

*Review article*

## **A Systematic Analysis on the Admissibility of Digital Documents as Evidence in Malaysian Syariah Courts**

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### **ABSTRACT**

Digital document is a relatively new form of evidence, particularly for use in the Malaysian Syariah courts. This scenario contrasts with civil courts, which started using digital documents in court proceedings as early as the 1950s. The use of the digital document as evidence is intended to strengthen other methods of proof further. However, the Syariah courts are still less exposed to a new proofing method because there are no specific provisions according to Islamic law to allow it. Not only that, but Syariah law practitioners are also rarely exposed to cases related to the use of digital documents. Therefore, this qualitative study will analyse the admissibility of the digital document as evidence under Islamic law through a systematic analysis. This study uses the PRISMA methodology with the range of data stored on the web at [www.scopus.com](http://www.scopus.com) and <http://myjurnal.my>, which brings together thousands of scientific writings worldwide. The final screening results found a total of 21 articles that discussed the practice of digital documents as evidence under Islamic law. Furthermore, from the final filter, the researchers found several works of literature that previously discussed the usage of digital documents as evidence in a trial proceeding, which indirectly shows that the Syariah court has begun to accept this type of evidence.

It is expected that the results of this study will assist legal practitioners in the Syariah court and become a reference point for researchers, academics and the public in Malaysia.

*Keywords:* Admissibility, digital documents, evidence, Islamic law, PRISMA, Syariah court

#### **ARTICLE INFO**

*Article history:*

Received: 23 March 2021

Accepted: 06 July 2021

Published: 24 September 2021

DOI: <https://doi.org/10.47836/pjssh.29.3.26>

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## INTRODUCTION

A digital document is a new form of proof, particularly for use in Malaysian Syariah court. So it is because digital records in a court proceeding can be used to prove or convict a person in a case and acquit an innocent person (Ahmad et al., 2020). Not only that, with the significant changes in time and facilities, digital documents also have begun to become one of the primary reference materials for each affair. Thus, it has replace old-fashioned forms that rely solely on pens and papers (Wan Ismail, 2016). Besides, he also assumes that the community has begun to accept digital documents daily, such as billing, money transfers, job applications and others, because of its fast nature and saving time.

On the other hand, the civil court has been using this method since the 1950s. Digital documents are used as evidence submitted to civil courts to strengthen the prosecution (Wan Ismail, 2020). Not only that, but the principle of digital evidence acceptance in Malaysian civil courts is already well known in comparison with the Syariah court. For example, in the case of *PP v. Datuk Hj Sahar Arpan* (2007), the civil court considers that copies of faxes and microfilms used in the proceedings are included in the definition of the document based on section 3 of the Evidence Act [Act 56] (1950).

However, this situation differs from the Syariah court as the definition of a digital document according to Islamic law still does not have a clear place in terms of its position as a means of proof. In addition,

the issue of the admissibility of digital documents by the Syariah courts is also not fully discussed in detail, as the legal Syariah practitioners lack the exposure to allow this type of proofing method. Accordingly, for this study, the researchers will observe literature and the writing of published journal articles from two databases, namely, MyJurnal and Scopus, to study the admissibility of digital documents under Islamic law. Furthermore, through a previous literature review, this study is expected to identify the position of the digital document according to Islamic Syariah law, its admissibility in the Malaysian Syariah court, and some suggestions to improve Syariah legal practitioners when allowing digital documents as evidence in a court proceeding.

## METHODS

The methodology plays an essential role in achieving the study's objectives. Therefore, this study's method for data collection is to do a specific search that focuses on two selected databases, namely the MyJurnal and Scopus websites. MyJurnal is one of the literature collection databases published in Malaysia, which can be accessed at <http://myjurnal.my>. Meanwhile, Scopus is an academic literature database that holds thousands of selected writings from around the world, and it can be retrieved through <https://www.scopus.com/>.

During the identification phase, the researchers will enrich the keywords. The higher the number of keywords researchers use, the greater the number

of potential articles retrieved from the databases. The general keywords used by researchers to find articles in MyJurnal and Scopus are: “Document”, “Digital Document”, “Admissibility”, “Syariah Court”, “Electronic Document”, “Electronic Evidence” and “*Kaedah Pembuktian*”. According to Shaffril et al. (2020), it is essential to provide many keywords into a database to produce more data related to the topic. However, the negative side of this method is, it will also offer irrelevant articles. If the researchers only use a specific keyword, the results from the database will produce more relevant articles, but there is a risk of losing potentially valuable documents. Figures 1 and 2 show the example of the query string in the databases used in this research: MyJurnal and Scopus.

From the figures above, the researchers use query string in the database, a mixture of symbols and coding that allows them to

combine all keywords when searching and prevent repetitive searches. The period of literature publication is also limited from the year 2000 to 2020. Based on the initial search results, 61 journals and articles were found in MyJurnal, while 188 journals and articles were found in Scopus. The researchers must also follow several criteria when searching the data in the databases, as shown in Table 1.

Table 1  
List of criteria, eligibility and study exceptions

Criteria	Eligibility	Excluded
Literature Type	Journal Articles	Journal Articles (review paper), Editorial, Conference Working Papers, Chapters in Books
Country	Malaysia	Other Countries

In general, this study will use the PRISMA method since this paper is based on systematic analysis and meta-analysis

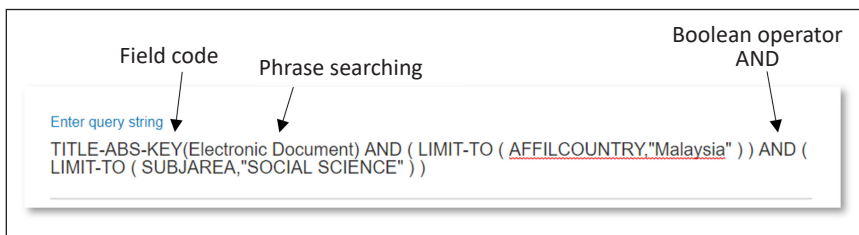


Figure 1. The examples of search/query string develop in Scopus

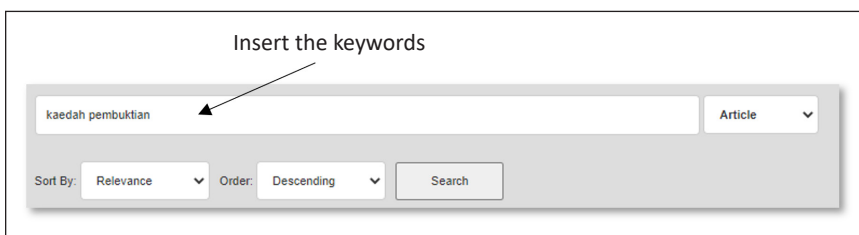


Figure 2. The examples of search/query string develop in MyJurnal

(Liberati et al., 2009). The data analysis started by compiling all the details of journal articles using Microsoft Excel in case there are repetitions of articles in both databases. In that case, the data from Scopus will be retained, and the data from MyJurnal will be deleted. It is because Scopus is preferred, and this database holds thousands of selected writings from all over the globe. The process of filtering is carried out to prevent the recurrence of data during the information analysis process.

As a result, eight articles in MyJurnal have been filtered and removed because

there are multiple duplicated articles in both databases. Therefore, the final total amount of literature to be identified from the two databases is 241. However, only 21 articles are useful which discussed and related to this topic after the last screening record, while the remaining 220 articles diverted from the issue. Therefore, the order of the data analysis has been divided by the researchers according to the year of publication, the number of authors involved in the journal article, the analysis of 21 interesting articles from the final screening, and the study on the admissibility of digital documents as

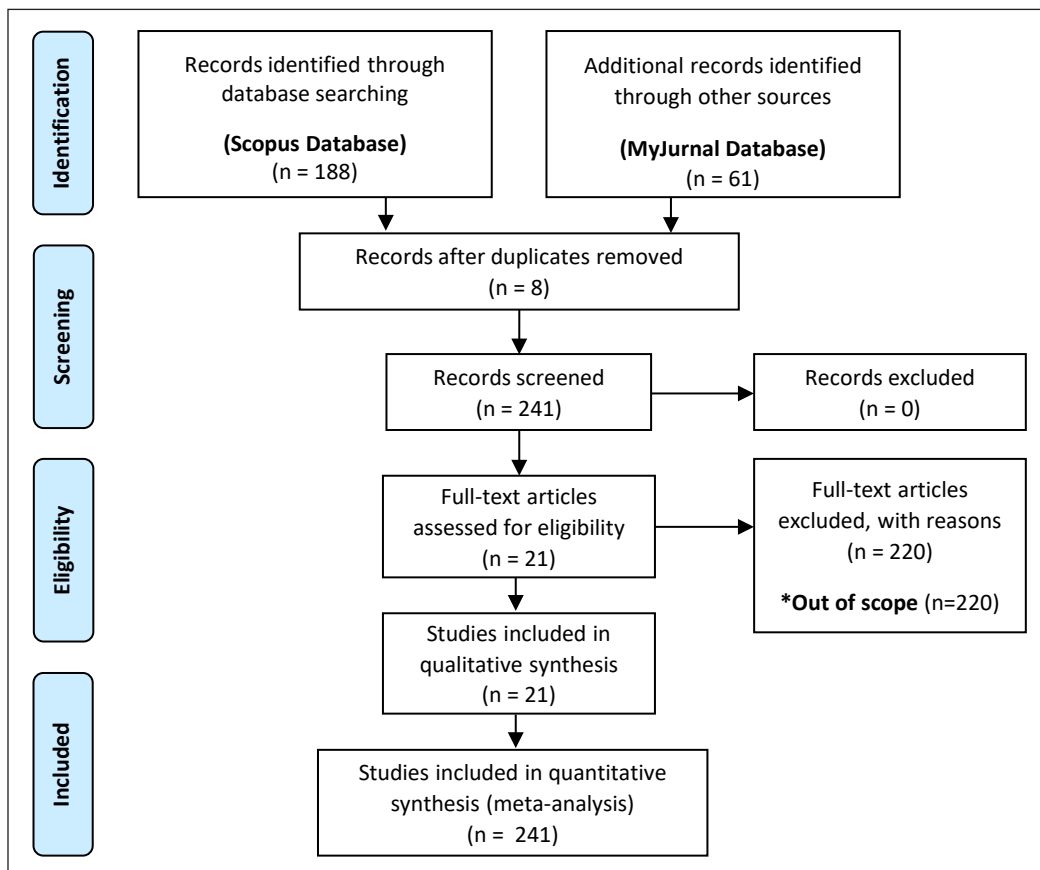


Figure 3. The flow chart of the study based on the PRISMA Systematic Analysis Methodology

evidence by referring to Islamic law. Figure 3 shows the flow chart of the research based on the PRISMA systematic analysis methodology.

## RESULTS

### The Number of Literature by Year of Publication

Based on the search results obtained by inserting all keywords into the database, 241 publications were discovered after removing duplicated articles. Table 2 displays a comparison of reports published

in the MyJurnal and Scopus categorised by year of publication.

### The Amount of Literature by Number of Authors

Table 3 displays the amount of literature based on the number of authors in these 21 articles pertaining to this topic. The articles are divided into four (4) categories which are:

- (a) One author;
- (b) Two authors;
- (c) Three authors;
- (d) Four authors or more.

Table 2  
*Number of articles based on year of publication*

Year of Publication	Number of Publication		Total	Percentage (%)
	(MyJurnal)	(Scopus)		
2020	0	11	11	4.56
2019	7	27	34	14.11
2018	6	21	27	11.2
2017	4	19	23	9.54
2016	5	14	19	7.88
2015	7	29	36	14.94
2014	6	11	17	0.71
2013	0	8	8	3.32
2012	1	10	11	4.56
2011	1	6	7	2.9
2010	2	4	6	2.49
2009	2	4	6	2.49
2008	5	2	7	2.9
2007	1	11	12	4.98
2006	2	1	3	1.24
2005	0	1	1	0.41
2004	2	0	2	0.83
2003	1	5	6	2.49
2002	0	3	3	1.24
2001	1	0	1	0.41
2000	0	1	1	0.41
<b>Total</b>	<b>53</b>	<b>188</b>	<b>241</b>	<b>100%</b>

Based on the results in MyJurnal, articles written by ‘four or more authors’ are the highest number, which is five articles (38.5%). It is followed by one author consisting of four articles (30.8%), two authors comprising of three articles (23%), and an article written by three authors consists of one article (7.7%).

Meanwhile, in Scopus (Table 4), articles written by ‘four or more authors’ are the highest number: six articles (75%), followed by articles written by two authors consisting of two articles (25%). However, there is no record in the Scopus database regarding this topic written by one and three authors.

Table 3  
Number of publications by number of authors in MyJurnal database

Number of Authors	Number of Article (MyJurnal)	Percentage (%)
One author	4	30.8
Two authors	3	23
Three authors	1	7.7
Four authors or more	5	38.5
<b>Total</b>	<b>13</b>	<b>100</b>

Table 4  
Number of publications by number of authors in Scopus database

Number of Authors	Number of Article (Scopus)	Percentage (%)
One author	0	0
Two authors	2	25
Three authors	0	0
Four authors or more	6	75
<b>Total</b>	<b>8</b>	<b>100</b>

## DISCUSSIONS

### Analysis of Articles from the Final Screening Result

Two hundred forty-one papers were discovered based on the search results obtained by entering all keywords into the database. However, only 21 definite articles can be discussed based on the final screening results, all relevant to this subject. On the other hand, 220 other pieces are not related to this topic. Furthermore, based on a document analysis of these 21 papers, the researchers discovered several pieces of literature that could be used as reference data for this study. Therefore, for this section, the researchers will discuss 21 related articles from the final screening result.

First and foremost, based on a study by Wan Ismail and Ramlee (2013), the authors have surveyed the concept and scope of the document according to *fiqh* and legal perspectives. This study has shown that digital document is included in the category of *al-kitabah*. *Al-kitabah* is defined as something that can be explained or described through writing or sketches, in traditional forms such as paper, wood, or modern forms such as diskettes, compact discs, and the internet. This definition showed that digital document is included in the category of *al-kitabah* and may be used as a method of proof in court. In addition, Wan Ismail (2016) also discussed the strength and acceptability of digital documents as a means of proof under Malaysian Syariah Courts. In this study, it is recommended that the Syariah court institution refers to civil court law when dealing with this kind

of proofing method regarding the standard operating procedures (SOP) of admissibility of the digital document under civil court that should be followed by Syariah court.

On the other hand, Sa'di et al. (2015) discussed the scope and admissibility of electronic evidence in criminal cases. Indirectly, these studies may be referred to the Syariah Court when using digital files as evidence in the trial proceedings. The evidence in electronic forms such as digital format is permissible in the Syariah court if it is authentic and reliable (Mohamed & Ramlee, 2014). In the study of Rohizan et al. (2017), the researchers have discussed the requirements that must be fulfilled to permit computer-generated documents as evidence. For example, the digital document must be accompanied together with the opinion from experts to strengthen the evidence presented in the court.

The researchers also found a study conducted by Saifuddin et al. (2019) that discusses the similarities and differences between the legal provision from the Syariah Court Evidence (Federal Territories) Act [Act 561] (1997) and the Evidence Act [Act 56] (1950). For instance, the admissibility of a digital document is based on the definition of a document under Section 3 of the Evidence Act [Act 56] (1950). This section also is similar to Section 3 of the Syariah Court Evidence (Federal Territories) Act [Act 561] (1997) that indirectly recognised digital documents as evidence. On the other hand, this study aims to explore the experience of civil law practitioners in dealing with cases

concerning the admissibility of a digital document as a method of proof. As a result, this research will indirectly be used to reference the Syariah courts when this type of proofing method is employed in the future.

Not only that, a study by Wan Ismail et al. (2019) discusses closed-circuit television (CCTV) as one form of a digital document that can be used as evidence in criminal cases by referring to Islamic evidence law. The study shows that CCTV can be accepted as evidence of adultery (*zina*), *qazaf* and other criminal offences. Furthermore, according to Wan Ismail et al. (2019) in another study, the role of evidence through CCTV is also critical in *takzir*, *hudud* and *qisas* criminal cases by referring to Islamic evidence law. According to Saad (2015), expert testimony or *al-ra'yul khabir* must be made when proposing this type of evidence to support the digital files presented in the trial. The use of *ra'yu al-khabir* in the Syariah courts is also significant to strengthen further the document presented in a court (Wan Ismail et al., 2015).

In addition, according to Yusof et al. (2019), forensic evidence as such document analysis is one of the popular forms of *qarinah* that must be filled together with the digital document in a trial proceeding. In general, the principles and modifications of *qarinah*, such as the use of digital files, can be extended by referring to the Evidence Act [Act 56] (1950) (Md Noor, 2008). According to Muhamad et al. (2015), the importance of using this kind of *qarinah* in *qisas* and *hudud* is discussed. The study

also was conducted by Mutalib and Wan Ismail in 2012. The Syariah court should accept the new types of evidence such as deoxyribonucleic acid (DNA) test and fingerprints to convict the person who committed adultery. Furthermore, the discussion of DNA evidence as one form of *al-qarinah* also has been discussed by Shariff et al. (2019). In this study, the authors mention the relevance and admissibility of DNA as a means of proof under the legal provisions of Syariah. It is indirectly similar to the discussion of the digital document in the Syariah court as a type of new evidence method.

In Wan Ismail and Mehmet (2017) study, the authors have highlighted the general challenges faced when using a digital document as evidence, such as falsification. The falsification of a document can be defined as the act of destroying, altering, mutilating, or falsifying any original documents. Besides, Hadi and Paino (2016) study also explained the challenge encountered when allowing digital documents as evidence, which is document falsification. In the article, the author discusses the developments in documents falsification in the civil court of Malaysia, which may be applied to the Syariah court. Furthermore, according to Wan Ismail (2015), the authors also discussed the generic forged documents that usually occur in the Syariah court, such as forgery of an official letter or falsifying a medical report. In addition, according to Mohamed et al. (2014), the authors discussed some of the proposed solutions to solve cyber-fraud cases at the Department of Digital Forensics

of Cybersecurity Malaysia. Therefore, this study will indirectly be referred to legal practitioners to overcome the problems regarding using digital documents, such as fraud or invalidity.

According to Baharuddin et al. (2019), a study related to the level of admissibility of scientific evidence for Syariah law practitioners had been conducted. This study shows that the legal Syariah practitioners lack exposure to new evidence, knowledge and comprehensive training. Hence, digital documents as evidence are court is not being exposed thoroughly to the legal Syariah practitioners. Furthermore, according to Wan Ismail et al. (2018), a study had been conducted on the level of understanding of Syariah law practitioners regarding the extent to which they handle issues related to document forgery. This analysis shows the lack of exposure for the Syariah law practitioners in the case involving forged documents when digital proofs are permissible in comparison to civil court. Not only that, according to Wan Ismail et al. (2015), the authors also argue that legal practitioners need to be seriously familiar with the falsification of documents and their forms so that they can make accurate decisions in a judgment, especially when using a digital document as evidence.

Based on the results of the analysis carried out, it is apparent that there are not many studies conducted that discuss the admissibility of digital documents under Islamic law. Therefore, the author will disclose in detail in this study the position of digital files under Islamic law, the analysis of cases reported in the Syariah court on



the use of the digital document as evidence, and some suggestions when permitting the digital form of evidence in the Syariah court.

**The Position of Digital Document under Islamic Syariah Law**

In this section, the researchers will discuss the position of a digital document according to Islamic Syariah law. Generally, digital files are a relatively new form of evidence, especially for use in the Syariah courts (Wan Ismail, 2016). Therefore, this method is not explicitly explained in Islamic law. However, the digital document can be considered a method of proof based on Ibnu

Qayyim (2007) and Ibnu Taimiyyah (1995), which said that they accept anything that can explain and reveal the truth as long as it falls within the category of evidence. Table 5 shows the analysis of the position of digital documents according to Islamic Syariah law.

Based on Table 5, there is no specific source regarding the admissibility of the digital document as evidence by legal authorities such as the Holy Quran, al-Hadith, and the Islamic Legal Maxims in general (Qawaid Fiqhiyyah). However, the acceptance of digital documents refers to the public acceptance of documents (*kitabah*) as a means of proof (Wan Ismail et al., 2021).

Table 5  
The analysis of the position of a digital document according to Islamic Syariah Law

	Sources	Description
Legal Authorities	The Holy Quran	<ul style="list-style-type: none"> <li>“O ye who believe! When ye deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing”. (Al-Baqarah 2: 282)</li> <li>Allah Almighty stresses making a documented text that can be used as evidence during the court proceeding.</li> </ul>
	Hadith	<ul style="list-style-type: none"> <li>“It is the duty of a Muslim who has something which is to be given as a bequest not to have it for two nights without having his will written down regarding it.” (Sahih Muslim 13: 3987)</li> <li>Allah's Messenger (may peace be upon him) advised us to write a will from this hadith. If such writing were unimportant and lacking in benefits, the prophet would not have his ummah do it.</li> </ul>
	Islamic Legal Maxims (Qawaid Fiqhiyyah)	<ul style="list-style-type: none"> <li>“<i>al-kitabah kalkhitab</i>”</li> <li>It means <i>kitabah</i> is equal to document.</li> <li>This method indirectly means that each text or document is acceptable as a conversation.</li> </ul>
The Syariah Courts Evidence (Federal Territories) Act 1997 [Act 561]	Section 3	<ul style="list-style-type: none"> <li>According to Section 3 of the Syariah courts Evidence (Federal Territories) Act [Act 561] (1997), a document can be defined as any matter expressed, described or howsoever represented, upon any substance, material, thing or article, including any matter embodied in a disc, tape, film, soundtrack or other devices whatsoever.</li> <li>Therefore, digital documents are indirectly included in this section.</li> </ul>
	Section 33	<ul style="list-style-type: none"> <li>The digital documents are included in the primary description category.</li> </ul>
	Section 49	<ul style="list-style-type: none"> <li>Cases involving the use of digital documents in the Syariah courts should be accompanied by expert opinion to maintain the credibility and validity of the evidence.</li> </ul>

In addition, section 3 of the Syariah Court Evidence (Federal Territories) Act [Act 561] (1997) also defined the document in detail, and the researcher assumes that the digital file is also included in this clause. Under that provision, the document has a broader meaning and is not bound by handwriting alone (Wan Ismail, 2020).

According to Jamal (2011), the digital document must also be strengthened by expert opinion to solidify the credibility of document descriptions that have been released. Furthermore, according to Section 33 of the Syariah Court Evidence (Federal Territories) Act [Act 561] (1997), the digital document should be supported by other means of proof, such as expert opinion to make sure the credibility of the evidence and also to verify the authenticity of the digital document from the expert.

Although there is no specific provision from the Syariah principles related to the acceptance of digital documents by the

court, the general approval by the legal authorities said that a document is a method of proof. Apart from that, several provisions under Islamic law, which is the Syariah Court Evidence (Federal Territories) Act [Act 561] (1997), indirectly show that digital files can be a form of document that can be used as evidence.

### The Admissibility of Digital Document as a Method of Proof in Malaysian Syariah Court

The previous discussion indirectly shows that the Syariah principles recognise the digital document as evidence in the Malaysian Syariah Court. This kind of description helps support the other facts presented in court (Wan Ismail et al., 2020). Based on the findings, the researcher found several cases related to digital documents in the Syariah court (Table 6).

From the above case studies, the researcher found that the Syariah courts have

Table 6  
The analysis of reported cases in Malaysian Syariah Court on the use of the digital document as a means of proof

No.	Name of the case	Year	Type of case claim	Type of digital document used as evidence
1.	<i>Mohd Nizam bin Abdul Malik v. Fauziah binti Mohd Isa</i> (2006)	2006	<i>Nusyuz's claim</i>	Picture
2.	<i>Halijah binti Abdul Rahman v. Zambree bin Baharom</i> (2008)	2008	Demand for divorce confirmation	Short message service (SMS)
3.	<i>Ahmad Faozi bin Mansor v. Norhafizah binti Ahmad</i> (2004)	2004	<i>Nusyuz's claim</i>	Phone bills and short message service (SMS)
4.	<i>Zabariah binti Mat Piah v. Syed Abas Ibrahim</i> (2008)	2008	<i>Fasakh</i>	Picture/visual
5.	<i>Ramlee bin Ismail v. Masuah binti Abd Rashid</i> (2007)	2007	<i>Nusyuz's claim</i>	Short message service (SMS)
6.	<i>Ajmawati Atan v. Moriazi Mohamad</i> (2005)	2005	Divorce	Receipt and Cheque

started to use digital documents as evidence in courts since 2004, such as short message service (SMS), receipt, phone bills, pictures, and closed-circuit television (CCTV) and others. For example, in *Halijah binti Abdul Rahman v. Zambree bin Baharom* (2008), the defendant has sent a short message service (SMS) on 12<sup>th</sup> January 2008 for divorce by using a mobile phone. However, on 13<sup>th</sup> March 2008, the woman violated the *taklik*. After hearing arguments from both parties, the Port Dickson District Syariah subordinate court convicted both parties of divorce. In this case, it is possible to conclude that SMS is used as proof of divorce even if the husband does not intend to divorce his wife. Based on the court decision, the researcher believes that SMS is also one of the digital documents that can be accepted as proof to strengthen the case's conviction in the Syariah court. This description works to reaffirm other evidence filed in court. However, this situation is very different from the civil court as they have accepted this evidence since the 1950s.

On the other hand, the researchers also believed that additional evidence, such as the opinion from the experts, should be brought together to confirm the authenticity of the digital document if its authenticity is in doubt. For example, in Ajmawati's divorce claim in *Ajmawati Atan v. Moriasi Mohamad* (2005), the understanding of the admissibility of the digital description was unclear. The appellate judge has overlooked or lacked knowledge of the concept and implementation of electronic documents. It is due to the fact that every process of storing, withdrawing and sending money

either online or by check, as in this case, all the data stored in the system, named as electronic documents. As a result, the case was ordered to be heard again with the submission of the supporting witnesses. Therefore, several incidents happened in the Syariah court when this method of proof is allowed.

### **The Suggestion for Improvement on the use of Digital Document as Evidences in Syariah Court**

In this section, the researchers will present some suggestions to improve and digital documents as proof in the Syariah court. First and foremost, there is no denying that civil law practitioners have a better grasp of digital documents than Syariah's law practitioners. However, it does not mean that the Syariah court completely rejects the electronic evidence submitted. This situation occurs because they are rarely exposed to cases related to electronic documents, although their use is prevalent today. On the other hand, the authors identify lacunas and gaps that there is no specific provision in the Syariah court concerning using the digital document as evidence. Instead, it is included in the definition of a document in general. Therefore, the scholars and the legal experts in the field of evidence must discuss together to form a specific description of digital documents according to Islamic law. Their admissibility must be clarified and refined to serve as evidence in the Syariah court. It aims to detail the digital document concept from the perception of Islamic law, and its implementation procedure in court.

Generally, the cases that can be proven through electronic documents are much broader and clearer under civil law than anything stated in Islamic jurisprudence. For example, digital files cover criminal cases, *muamalat* (commercial transaction), sexual harassment and other issues under civil law. Meanwhile, according to Islamic jurisprudence scholars, electronic evidence is only permissible in cases involving *muamalat*. Therefore, they have a different opinion to apply this kind of method of proof in other cases. Nonetheless, there is no significant discrepancy in electronic documents between Islamic rulings that have been provided by legislation, especially provisions under the Evidence Act [Act 56] (1950) applicable in civil courts. With this, the Syariah court can adapt the existing conditions of the Evidence Act [Act 56] (1950) and apply them in Islamic evidence law as long as they do not contrast with *syarak*. Therefore, to further strengthen the implementation of electronic evidence in Syariah courts, Section 90A in the Evidence Act [Act 56] (1950) needs to be added to the Syariah Courts Evidence (Federal Territories) Act [Act 561] (1997), as this section has outlined explicit provisions on digital documents as a method of proof.

Besides, the Syariah law practitioners also need to be given greater exposure to electronic documents by creating specialised sections related to forensic electronics. However, most Syariah law practitioners are still vague about implementing electronic records as one of the methods of proof, as happened in *Ajmawati Atan*

*v. Moriazi Mohamad* (2005). In this case, the understanding of the admissibility of the digital description was unclear, which resulted in the case being ordered to be heard again with the submission of expert testimony, particularly in the field of digital forensics (Wan Ismail et al., 2020, 2021).

On the other hand, document forgery is one of the challenges faced while using digital documents. Generally, civil courts have left the Syariah courts far behind in handling cases related to using a document as a means of proof, especially in cases of document falsification. Civil courts are more exposed to its claims as they have a specific provision under civil jurisdiction for each case reported. For example, in Section 466 of Penal Code [Act 574] (2006) which is the forgery of a court record or a public register of births, the guilty shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine. Besides, according to Section 467, forgery of a valuable security or will, the guilty shall also be punished with imprisonment for a term which may extend to twenty years and shall also be liable to fine.

Meanwhile, in Section 468, forgery for cheating, the guilty shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to a fine. Lastly, in Section 469, forgery to harm the reputation of any person, the guilty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to a fine. In conclusion, civil law has a specific provision for every falsifying of documents, as mentioned above.

This situation is quite different from Islamic jurisprudence, where the punishment for the offence of falsifying documents is under the sentence of *takzir* and the discretion of the judge (Alias et al. 2021; Wan Ismail, 2020). This situation makes the cases related to document forgery challenging to be handled by Syariah law practitioners. Therefore, the researchers opined that the Malaysian Syariah courts need to look at the experience and refer to civil law regarding how civil legal practitioners handle cases related to document forgery and analyse the punishments prescribed thereunder. Thus, it aims to improve the institution of Syariah courts when dealing with cases involving document forgery.

Although the Syariah law practitioners are less exposed to this kind of proof method, the researchers believe that digital documents play a significant role in strengthening the conviction in court, especially in this age of developing technology. Therefore, it is hoped that the stated suggestion may help further support digital documents as one of the forms of evidence in the court.

## CONCLUSION

In conclusion, in this paper, the researchers had carried out a systematic analysis with the PRISMA framework on the admissibility of digital documents under Islamic law by analysing the publication from two databases, namely MyJurnal and Scopus from 2000 to 2020. Generally, a digital document is a relatively new form of evidence, especially in the Syariah courts. It is because using this kind of method is not

explicitly described in the source of Islamic law. However, digital documents can be considered a method of proof based on the acceptance of documents in general based on the legal authorities such as the Holy Quran, hadith, Islamic legal maxims, and the Syariah Court Evidence (Federal Territories) Act [Act 561] (1997). The researchers have also analysed the reported cases in the Syariah court on using the digital document as evidence. These case studies show that the Syariah court is starting to accept digital documents as evidence in the trial since 2003 compared to the civil court that agrees with this type of proofing method for a long time since the 1950s. At the end of the study, the researcher also put forward some suggestions for improvement in employing digital documents as evidence in the Syariah court. The researchers strongly believed that this research has adequately gathered the literature and references regarding the admissibility of digital documents as a means of proof under Islamic Syariah law. It aspires, this working paper would assist other researchers in referring to valid and reliable references and literature while conducting their research.

## ACKNOWLEDGMENT

The researchers would like to express an acknowledgment to the Ministry of Education (MoE), Malaysia through the Fundamental Research Grant Scheme (FRGS) entitled "*Pembinaan Model iDoc-Forensics (Kombinasi Al-Qarinah dengan Forensik Dokumen Digital) ke Arah Penyelesaian Kes-kes Kehakiman*

*di Mahkamah Syariah Malaysia*”, (FRGS/1/2019/SSI03/USIM/02/6), (USIM/FRGS/FSU/055002/50319).

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