

**RULES OF ADMITTING DIGITAL DOCUMENT AS
EVIDENCE IN SYARIAH COURTS IN MALAYSIA: A
COMPARATIVE APPRAISAL WITH CIVIL COURTS
PROCESS**

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UNIVERSITI SAINS ISLAM MALAYSIA

**RULES OF ADMITTING DIGITAL DOCUMENT AS EVIDENCE
IN SYARIAH COURTS IN MALAYSIA: A COMPARATIVE
APPRAISAL WITH CIVIL COURTS PROCESS**

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AUTHOR DECLARATION

I hereby declare that the work in this thesis is my own except for quotations and summaries which have been duly acknowledged.

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ABSTRAK

Dokumen digital sering digunakan pada masa kini yang memerlukan kepada penerimaan dokumen digital di mahkamah Malaysia. Masalah dalam kebolehterimaan digital dokumen di mahkamah sering dikaitkan dengan ketulenan bukti tersebut. Oleh sebab itu, keperluan dalam memastikan kebolehgunaan dan kebolehpercayaan dokumen digital di mahkamah merupakan salah satu penentu kepada kebolehterimaan dokumen digital sebagai kaedah pembuktian di mahkamah khususnya di Mahkamah Syariah. Ini kerana kebolehterimaan bukti digital di mahkamah boleh dipertikaikan melalui kredibiliti bukti yang dikemukakan semasa perbicaraan. Penyelidikan ini bertujuan untuk membincangkan keperluan memahami perbincangan umum dan peruntukan yang berkaitan dengan dokumen digital sebagai bukti. Ini juga untuk mengkaji perbandingan antara peruntukan untuk menerima dokumen digital sebagai bukti di Mahkamah Syariah di Malaysia dengan membuat penilaian perbandingan dengan meneliti proses Mahkamah Sivil dan menganalisis kes-kes yang berkaitan. Penyelidikan ini menggunakan analisis kualitatif yang menggunakan pendekatan tinjauan literatur untuk mengumpulkan data dari teks undang-undang klasik dan kontemporari untuk mencapai tujuan ini, yang merangkumi data primer dan sekunder serta pendapat ilmiah. Pendekatan analisis kandungan digunakan untuk memeriksa hasil kajian. Kajian ini mendapati bahawa undang-undang di Mahkamah Syariah berkaitan dengan penerimaan dokumen digital masih kurang diterima dan memerlukan kepada penelitian undang-undang di Mahkamah Sivil. Oleh itu, adalah penting untuk menjelaskan kebolehterimaan dokumen digital di Mahkamah Syariah di bawah piawaian undang-undang untuk memastikan bahawa bukti yang dikemukakan di mahkamah dapat dipercayai dan tepat seperti yang dikehendaki oleh mahkamah.

ABSTRACT

Digital document is quite demanding nowadays in order to make sure the acceptance of digital document in court of Malaysia. Problems in the digital admissibility of documents in court are often associated with the authenticity of such evidence. Therefore, the need to ensure the usability and reliability of digital documents in court is one of the determinants of the admissibility of digital documents as a method of proof in court, especially in the Syariah Court. This is because the admissibility of digital evidence in court can be disputed through the credibility of the evidence presented during the trial. This research aims to discuss the need to understand the general discussion and provisions related to digital documents as evidence. This is also to study the comparison between the provisions for accepting digital documents as evidence in the Syariah Courts in Malaysia by making a comparative assessment by examining the Civil Court process and analyzing the relevant cases. This research uses qualitative analysis that uses a literature review approach to collect data from classical and contemporary legal texts to achieve this goal, which includes primary and secondary data as well as scientific opinion. A content analysis approach was used to examine the results of the study. This study found that the law in the Syariah Courts related to the acceptance of digital documents is still less accepted and requires to the scrutiny of the law in the Civil Courts. Therefore, it is important to clarify the admissibility of digital documents in Syariah Courts under legal standards to ensure that the evidence presented in court is reliable and accurate as required by the court.

الملخص

يتطلب المستند الرقمي الكثير في الوقت الحاضر من أجل التأكد من قبول المستند الرقمي في محكمة ماليزيا. غالبًا ما ترتبط مشاكل المقبولية الرقمية للوثائق في المحكمة بصحة هذه الأدلة. لذلك، فإن الحاجة إلى ضمان قابلية استخدام وموثوقية المستندات الرقمية في المحكمة هي أحد محددات مقبولية المستندات الرقمية كوسيلة للإثبات في المحكمة، وخاصة في المحكمة الشرعية. وذلك لأن مقبولية الأدلة الرقمية في المحكمة يمكن الطعن فيها من خلال مصداقية الأدلة المقدمة أثناء المحاكمة. يهدف هذا البحث إلى مناقشة الحاجة إلى فهم المناقشة العامة والأحكام المتعلقة بالوثائق الرقمية كدليل. هذا أيضًا لدراسة المقارنة بين أحكام قبول المستندات الرقمية كدليل في المحاكم الشرعية في ماليزيا من خلال إجراء تقييم مقارنة من خلال فحص إجراءات المحكمة المدنية وتحليل القضايا ذات الصلة. يستخدم هذا البحث التحليل النوعي الذي يستخدم منهج مراجعة الأدبيات لجمع البيانات من النصوص القانونية الكلاسيكية والمعاصرة لتحقيق هذا الهدف، والذي يتضمن بيانات أولية وثانوية بالإضافة إلى الرأي العلمي. تم استخدام نهج تحليل المحتوى لفحص نتائج الدراسة. وجدت هذه الدراسة أن القانون في المحاكم الشرعية المتعلق بقبول المستندات الرقمية لا يزال أقل قبولًا ويتطلب تدقيق القانون في المحاكم المدنية. لذلك، من المهم توضيح مقبولية المستندات الرقمية في المحاكم الشرعية بموجب المعايير القانونية لضمان أن الأدلة المقدمة في المحكمة موثوقة ودقيقة كما هو مطلوب من قبل المحكمة.

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LIST OF ABBREVIATIONS

CCTV	Closed-Circuit Television
p.	Page
PP	Public Prosecutor
pp.	Pages
r.a.	Radiallah ‘anhu/ ‘anhum/ ‘anha
SOP	Standard Operating Procedure

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