that provides insights based on data while leaving the final interpretations and decisions to professionals (Mohsen, 2024). This collaborative approach ensures a broader perspective, where human judgment can address the subtleties and variabilities that algorithms alone might miss. It also allows for a more holistic view of disputes, where emotional, social, and psychological dimensions are acknowledged, further enriching the mediation experience for all parties involved in the process.

As AI becomes more integrated into family mediation, issues of justice, regulation, and quality assurance require careful consideration to ensure that the technology serves the best interests of the parties involved. The application of artificial intelligence in this domain raises important questions regarding fairness and bias, as these systems must be designed to provide equitable

solutions for all parties, regardless of their backgrounds. Furthermore, regulatory frameworks must be established to govern the use of AI in mediation, ensuring that ethical standards are maintained and the privacy of individuals is protected (Osasona et al., 2024). Quality assurance is another critical aspect, as it is essential to evaluate the effectiveness and reliability of the AI tools employed in family mediation. This involves not only assessing the algorithms used but also continuously monitoring their outcomes to prevent potential disparities in recommended solutions. Stakeholders, including mediators, legal professionals, and technologists, must collaborate to develop comprehensive guidelines that promote accountability and transparency in the use of AI applications.

Moreover, educating all participants about the workings and limitations of AI can empower them to make informed decisions during the mediation process (Khan, 2025). Understanding the technology's capabilities can demystify its role and alleviate concerns about reliance on potentially biased outputs. Participants should be informed about how AI systems reach their conclusions and the datasets used to train them. This knowledge fosters a collaborative atmosphere in which all parties feel comfortable engaging in the mediation process, thereby enhancing its effectiveness. Training sessions and informational resources can bridge this knowledge gap, allowing stakeholders to better navigate the implications of AI in mediation.

## **7. Discussion and conclusion**

AI has been increasingly integrated into Online Family Dispute Resolution (OFDR) systems, which have been successful in other types of disputes. Systems such as Split-Up, Family Winner, and Asset-Divider in Australia use AI to facilitate informed decision-making and resource distribution through machine learning and game theory (Zeleznikow, 2020). These systems aim to improve negotiation outcomes and ensure fairness in the process. By analysing vast amounts of data and recognising patterns in human behaviour, AI can provide recommendations tailored to unique situations. This adaptability not only enhances the efficiency of the dispute resolution process but also builds user trust in the system.

In addition to improving outcomes, incorporating AI into OFDR systems can reduce the emotional toll often associated with traditional dispute resolution methods. (Alessa, H., 2022). Negotiations that typically involve personal conflicts and complex emotions can be further complicated by interpersonal dynamics. However, AI systems allow for a more detached approach, focusing on data rather than feelings. This objective stance encourages participants to engage in more rational discussions, fostering a more amicable atmosphere for resolution. Consequently, the use of technology in these systems extends beyond mere efficiency and promotes mental well-being by minimising stress and confrontation among disputants.

Furthermore, the ongoing development and refinement of AI technologies will likely lead to even more sophisticated models that can better predict outcomes and suggest tailored negotiation strategies. As research in artificial intelligence and social sciences advances, algorithmic systems are increasingly designed to process both quantitative legal data and qualitative insights arising from human relationships and emotional dynamics. In the context of matrimonial property disputes, where emotional complexities and interpersonal histories play significant roles, such developments are particularly impactful. AI-enhanced Online Dispute Resolution (ODR) platforms will have the capacity to analyse the behavioural patterns, communication styles, and preferences of disputing parties, enabling more accurate and empathetic recommendations.

Ultimately, the integration of AI into traditional dispute resolution frameworks signifies a shift towards more innovative approaches that leverage technology to address long-standing human conflicts. As society increasingly embraces digital solutions, ongoing research and investment in AI-driven OFDR systems highlight their potential to revolutionise the conflict resolution landscape. By providing clarity, support, and fair outcomes, AI not only enhances practical

decision-making but also contributes to the broader goals of justice and equity. (Kattnig, 2024). Thus, advancements in this field could pave the way for a transformative era in how disputes are managed, further changing the dynamics of human interactions in professional and personal contexts.

The development of AI in dispute resolution has evolved from rule-based systems to more sophisticated case-based and game theory-based systems (Fatimah, 2023). This evolution has led to more user-centric designs that cater to various aspects of family disputes, including diagnosis, negotiation, mediation, and evaluation. These advancements enable practitioners to utilise AI tools that not only streamline the dispute resolution process but also enhance the quality of the outcomes for the parties involved. By analyzing past cases and predicting outcomes based on data-driven insights, AI systems can provide tailored recommendations that facilitate more effective negotiation strategies and interventions.

Additionally, the integration of AI in resolving family disputes has significantly improved accessibility for individuals who may face barriers in traditional legal settings. For instance, the use of virtual agents can assist users in understanding complex legal terms and procedures, which often deter individuals from seeking legal support. Furthermore, AI can address the emotional aspects of disputes by recognising the importance of empathy in resolution processes. Emotional intelligence can guide parties towards more constructive dialogue, fostering a healthier environment for conflict resolution.

Moreover, the role of AI in family disputes extends beyond immediate resolutions, contributing to long-term relational dynamics. By equipping parties with insights into communication patterns and potential conflict triggers, AI systems can help users develop better interpersonal skills and awareness. This preventative approach not only addresses existing disputes but also aims to diminish future conflicts and promote healthier family interactions. As these technologies continue to evolve, stakeholders must remain vigilant about ethical considerations, ensuring that the deployment of AI enhances justice and equity in family law.

### **7.1 AI in matrimonial property disputes in Malaysia**

In Malaysia, matrimonial property disputes can arise under both civil and Syariah legal systems. Matrimonial disputes are disputes between spouses concerning the division of assets acquired during the course of marriage, particularly following divorce, whether under civil or Syariah law. Civil courts refer to matrimonial property disputes as matrimonial assets under the Law Reform (Marriage and Divorce) Act 1976, whereas Syariah courts apply the principle of *harta sepencarian*, which recognises the joint acquisition of property during marriage.

Mediation has a long history in Malaysia, tracing its roots to the Melaka Code of Laws, which established early frameworks for conflict resolution (Azahari, 2010). Mediation is suitable for resolving matrimonial property disputes. Malaysia can draw valuable lessons from family mediation practices in resolving matrimonial property disputes, as implemented in countries such as Australia and New Zealand. These nations have established comprehensive and effective frameworks for family mediation that address legal disputes and emphasise the importance of emotional well-being and communication among family members.

By analysing the strengths and methodologies utilised in these countries, Malaysia can develop a robust and practical family mediation model tailored to its unique cultural and social context. For instance, in Australia, the integration of statutory and non-statutory mediation services has proven effective in resolving family disputes, encouraging a collaborative approach that prioritises the best interests of children (Milišauskaitė et al., 2022). Similarly, New Zealand has successfully incorporated cultural perspectives into its mediation processes, ensuring that Indigenous practices are respected and integrated (Rahmat et al., 2022b). These examples

highlight the potential to embrace inclusive practices that resonate with Malaysia's diverse population.

Moreover, understanding the cultural complexities inherent in family dynamics is essential for the success of any mediation framework. The Australian and New Zealand experiences demonstrate the importance of creating a culturally competent mediation environment where various cultural backgrounds are acknowledged and respected (Rahmat et al., 2022b). This is particularly relevant in Malaysia, which is home to multiple ethnic groups, each with distinct values, customs, and communication styles. By learning from the ways in which these countries have integrated cultural sensitivity into their mediation practices, Malaysia could foster an environment that promotes understanding and acceptance among parties involved in disputes. Such an approach would not only improve conflict resolution but also enhance the overall relational health of families within the community.

Furthermore, training and accreditation of mediators in these countries are crucial elements that bolster the legitimacy and effectiveness of the mediation process (Rahmat et al., 2022b). By implementing similar training programs, Malaysia could enhance the skills of its mediators, ensuring that they are well equipped to handle the complexities of family dynamics and disputes. Comprehensive training encompasses various aspects, including communication skills, conflict resolution techniques, and cultural awareness. Additionally, establishing a certification process could ensure that mediators meet a certain standard of competence, thereby increasing public trust in the mediation system. This could significantly influence the willingness of families to engage in mediation to resolve disputes, as they would feel assured that their mediators are qualified and capable of guiding them through challenging emotional landscapes.

Ultimately, adopting and adapting these lessons from Australia and New Zealand could facilitate the development of a family mediation model in Malaysia that is not only effective in resolving disputes but also supportive of families' emotional and relational health. This requires a concerted effort from legal practitioners, policymakers, and community organisations to create a mediation framework that is both accessible and culturally relevant. By collaborating across sectors, stakeholders can address barriers to mediation, such as financial constraints and social stigma, thereby increasing community engagement in the process. Such an inclusive and well-rounded mediation approach can foster healthier family relationships, enabling families to navigate their issues constructively and collaboratively. The transition towards a more effective family mediation framework would ultimately benefit society by promoting stronger familial bonds and enhancing social cohesion in Malaysia.

Moreover, Malaysia may learn from Australia and New Zealand in the legal context to enhance the mediation process in matrimonial property disputes through Artificial Intelligence. Currently, no specific legislation in Australia or New Zealand directly governs the application of Artificial Intelligence (AI) in Online Dispute Resolution (ODR) or online mediation within the domain of family law. In Australia, the Family Law Act 1975 (Cth) and the Family Law Amendment Act 2023 provide the legal foundation for Family Dispute Resolution (FDR), which is now widely practiced in both physical and digital formats. Although these laws do not explicitly address AI or ODR, the judiciary has facilitated digital access to dispute resolution via Practice Directions, including the Federal Circuit and Family Court of Australia's Practice Direction No. 1 of 2021, which formally recognises e-filing, online hearings, and remote mediation (FCFCOA, 2021). Moreover, various pilot initiatives supported by the Australian Government's Attorney-General's Department and the Australian Law Reform Commission (2019) have explored the use of AI tools to assist self-represented litigants and streamline parenting arrangements. Ethical considerations are addressed through the Australian AI Ethics Principles (2020), which, although non-binding, serve as a policy framework guiding the responsible and inclusive use of AI technologies.

In New Zealand, the Family Dispute Resolution Act 2013 mandates compulsory mediation before lodging parenting or guardianship applications and allows delivery via phone or video

conferencing. Although there is no explicit legislative framework for AI in mediation, providers such as FairWay Resolution Ltd have implemented fully online mediation platforms regulated under the Privacy Act 2020 to ensure confidentiality and data protection. The New Zealand Ministry of Justice has also published evaluation reports encouraging digital delivery to enhance accessibility and cost efficiency (New Zealand Ministry of Justice, 2016; FairWay, 2020). Although AI tools are not yet mainstream in family law, there is increasing scholarly discourse on the need for algorithmic transparency, cultural appropriateness, and human oversight, especially when resolving emotionally sensitive matters such as matrimonial property disputes (Beattie & Mackenzie, 2021).

## **7.2 Conclusion**

AI has the potential to revolutionise family mediation in Malaysia by making the process more efficient, accessible, and private. Its capacity to analyse large volumes of data quickly can streamline case management and reduce the duration of mediation sessions, allowing for a more focused and productive dialogue among the parties. Furthermore, the integration of AI technologies can enhance accessibility, particularly for individuals who may have difficulty attending in-person meetings because of geographical constraints or other barriers. By providing virtual mediation platforms powered by AI, those involved can participate from the comfort of their homes, thereby ensuring that no one is excluded from the mediation process.

However, it is crucial to address the challenges related to fairness, human empathy, and regulatory frameworks to ensure that AI-driven mediation serves the best interests of all parties. Reliance on algorithms raises concerns about bias, highlighting the need for systematic oversight and ongoing evaluation of the technology to safeguard against potential inequalities. Additionally, while AI can simulate aspects of human interaction, it lacks the inherent empathy that qualified mediators provide, which is essential in family dispute resolution. To effectively address the emotional and psychological dimensions of familial relationships, a hybrid approach that combines AI efficiency with a nuanced understanding of human mediators could be beneficial.

By learning from international practices and integrating AI thoughtfully, Malaysia can enhance its family mediation processes, particularly in matrimonial property disputes. By drawing on successful models implemented in other jurisdictions, Malaysia can develop regulatory guidelines that protect vulnerable parties while promoting the effective use of technology. This may include training mediators on how to work with AI tools effectively and developing policies that ensure privacy and confidentiality are upheld throughout the mediation process. Overall, the careful and responsible integration of AI into family mediation could lead to a more equitable and efficient system that better serves the needs of families in Malaysia.

By adopting hybrid models which combine human expertise with AI capabilities, Malaysia can leverage technology in a way that respects the nuances of individual cases while improving outcomes. Training programs for mediators to work effectively alongside AI tools can ensure that mediators remain central to the process, guiding parties towards resolution with empathy and understanding. By taking these steps, Malaysia can effectively enhance its dispute resolution framework while maintaining a strong commitment to human values in mediation.

Legal reforms should be implemented in Malaysia to regulate AI in mediation. As mediation becomes increasingly dependent on automated systems to facilitate negotiations, it is crucial to create guidelines or practice directions that govern the use of AI tools in mediation in matrimonial property disputes. This would not only enhance the credibility of the mediation process but also protect the rights of all parties involved. Implementing such legal reforms would help build trust in AI systems, encouraging their responsible use while safeguarding individuals from potential biases or errors that could arise from algorithmic decision-making. Moreover, legal frameworks should also consider the importance of transparency in AI algorithms used within mediation. Parties involved need to understand how decisions are reached and what data influences those

outcomes. Clear regulations can also define the accountability of AI developers and users, ensuring that they adhere to defined ethical principles and standards.

In conclusion, Malaysia's mediation journey reflects a broader commitment to establishing a just society based on understanding and cooperation. As the legal framework surrounding mediation continues to evolve, policymakers and practitioners must remain adaptable to ensure that mediation practices meet society's current needs. By promoting mediation as a viable and effective alternative to litigation, Malaysia can cultivate a culture of peace and shared responsibility, allowing its people to resolve conflicts constructively and collaboratively. Through these efforts, mediation not only contributes to resolving disputes but also plays a significant role in the overall social well-being of the nation itself.

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