

Legal Frameworks and Judicial Application of Digital Evidence in Malaysia's Syariah and Civil Courts: A Comparative Analysis

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ABSTRACT

The rapid advancement of digital technology has transformed legal systems worldwide, particularly in relation to the admissibility and application of digital documentary evidence in judicial proceedings. This study aims to undertake a comparative analysis of the application of digital documentary evidence in Malaysia's Civil Courts and Syariah Courts by examining the legislative frameworks and evidentiary principles governing both legal systems. The study adopts a qualitative methodology based on documentary analysis of relevant legal provisions, including the Evidence Act 1950, the Syariah Court Evidence Enactments, and selected judicial decisions from both jurisdictions. The findings reveal that although both court systems recognise digital documents as admissible evidence, significant differences exist in their approaches to admissibility, evidentiary standards, and authentication procedures. The study further demonstrates that the integrity of digital evidence is increasingly challenged by emerging technologies, particularly Artificial Intelligence (AI) and deepfake technologies, which have the potential to manipulate digital content and complicate the authentication process. Accordingly, this study proposes greater harmonisation between the Syariah Court evidentiary framework and the Evidence Act 1950, together with the development of comprehensive technical guidelines for digital evidence verification and legislative reforms to address contemporary technological challenges. These measures are expected to enhance consistency, reliability, and legal certainty in the recognition and application of digital evidence within the Malaysian Syariah Court system.

Keywords: Evidence, Digital Evidence, Civil Courts, Shariah Courts, Legal Harmonization

INTRODUCTION

The rapid advancement of information and communication technology (ICT) has significantly transformed the landscape of legal systems worldwide (Suhaizad et al., 2025). This transformation became particularly evident during the COVID-19 pandemic, when movement restrictions imposed under Malaysia's Movement Control Order (MCO) substantially limited physical access to judicial institutions (Masum, Ahmad, & Nafees, 2021). In response to these unprecedented challenges, the Malaysian civil judiciary successfully adapted its information and communication technology infrastructure to ensure the continued administration of justice. Electronic filing systems for civil and commercial cases remained fully operational throughout the pandemic, enabling court documents and cause papers to be filed electronically without interruption (Zakariya, 2020). Court hearings and appeals were likewise conducted through various digital platforms, including email correspondence, the e-Review system, videoconferencing, and live-streaming technology (Zakariya, 2020). In parallel with these developments, the Selangor Syariah Courts introduced online court proceedings through the *IceWarp4.MyGovUC* platform pursuant to the Guidelines on Court Proceedings for the Selangor Syariah Courts issued on 28 January 2021 (Mahmud & Buang, 2022).

Alongside these technological developments, electronic documents—including emails, WhatsApp messages, online banking transactions, digital signatures, and other forms of electronically stored information—have increasingly been relied upon as evidence in judicial proceedings. Consequently, ensuring the admissibility, authenticity, and reliability of digital documents has become a critical consideration in determining whether such evidence should be accepted by the courts (Wan Ismail et al., 2023). This concern has become even more pressing with the emergence of advanced technologies such as deepfakes, which possess the capability to manipulate digital images, videos, and audio recordings, thereby undermining the authenticity and evidential value of digital evidence (Mahmud & Buang, 2022). These technological developments require legal systems to continuously adapt their evidentiary rules to accommodate the realities of an increasingly digital environment.

Islamic law demonstrates a distinctive balance between traditional legal principles and contemporary developments. Although it differs from common law systems in terms of its jurisprudential foundations, both legal traditions share fundamental values, particularly the requirement that evidence must be reliable, credible, and capable of establishing justice. In Islam, justice demands a comprehensive and cautious approach in the administration of law, where accurate proof and an appropriate standard of proof constitute essential safeguards against injustice. These principles preserve the integrity of the Islamic legal system while demonstrating its continued relevance and adaptability within the context of contemporary legal developments, including the increasing reliance on digital evidence.

The constitutional separation of jurisdiction between the Civil Courts and the Syariah Courts has resulted in distinct evidentiary frameworks governing the admissibility and assessment of digital evidence. Throughout Malaysia, the Civil Courts are governed by the Evidence Act 1950, which prescribes detailed statutory requirements for the admissibility of electronic and computer-generated evidence. In contrast, the Syariah Courts adopt an evidentiary framework founded upon Islamic legal principles, requiring compliance with both *Hukum Syarak* and the respective Syariah Court Evidence Enactments enacted by each State. Nevertheless, certain provisions of the Syariah Court Evidence Enactments have incorporated principles derived from the civil evidentiary system, which have subsequently been adapted and harmonised with Islamic legal principles through the processes of legal harmonisation and Islamisation (Saifuddin, Markom, & Muhamad, 2019). Despite these developments, an important legal question remains as to the extent to which digital documents are recognised and admitted as valid evidence in proceedings before both court systems.

Accordingly, this study seeks to analyse the differences in the application of digital documentary evidence between the Civil Courts and the Syariah Courts in Malaysia, with particular emphasis on the applicable statutory provisions and the evidentiary principles governing each legal system. By examining these differences, the study aims to provide a clearer understanding of the effectiveness and fairness of the existing legal frameworks governing digital evidence. Ultimately, the study proposes measures to strengthen and harmonise the evidentiary frameworks of both jurisdictions through the processes of legal harmonisation and Islamisation, thereby enhancing the consistency, integrity, and reliability of digital evidence within Malaysia's dual legal system.

LITERATURE REVIEW

Concept of Digital Documents

Digital documents constitute one of the most significant developments in information technology and have increasingly been recognised as an important form of evidence in judicial proceedings. Generally, the use of digital documents in court assists in establishing or disproving the facts in issue, thereby facilitating the conviction of guilty parties while protecting innocent individuals from wrongful liability (Ismail, 2016). Furthermore, technological advancement has transformed digital documents into a primary medium for conducting various legal and commercial transactions, gradually replacing traditional paper-based documentation (Ismail, 2016). The widespread adoption of digital documents is evident in contemporary practices such as online banking, electronic fund transfers, online job applications, and other digital transactions, largely because of their efficiency, accessibility, and time-saving advantages.

According to Mohammad Ismail (2006), a digital document broadly refers to any evidential information that is stored, recorded, transmitted, or generated in electronic form and is capable of being produced before a court as evidence to support or rebut a legal claim. Consequently, the concept of a document is no longer confined to printed materials or physically recorded information. Instead, it encompasses a wide range of electronic records, including closed-circuit television (CCTV) recordings, digital photographs, video recordings, floppy disks, compact discs, and Internet-generated data (al-Zanibat, 2005). In addition, audio recordings may be admitted as evidence provided that certain procedural safeguards have been satisfied, including verification that the recording has not been altered from its original version, confirmation that the recording device was functioning properly at the material time, and evidence demonstrating that the recording remains complete and reliable (Paul, 2010).

Mohammad Ismail Hj. Mohamad Yunus (2006) further identifies numerous forms of electronic digital evidence, including Very Large Scale Integration (VLSI) chips, hard disk drives, solid-state drives (SSDs), digital cameras, mobile phones, scanners, memory cards, magnetic tapes, photocopiers, printers, computers, compact discs (CDs), digital versatile discs (DVDs), video compact discs (VCDs), Internet networks, software applications, and Common Gateway Interface (CGI) technologies. The increasing diversity of these digital storage media illustrates the expanding scope of digital evidence within contemporary legal practice and highlights the necessity for legal systems to establish appropriate mechanisms for assessing their authenticity, reliability, and evidential value.

Documentary Evidence from the Islamic Perspective

Within the Islamic legal system, documentary evidence is not merely regarded as a supporting evidential tool but constitutes an independent mode of proof founded upon authoritative textual sources. The Qur'an explicitly encourages the documentation of legal transactions, particularly financial dealings, in order to safeguard rights, promote transparency, and prevent future disputes. Allah SWT states:

"O you who believe! When you contract a debt for a fixed period, write it down." (Surah al-Baqarah, 2:282)

This verse establishes the fundamental principle that written documentation serves as an important mechanism for preserving rights and ensuring justice. Although the verse specifically addresses deferred financial transactions, its underlying rationale extends beyond debt documentation and provides a broader foundation for recognising documentary evidence within contemporary legal proceedings. Accordingly, written records—including digital documents—may serve as objective evidence capable of assisting courts in determining disputed facts.

The admissibility of documentary evidence within Islamic law is further reinforced by the overarching principle of justice, which constitutes one of the primary objectives (*maqasid*) of the Shari'ah. Allah SWT further commands:

"O you who believe! Stand firmly for Allah as witnesses in justice, and do not let the hatred of a people prevent you from being just. Be just; that is nearer to righteousness." (Surah al-Ma'idah, 5:8)

This verse emphasises the obligation to uphold justice impartially and without prejudice. Consequently, authentic and reliable documentary evidence, including electronic documents, serves as an important instrument in assisting judges to reach fair, objective, and accurate judicial determinations.

The Prophet Muhammad (peace be upon him) likewise provided clear guidance regarding the judicial assessment of evidence. He stated:

"I am only a human being, and litigants bring their disputes before me. It may be that one of you is more eloquent in presenting his argument than the other, and I decide in his favour according to what I hear." (Reported by al-Bukhari and Muslim)

This hadith demonstrates that judicial decisions are necessarily based upon the evidence and arguments presented before the court rather than upon the actual truth, which may not always be fully ascertainable (Azam, 2012). Accordingly, reliable documentary evidence—whether in conventional or digital form—plays a crucial role in assisting judges to evaluate competing claims objectively and to minimise the risk of decisions being influenced solely by the persuasive abilities of the parties.

In conclusion, documentary evidence enjoys a strong jurisprudential foundation within Islamic law. Its acceptance in the Syariah Courts, including documentary evidence in digital form, is fully consistent with the principles established by both the Qur'an and the Sunnah in promoting justice, protecting legal rights, and ensuring the fair administration of justice.

METHODOLOGY

This study adopts a qualitative research design employing documentary analysis as the primary method of data collection. Documentary analysis is a systematic procedure for reviewing and evaluating both printed and electronic documents (Bowen, 2009), making it particularly suitable for legal research. The study relies on both primary and secondary sources. The primary sources comprise the Evidence Act 1950, the Syariah Court Evidence Enactments, with particular reference to the Syariah Court Evidence (State of Selangor) Enactment 2003, and selected reported judicial decisions from both the Civil Courts and the Syariah Courts in Malaysia. Secondary sources include books, journal articles, legal commentaries, conference papers, and other relevant academic materials. The collected data were analysed using content analysis and comparative legal analysis. Content analysis was employed to identify and interpret the legal principles governing the admissibility, authentication, and application of digital documentary evidence in both court systems (Leavy, 2017). Comparative legal analysis was subsequently undertaken to examine the similarities and differences between the evidentiary frameworks of the Civil Courts and Syariah Courts, particularly in relation to the applicable legal provisions, authentication requirements, and judicial application of digital evidence. The findings were synthesised to identify existing legal gaps and propose recommendations for strengthening and harmonising the legal framework governing digital evidence in Malaysia.

DISCUSSION AND FINDINGS

Legal Framework and Application of Digital Documentary Evidence in the Syariah Courts

The admissibility of evidence in the Malaysian Syariah Courts is governed by the respective Syariah Court Evidence Enactments enacted by each State, such as the Syariah Court Evidence (State of Selangor) Enactment 2003, which serves as the principal legislative framework governing the admissibility of evidence and the rules of proof in Syariah proceedings. Although the Enactment does not expressly provide a comprehensive legal framework specifically addressing digital evidence from the perspective of Islamic law, it nevertheless recognises the growing significance of digital documentary evidence in both civil (mal) and criminal proceedings. In practice, digital evidence primarily functions as corroborative evidence that strengthens the existing facts in issue and assists the court in reaching a more informed and reliable judicial determination.

Statutory recognition of digital documentary evidence is evident from the definition of "document" under section 3 of the Syariah Court Evidence (State of Selangor) Enactment 2003. The provision adopts a broad and technology-neutral definition, encompassing not only conventional written documents such as letters and contracts but also electronic and digital materials recorded, stored, or transmitted through various technological media, including discs, magnetic tapes, films, soundtracks, computer files, and other electronic storage devices.

This inclusive definition reflects the legislature's intention to accommodate technological developments within the Syariah evidentiary framework.

The recognition of digital evidence is further reinforced by the illustrative examples accompanying the statutory definition of a document, which expressly include photographs, recorded telephone conversations, video recordings, and information recorded, stored, processed, or generated by computers. These illustrations demonstrate that digital documentary evidence is legally recognised by the Syariah Courts, provided that its authenticity, origin, and integrity can be satisfactorily established.

Section 3 further defines a "computer" as any device capable of recording, storing, processing, retrieving, or producing information, including interconnected computer systems. This definition adopts the principle of technological neutrality, ensuring that the admissibility of digital evidence is not confined to any specific device or technology. Consequently, documentary evidence generated through computers, smartphones, digital storage systems, or other electronic devices may be admitted as evidence, subject to the applicable rules governing admissibility.

More significantly, Explanation 3 to section 49 provides that a document produced by a computer constitutes primary evidence. This provision represents an important legislative development within the Syariah law of evidence, as computer-generated documents are treated as original evidence rather than copies requiring further authentication. It reflects the legislature's recognition of the reliability of digital records and demonstrates the adaptation of the Syariah evidentiary framework to contemporary technological developments.

The judicial application of digital documentary evidence is illustrated in several reported Syariah cases. In *Public Prosecutor v Zulkifli bin Othman [2013] 4 SHLR 92*, the Syariah High Court of the Federal Territories considered the admissibility of digital and physical evidence in a prosecution for khalwat under section 27(a) of the Syariah Criminal Offences (Federal Territories) Act 1997. The court admitted photographs captured using a digital camera, a sketch plan of the scene, and physical exhibits, including a towel recovered from the hotel room. The court held that these exhibits satisfied the requirements of sections 3, 48, 49 and 73–77 of the Syariah Court Evidence (Federal Territories) Act 1997. The decision confirms that digital documentary evidence is admissible in Syariah criminal proceedings where its authenticity and evidential integrity are adequately established through a complete chain of custody and supported by credible witness testimony.

Similarly, in *PNA v NM [2020] 3 SHLR 29*, the Syariah Court of Appeal of the Federal Territories considered the evidential value of WhatsApp messages in a dispute concerning the validity of rujuk (reconciliation following divorce). The appellant alleged that reconciliation had occurred verbally, whereas the respondent denied the allegation. The court held that the appellant had failed to discharge the burden of proof because no witnesses or documentary evidence supported his assertion. In contrast, the respondent's denial was corroborated by WhatsApp conversations, which the court accepted as reliable corroborative evidence. This decision demonstrates the willingness of the Syariah Courts to recognise electronic communications as admissible evidence, provided that their authenticity and reliability are satisfactorily established.

The admissibility of digital audio-visual evidence was further considered in *Public Prosecutor Selangor v Khalid bin Abdul Samad [2019] 3 SHLR 39*. The principal issue concerned the admissibility of a video recording tendered as documentary evidence. The court admitted the recording as Exhibit P5 on three principal grounds. First, the recording was authenticated by the prosecution witness who personally recorded the incident. Secondly, the witness testified under oath that the recording equipment was functioning properly and remained under his supervision throughout the recording process. Thirdly, another witness confirmed that the recording accurately depicted the incident at the relevant date, time, and location. The court therefore held that audio-visual recordings are admissible where the integrity of both the recording equipment and the recording itself can be satisfactorily established. This approach reflects the Syariah Courts' willingness to embrace technological developments while remaining faithful to the Islamic evidential principle of al-yaqin la yazulu bi al-shakk (certainty is not displaced by doubt).

Collectively, these decisions demonstrate an emerging judicial trend towards the acceptance of digital documentary evidence within the Malaysian Syariah Courts. Whether in the form of digital photographs, electronic communications, or video recordings, the courts consistently require that such evidence be authentic, traceable to its source, and free from manipulation. This judicial approach reflects a progressive harmonisation between the traditional principles of Islamic evidence and contemporary technological developments while remaining consistent with the objectives of Maqasid al-Shari'ah in safeguarding justice and preventing injustice. In contemporary Syariah court practice, digital documentary evidence has become increasingly important in supporting both family and criminal proceedings. Digital materials such as emails, messaging logs, digital photographs, and electronic records are frequently relied upon in family disputes involving divorce, maintenance claims, and the validation of marriages. Likewise, in Syariah criminal cases, digital evidence, including photographs, sketch plans, and video recordings, has become an indispensable form of corroborative evidence that strengthens the prosecution's case while remaining consistent with the Islamic legal emphasis on reliable and credible proof.

Legal Framework and Application of Digital Documentary Evidence in the Civil Courts

The admissibility of digital documentary evidence in the Malaysian Civil Courts is primarily governed by the Evidence Act 1950 (Act 56), which constitutes the principal statutory framework regulating evidentiary rules in civil and criminal proceedings. The definition of "document" under section 3 adopts a broad and progressive approach by extending beyond conventional written or printed materials to encompass electronic records, audio and visual recordings, and computer-generated data. This expansive definition demonstrates the legislature's recognition of technological developments by acknowledging that information generated, recorded, stored, or transmitted through modern technological media, including discs, tapes, films, soundtracks, and computer systems, may constitute documentary evidence.

The illustrative examples accompanying section 3 further reinforce this broad interpretation by expressly including photographs, recorded telephone conversations, video recordings, and computer-generated information within the meaning of a document. Consequently, Malaysian civil law recognises digital documentary evidence not merely as corroborative material but as documentary evidence possessing the same legal status as traditional physical documents. This legislative recognition has significantly strengthened the role of digital evidence in judicial proceedings, particularly in disputes involving electronic transactions, digital communications, and audio-visual recordings.

Beyond the statutory definition, sections 90A, 90B and 90C of the Evidence Act 1950 establish a comprehensive legal framework governing the admissibility and evaluation of computer-generated evidence. Section 90A provides that documents produced by a computer, including statements contained therein, are admissible as evidence provided they were generated during the ordinary course of the computer's use. The provision further introduces the requirement of a computer certificate, which serves as *prima facie* evidence that the computer system was operating properly and that the document was produced without unauthorised alteration or manipulation. This certification requirement functions as an important technological safeguard to preserve the authenticity and integrity of digital evidence.

Section 90B complements this framework by empowering the court to determine the evidential weight of documents admitted under section 90A. In assessing reliability, the court may consider factors such as the purpose for which the document was created, the interval between the relevant event and the creation of the document, and the reliability of the source from which the information was derived. Accordingly, although digital documents are generally admissible, their evidential value remains subject to careful judicial scrutiny. Section 90C further strengthens this statutory scheme by providing that the admissibility and evaluation of computer-generated evidence shall be determined exclusively under the Evidence Act 1950, thereby ensuring consistency in the application of evidentiary standards throughout the Malaysian legal system.

In addition, section 136 of the Evidence Act 1950 confers broad judicial discretion upon the court in determining the relevance and admissibility of digital evidence. This enables judges to assess whether computer-generated

material possesses sufficient probative value when considered alongside the totality of the evidence presented. Such discretion ensures that, notwithstanding rapid technological developments, the admissibility of digital evidence continues to be governed by the fundamental principles of fairness, reliability, and the proper administration of justice.

Collectively, these statutory provisions demonstrate that the Evidence Act 1950 provides a comprehensive and systematic legal framework governing digital documentary evidence. The Act not only recognises digital documents as admissible evidence but also establishes detailed mechanisms for authentication and evidential assessment. Consequently, the Malaysian Civil Courts are well equipped to address the evidentiary challenges arising from technological advancements and remain aligned with international developments concerning the admissibility of electronic evidence.

The judicial application of these provisions is illustrated in *Public Prosecutor v Lee Chor Hean* [2019] 8 MLJ 427, which emphasises the mandatory requirements of section 90A concerning the admissibility of digital evidence, particularly closed-circuit television (CCTV) recordings. In this case, the accused was acquitted of a murder charge because the prosecution failed to comply with the statutory requirements governing the admission of computer-generated evidence. The court held that it was mandatory for the prosecution to produce certification from the individual responsible for managing and maintaining the CCTV decoder to establish that the recording system had been operating properly in the ordinary course of its use at the material time. The failure to produce such certification meant that the CCTV recordings failed to satisfy the statutory requirements under section 90A. The court further held that the testimony of a single witness was insufficient to authenticate the integrity of the digital recordings without appropriate technical certification or supporting documentation. Consequently, the CCTV recordings and all derivative evidence obtained from them were ruled inadmissible.

This decision demonstrates that section 90A is intended to safeguard the authenticity and reliability of digital evidence by requiring certification from the person responsible for the operation of the relevant computer system. Such certification is not merely procedural but constitutes prima facie evidence that the system was functioning properly and that the electronic data had not been manipulated. The decision reflects the cautious approach adopted by the Malaysian Civil Courts towards digital evidence and reinforces the continued application of the best evidence rule, whereby only evidence that is demonstrably reliable and authentic should be admitted in judicial proceedings.

The same approach was affirmed in *Gnanasegaran Pararajasingam v Public Prosecutor* [1997] CLJ 6, where the court explained that section 90A was enacted to adapt the traditional best evidence rule to the realities of modern electronic technology. The case involved electronically generated banking records, which were admitted as documentary evidence because the information had been entered automatically into the computer system during its ordinary course of operation. The court observed that although electronic debit and credit records could not be physically perceived in their original digital form, they became documentary evidence once displayed on a computer screen or reproduced as printed copies. Accordingly, both electronic displays and computer printouts fell within the statutory definition of a "document" under section 3 of the Evidence Act 1950, thereby extending the concept of documentary evidence to encompass digital records.

Taken together, these decisions demonstrate that sections 90A to 90C establish a comprehensive statutory framework governing the admissibility of digital documentary evidence in the Malaysian Civil Courts. Section 90A prescribes the conditions for admissibility and the requirement for computer certification, section 90B regulates the assessment of evidential weight based on authenticity and reliability, while section 90C reinforces the exclusive application of the Evidence Act 1950 in determining the admissibility of computer-generated evidence. Collectively, these provisions provide a coherent legal framework that balances technological advancement with the need to preserve the integrity and reliability of documentary evidence in judicial proceedings.

Comparative Analysis

A comparison of the legal frameworks governing the Syariah Courts and the Civil Courts in Malaysia demonstrates that both judicial systems recognise the admissibility of digital documentary evidence as a legitimate form of evidence. Nevertheless, each system adopts a distinct approach with respect to its legal foundation, evidential principles, and authentication requirements. Although both seek to ensure the authenticity, integrity, and reliability of digital evidence, the Syariah Courts primarily apply Islamic principles of proof, whereas the Civil Courts rely on detailed statutory provisions that prescribe specific technical requirements for the admission of electronic evidence.

From the perspective of the legal framework, the Syariah Courts regulate the admissibility of digital documentary evidence through the respective State Syariah Court Evidence Enactments. Although these Enactments do not contain a dedicated chapter dealing specifically with electronic evidence, the definition of "document" under section 3 has been broadly construed to include information recorded, stored, or generated by computers. Furthermore, Explanation 3 to section 49 expressly provides that computer-generated documents constitute primary evidence. This legislative approach demonstrates that the Syariah law of evidence accommodates technological developments by adopting an expansive interpretation of the concept of documentary evidence rather than enacting separate provisions specifically governing electronic evidence. In contrast, the Civil Courts operate under a more comprehensive statutory framework established by the Evidence Act 1950, particularly sections 90A, 90B and 90C, which specifically regulate the admissibility, authentication, and evidential weight of computer-generated documents.

The most significant distinction between the two systems lies in their respective evidential mechanisms. In the Syariah Courts, the admissibility of digital documentary evidence continues to be assessed in accordance with the general principles of Islamic evidence, including *syahadah* (oral testimony), *iqrar* (admission), *qarinah* (circumstantial evidence), and documentary evidence. Digital documents generally function as *qarinah* or corroborative evidence that strengthens the principal facts in issue, while the court evaluates the evidence based on the authenticity of its source, the integrity of the evidence, and its relationship to the disputed facts. By contrast, the Evidence Act 1950 prescribes more detailed technical requirements, including the production of a certificate under section 90A to establish that the document was generated by a computer operating in the ordinary course of its use and that the information has not been altered or manipulated. Consequently, the Civil Courts place greater emphasis on technical authentication before digital documentary evidence is admitted.

These differing approaches are reflected in judicial practice. In the Syariah Courts, *Public Prosecutor v Zulkifli bin Othman* demonstrates that digital photographs, a sketch plan, and physical exhibits were admitted as corroborative evidence after being authenticated by the witness who produced them. Similarly, in *PNA v NM*, WhatsApp messages were accepted as *qarinah* supporting the existence of a verbal reconciliation (*rujuk*) after the court was satisfied as to their authenticity and relevance to the facts in issue. Likewise, in *Public Prosecutor Negeri Selangor v Khalid bin Abdul Samad*, a video recording was admitted after witnesses confirmed both the proper functioning of the recording equipment and the accuracy of the recording in depicting the relevant events. These decisions indicate that the Syariah Courts place considerable emphasis on witness credibility and the integrity of the overall chain of custody rather than strict compliance with formal technical requirements.

Conversely, the Civil Courts adopt a more formalistic approach towards the admissibility of digital evidence. In *Public Prosecutor v Lee Chor Hean*, CCTV recordings were excluded because the prosecution failed to satisfy the mandatory requirements of section 90A by producing the requisite certificate or testimony from the individual responsible for operating and maintaining the recording system. In contrast, the electronically generated banking records in *Gnanasegaran Pararajasingam v Public Prosecutor* were admitted because the evidence demonstrated that the information had been generated automatically during the ordinary course of the computer system's operation. These decisions illustrate that, notwithstanding the significant probative value of digital evidence, the Civil Courts continue to require strict compliance with the statutory authentication procedures prescribed by the Evidence Act 1950.

Despite these differences in evidential methodology, both legal systems ultimately pursue the same objective of ensuring that only authentic, reliable, and unaltered digital evidence is admitted in judicial proceedings. The Syariah Courts determine admissibility primarily by reference to the principles of Islamic evidence, emphasising judicial satisfaction regarding the authenticity and evidential value of the material presented. The Civil Courts, on the other hand, complement these evidential principles with detailed statutory requirements governing the technical authentication of digital evidence. Rather than representing conflicting approaches, these two frameworks may be regarded as complementary. The Syariah Courts prioritise the substantive reliability of evidence in accordance with the principles of Islamic jurisprudence, while the Civil Courts emphasise procedural safeguards designed to preserve the integrity and authenticity of electronic evidence. Collectively, both approaches demonstrate the Malaysian legal system's continuing adaptation to technological developments while maintaining the fundamental objective of ensuring fairness and the integrity of judicial proceedings.

Recommendations for Legal Reform

The foregoing discussion demonstrates that the Syariah Court Evidence (State of Selangor) Enactment 2003 adopts the definition of "document" directly from the Evidence Act 1950 (Act 56), reflecting a degree of normative harmonisation between the Civil and Syariah legal systems. This definition expressly encompasses digital materials, including audio recordings, video recordings, still images, and computer-generated data, thereby recognising digital documents as admissible evidence within the Syariah evidentiary framework. Nevertheless, while the Enactment acknowledges the existence of digital documentary evidence, it does not provide detailed procedural or technical requirements governing its authentication comparable to those contained in sections 90A, 90B and 90C of the Evidence Act 1950.

The absence of equivalent provisions means that the Syariah Courts largely rely upon judicial discretion and the evidential concept of *qarinah* (circumstantial evidence) when determining the admissibility and authenticity of digital evidence. Consequently, electronic materials such as WhatsApp messages, digital photographs, and video recordings may be admitted into evidence, but their probative value ultimately depends upon whether they satisfy the court to the requisite degree of certainty (*yaqin*) that the evidence is authentic and has not been manipulated. This approach is consistent with the principles of Islamic evidence, which emphasise justice (*'adl*) and certainty (*thubut*) in judicial proof. However, in the absence of clear procedural guidance concerning the authentication of digital evidence, such as requirements relating to computer certification, data integrity verification, or the preservation of the chain of custody, there remains a risk of inconsistent judicial practice in evaluating digital evidence.

By comparison, the Evidence Act 1950 establishes a more comprehensive and technically structured framework for the admissibility of digital evidence through sections 90A, 90B and 90C. Section 90A requires a computer certificate as a prerequisite for admitting computer-generated documents, thereby ensuring that the relevant computer system was operating properly and that the information has not been altered or manipulated. Section 90B further requires the court to assess the evidential weight of digital documents by considering factors such as their accuracy, the purpose for which they were created, and the reliability of the source from which the information was obtained. Section 90C reinforces this framework by providing that the admissibility of computer-generated evidence shall be determined exclusively under the Evidence Act 1950, thereby promoting consistency in judicial practice. Collectively, these provisions strengthen the integrity and reliability of digital evidence while reducing the risk of technological manipulation, including emerging threats posed by deepfake technology and digitally altered content.

This comparative analysis suggests that the Syariah evidentiary framework would benefit from greater procedural and technical safeguards governing the admission of digital documentary evidence. Although the existing Enactment already recognises digital documents within its definition of documentary evidence, more detailed statutory provisions are required to promote consistency, certainty, and uniformity in judicial practice (Azmi et al., 2024). This need has become increasingly significant in light of the growing misuse of digital

technologies by individuals seeking to fabricate or manipulate electronic documents for fraudulent purposes (Al-Mubarak, 2005).

The rapid advancement of digital technology requires legal systems to continuously adapt to emerging technological realities. Courts must therefore possess not only an adequate understanding of the technical nature of digital evidence but also a robust legal framework capable of evaluating its admissibility, authenticity, and reliability (Suhaizad et al., 2025). In this regard, several reforms should be considered to strengthen the regulation of electronic documentary evidence in the Syariah Courts.

First, the enactment of statutory provisions modelled upon sections 90A to 90C of the Evidence Act 1950 should be considered, with appropriate modifications to ensure consistency with the principles of Islamic law. Such provisions could introduce the requirement for digital authentication certificates issued by qualified digital forensic experts or other authorised officers within the Syariah judicial administration.

Secondly, comprehensive practice directions or procedural guidelines should be developed to regulate the admission and evaluation of digital evidence. These guidelines should address matters including metadata verification, file integrity, digital forensic examination, and the maintenance of an unbroken chain of custody to ensure the authenticity and reliability of electronic evidence.

Thirdly, specialised technical training should be provided for Syariah judges, prosecutors, and legal officers to enhance their understanding of digital evidence and emerging technological challenges. Such training should include issues relating to artificial intelligence, deepfake technology, digitally generated content, metadata analysis, and methods of detecting digital manipulation.

The implementation of these reforms would strengthen the Syariah law of evidence while preserving its underlying Islamic principles. More importantly, they would facilitate greater harmonisation between the Civil and Syariah legal systems without compromising the distinctive characteristics of Islamic evidentiary principles. Such reforms would enhance public confidence in the Syariah judiciary, improve consistency in judicial decision-making, and ensure that the Malaysian legal system remains responsive to the evidential challenges presented by the rapidly evolving digital environment.

CONCLUSION

This study demonstrates that although the Malaysian Civil Courts and Syariah Courts operate within distinct legal frameworks—one founded upon statutory law and judicial precedent, and the other upon the principles of Islamic law—both pursue the common objective of ensuring fairness, transparency, and reliability in the evidential process. The comparative analysis reveals that the Evidence Act 1950 provides a comprehensive statutory framework governing the admissibility of digital documentary evidence through sections 90A, 90B and 90C. These provisions establish detailed requirements relating to the authentication, admissibility, and evidential weight of computer-generated documents, thereby equipping the Civil Courts to address contemporary technological challenges, including digital manipulation, artificial intelligence, and deepfake technologies. In contrast, while the Syariah Court Evidence Enactments recognise digital documents within the statutory definition of documentary evidence, they do not prescribe equivalent procedural or technical requirements for their authentication and evaluation. Consequently, the admissibility and probative value of digital evidence in the Syariah Courts continue to depend largely upon judicial discretion, the application of *qarinah* (circumstantial evidence), and the degree of judicial certainty that the evidence is authentic and reliable. Although this approach remains consistent with the principles of Islamic evidence, the increasing sophistication of digital technology necessitates a more structured legal framework to ensure consistency and certainty in judicial practice.

Accordingly, this study proposes that greater legal harmonisation should be pursued between the Evidence Act 1950 and the Syariah Court Evidence Enactments through the introduction of statutory provisions comparable to sections 90A–90C, suitably adapted to conform to the principles of Islamic law. Such reform would strengthen the authentication and integrity of digital documentary evidence without compromising the fundamental

principles of the Syariah. In addition, the development of judicial practice directions, technical guidelines for digital evidence management, and specialised training for Syariah judges and prosecutors would further enhance the effective administration of justice in an increasingly digital environment. In conclusion, the admissibility of digital documentary evidence within the Syariah legal system should be viewed not only from the perspective of legal admissibility but also in light of the broader objectives of justice, ethical accountability, and the *Maqasid al-Shari'ah*. Establishing a robust and technologically responsive evidentiary framework will enhance the credibility, consistency, and effectiveness of the Syariah Courts while preserving the integrity of Islamic evidential principles. Ultimately, a harmonised yet principled approach between the Civil and Syariah legal systems will contribute to a more coherent, resilient, and trustworthy system of justice in Malaysia's evolving digital landscape.

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