

Challenges in the Enforcement of Syariah Criminal Law on Social Media in Malaysia: A Review from the Perspective of Syariah Evidence Law

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ABSTRACT

The widespread use of social media has transformed the global communication landscape, making the sharing of information more accessible. However, it has also introduced new challenges in the enforcement of laws. The enforcement of Syariah criminal law serves as a key mechanism for safeguarding the welfare of Muslims in Malaysia. Nonetheless, its implementation faces significant obstacles in this era of borderless technology, particularly with the pervasive use of social media. Syariah criminal offences committed via social media encompass a variety of issues, including offences against the faith such as the dissemination of deviant teachings, religious defamation and the spread of doctrines contrary to Islamic teachings. While these offences contravene Syariah principles, enforcement is often hindered by various challenges, particularly those related to evidentiary law. These challenges render the enforcement of Syariah criminal law misaligned with contemporary technological advancements. This study aims to analyse the enforcement of Syariah criminal offences committed on social media and to identify the challenges encountered, particularly from the perspective of evidentiary law. Furthermore, it seeks to propose recommendations to address the issues identified. A qualitative, doctrinal approach was adopted for this research. Data were collected through library-based research, drawing from sources such as books, journal articles, statutory provisions and both reported and unreported cases. The data gathered was analysed using content and descriptive analysis methods. The findings reveal that gaps in the Syariah Evidence Law and outdated legal provisions constitute major obstacles to the effective enforcement of Syariah criminal law on social media platforms. Consequently, this study recommends that the legislative body take immediate steps to amend the existing evidentiary laws. Such amendments are essential to ensure that the enforcement of Syariah criminal law on social media is aligned with technological developments and becomes more effective in addressing contemporary challenges.

1. Introduction

The enforcement of Shariah criminal law in Malaysia faces significant challenges in the digital age, as technology and social media platforms continue to evolve at an unprecedented pace. The rapid

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advancement of information technology has revolutionised communication, offering immense convenience and accessibility. However, it has also provided a vast and unregulated space where Shariah criminal offences can occur with greater ease and anonymity. The internet, particularly social media, serves as a double-edged sword, facilitating the spread of knowledge while simultaneously enabling the proliferation of criminal activities that contravene Islamic principles. Cyber-related crimes represent a distinct category of offences that utilise electronic devices and internet connectivity to commit acts that can harm individuals, groups, or societies. Unlike traditional crimes, cybercrimes transcend geographical boundaries, allowing perpetrators to exploit the speed and reach of the internet to commit offences without being physically present. This cross-border nature complicates enforcement, as jurisdictional limitations and the anonymity of online activities make it difficult to apprehend and prosecute offenders effectively [1]. The evolving digital landscape has introduced new challenges in the enforcement of Syariah criminal law, especially in identifying and substantiating offences committed online. Recent research demonstrates the potential of leveraging social media data through machine learning techniques to detect behavioural patterns, raising pertinent questions about the admissibility and reliability of such digital evidence in Syariah courts [2]. Within the context of Shariah criminal law, social media has become a platform where faith-related offences and moral transgressions are increasingly prevalent. Threats to the Islamic faith are among the most concerning issues, as the globalised nature of the internet enables the dissemination of ideologies that contradict Islamic teachings. For instance, concepts such as secularism, liberalism, and Shi'ism have gained traction among younger Muslims, challenging the orthodoxy of Islamic beliefs [3]. Moreover, ideologies like Indie, Atheism, and Agnosticism are being propagated through social media channels, contributing to the erosion of traditional values and the acceptance of alternative lifestyles. These ideologies often promote practices deemed abnormal in Islam, such as LGBTQI ideologies, nudism, and extreme individual liberties [4].

The unregulated freedom offered by social media platforms has further enabled the proliferation of deviant teachings and the distortion of Islamic faith. False teachings and ideologies, often presented as progressive or modern, are misleading many within the Muslim community, particularly the youth. This distortion poses a grave threat to religious integrity and societal harmony. In addition to offences against faith, social media has become a medium for moral crimes such as online gambling, fornication, and the promotion of other unethical behaviours, all of which are categorised as Shariah criminal offences under Islamic law. The enforcement of Shariah criminal law on social media presents unique challenges, as these offences often occur within a virtual environment that lacks clear boundaries. Existing legal frameworks and traditional methods of enforcement struggle to adapt to the fast-changing dynamics of technology [5]. The anonymity and decentralised nature of social media further complicate efforts to monitor, investigate, and prosecute offenders. This study aims to explore the specific challenges faced in enforcing Shariah criminal law on social media in Malaysia and to evaluate these challenges from the perspective of Shariah evidence law, which provides the legal and procedural framework for establishing proof in Shariah courts.

The need for this research is underscored by the rising number of cases involving Shariah criminal offences on social media platforms, as well as the inadequacy of existing mechanisms to address these issues. By examining the legal, procedural and technological aspects of enforcement, this study seeks to identify gaps in the current system and propose solutions that can enhance the effectiveness of Shariah criminal law enforcement in the digital era. Through a comprehensive review of evidence law principles and their application in the context of modern technology, this study contributes to the broader discourse on balancing religious values, legal frameworks and technological advancements in Malaysia.

The need for this research is underscored by the rising number of cases involving Syariah criminal offences on social media platforms, as well as the inadequacy of existing mechanisms to address these issues. While various studies have examined the general impact of digital technologies on Islamic norms and legal frameworks, little scholarly attention has been devoted to the specific evidentiary challenges in enforcing Syariah criminal law within online environments, particularly from the perspective of Syariah Court Evidence Enactments (SCEE). The current body of literature often lacks a focused legal analysis on how existing rules of evidence can effectively accommodate offences committed in the virtual realm. This study addresses this gap by critically evaluating the limitations and adaptability of Syariah evidence law in the context of social media-related offences. By examining the legal, procedural and technological aspects of enforcement, this study seeks to identify gaps in the current system and propose solutions that can enhance the effectiveness of Syariah criminal law enforcement in the digital era. Through a comprehensive review of evidence law principles and their application in the context of modern technology, this study contributes to the broader discourse on balancing religious values, legal frameworks, and technological advancements in Malaysia.

2. Methodology

This study employs a qualitative research methodology grounded in doctrinal legal research, which involves a systematic examination and interpretation of legal doctrines, principles and sources. The research draws upon both primary and secondary data to ensure a comprehensive and in-depth understanding of the subject matter. Primary data is obtained through the methodical examination of legal documents such as statutes, regulations, and case law reported in courts, providing direct and authoritative sources for the analysis. These sources are indispensable as they form the foundation of legal research, offering insights into the applicable legal frameworks and judicial interpretations. Secondary data, on the other hand, is derived from a broader range of documents that complement and contextualise the primary data. These include books, journal articles and newspaper reports. Such sources enrich the study by providing historical, theoretical and practical perspectives, enabling a multidimensional analysis of the legal issues. The thorough collection of these materials is essential for ensuring the precision and depth of the research process [6]. It also contributes to a comprehensive literature review [7]. The research also incorporates qualitative input through interviews with experienced Syariah law professionals, including two prosecuting officers and one religious enforcement officer. These discussions are intended to capture firsthand perspectives on the practical difficulties involved in implementing Syariah criminal law in Malaysia. By drawing on the insights of these legal experts, the study aims to enhance understanding of current and evolving enforcement issues and to explore potential strategies for more effective legal implementation. To analyse the data, the study adopts both content analysis and descriptive analysis methods. Content analysis involves systematically identifying patterns, themes, and relationships within the collected materials, including data from interviews with Syariah law practitioners. Through this process, the researcher is able to interpret qualitative responses, draw out recurring viewpoints, and categorise key concerns related to the enforcement of Syariah criminal law. This enables a critical evaluation and synthesis of information that contributes meaningfully to legal scholarship. Descriptive analysis, on the other hand, is used to present a clear, structured explanation of the legal issues. It allows for the interpretation of facts, concepts, and practices in a coherent and logical manner, including perspectives derived from the interviews to enrich the legal discussion with practical insights.

3. Literature Review

3.1 Jurisdiction of Shariah Criminal Law in Malaysia and Shariah Criminal Offences in Media Social

According to List II, Ninth Schedule of the Federal Constitution, the jurisdiction over Shariah criminal cases in Malaysia falls under the administration of the respective states. Syariah criminal offences fall under the category of *ta'zir* offences, as provided under the Syariah Courts (Criminal Jurisdiction) Act 1965 (Amendment 1984). This legislation limits punishments for all types of Syariah criminal offences in Malaysia to a maximum fine of RM5,000, three years of imprisonment, or six strokes of the cane [8]. Consequently, the enactment of Shariah criminal offences within substantive enactments is restricted to this jurisdiction. In addition to sentencing jurisdiction, the enforcement of Shariah criminal law in Malaysia is also limited to the territorial jurisdiction of each state, as aligned with the Federal Constitution. Thus, an individual charged with an offence committed in a particular state is only subject to the laws enforced in that state. Moreover, the enforcement of Shariah criminal law in Malaysia applies exclusively to Muslims, as explicitly stated in Section 1(2) of the Syariah Criminal Offences Enactment (Selangor) 1995, which restricts its application to Muslims only [9]. This jurisdiction was demonstrated in the case of *Syariah Prosecutor v. Fahyu Hanim, Noni Mohamad & Sharina Shaari* (Criminal Case No. 238/239/240 of 1997 and Criminal Case No. 510/511/512 of 1997), where all three defendants, being Muslims, were convicted and sentenced under Section 31 of the Syariah Criminal Offences Enactment (Selangor) 1995 for acts of indecency and under Section 12(C) of the same enactment for violating a fatwa prohibiting Muslim women from participating in beauty contests. As the offences were committed in Selangor, the Selangor Syariah Court had jurisdiction to hear, try, and sentence the defendants. Adherence to jurisdictional boundaries is essential to prevent the accused from being discharged or acquitted without prosecution. Mistakes in procedural enforcement involving different states, as seen in the case of *Kassim @ Osman Ahmad v. Dato Seri Jamil Khir Baharom & 3 ors* [2015] 1 LNS 1424 should be avoided. In this case, the accused was discharged without trial by the Civil High Court due to procedural irregularities involving the Federal Territories Religious Enforcement Officers. This judgment serves as a guide to prevent similar errors in the future.

Deviant ideologies, including deviant teachings, are increasingly disseminated through social networking platforms such as Facebook, WhatsApp, and TikTok. Although these technologies enhance connectivity and communication, they also present serious risks with profound social consequences. The advanced features and broad reach of these platforms have facilitated the rapid spread of extreme and radical content, contributing to the erosion of religious values and social cohesion [10]. Malaysia has faced a growing number of incidents involving the dissemination of deviant teachings online. In 2021, the case of Masitah Ad Jalar, widely known as "Sittah Annur," drew national attention. She claimed to receive divine revelations through dreams and direct communication with Allah and the Prophet Muhammad (PBUH). Her content, which was actively spread via YouTube, Facebook, and TikTok, posed a serious challenge to Islamic teachings. Though she was investigated under Section 298A of the Penal Code and Section 233 of the Communications and Multimedia Act 1998, she avoided prosecution after publicly declaring her repentance [11]. In December 2023, Khairul Adha publicly proclaimed himself as the "Imam Mahdi" via Facebook. Authorities from JAKIM and JAIS responded by identifying his location and initiating engagement efforts [12]. Similarly, Mohid Khouli, who was declared deviant by the Terengganu Fatwa Committee, continued to spread his ideology through Facebook despite the official ruling [13]. Other notable incidents include a TikTok video that went viral featuring four men endorsing the teachings of "Si Hulk," in which blasphemous claims were made, including the divinisation of the Prophet Muhammad (PBUH). While the individuals were identified, no legal action was reported [14]. Wan

Masri Wan Mohd, linked to the Zikir Asmaul Husna group, was charged in 2023 under Negeri Sembilan's Shariah Criminal Offences Enactment for spreading heretical teachings, most of which were reportedly circulated through social media platforms [15].

Moral transgressions in cyberspace are also on the rise. In early 2024, a man known online as "Daddy Ash" and two Muslim women were charged for promoting online prostitution through the X platform (formerly Twitter). They sold sexually explicit content and offered virtual sexual services to the public [16]. Another disturbing trend involves swinger activities facilitated through digital platforms. In collaboration with the Royal Malaysia Police, the Malaysian Communications and Multimedia Commission (MCMC) uncovered partner-swapping operations involving married couples in Kedah and Johor. These acts, primarily involving Muslims, raise grave concerns over the erosion of Islamic moral values [17]. Online gambling has also become increasingly prevalent among Muslims in Malaysia. Two common methods have been identified: the use of eateries as covert gathering spots, where gambling takes place via tablets and Wi-Fi, and remote gambling via smartphone applications. Players receive app download links, login credentials, and manage betting activities from their personal devices. Authorities have reported a significant number of Muslim women involved in promoting online gambling. In one state alone, 370 women were arrested in 2022, with an additional 67 apprehended by mid-2023. The allure of quick financial gain appears to be a key motivation behind their participation [18].

3.2 The Formulation and Role of the Shariah Court Evidence Enactment

Islamic law has established evidentiary rules that must be adhered to in proving cases before the court. The formulation of the Shariah Court Evidence Enactment (SCEE) underwent a distinctive and unique legislative process, reflecting the effort to harmonise modern legal principles with traditional Islamic jurisprudence. The enactment was drafted by referencing Act 56, adapting it to align with Shariah law, a process recognised as integrating English and Islamic legal principles. Act 56 was originally designed to achieve three primary objectives: determining the facts admissible in court, specifying the types of evidence that can be submitted to prove those facts, and defining who may present evidence and how it should be presented in the process of proof. These objectives were carefully adapted and applied in the drafting and implementation of the SCEE to ensure its compatibility with Islamic legal doctrines [19]. To harmonise the frameworks of Islamic law and Act 56, several methods were employed during the enactment process. The first method involved the elimination of provisions that conflicted with Shariah law, ensuring that the enactment strictly adheres to Islamic principles while maintaining relevance to contemporary legal needs. For example, provisions related to areas outside the jurisdiction of the Shariah Courts were excluded to avoid overlap with civil law and to ensure the clarity of jurisdictional boundaries. This meticulous process underscored the commitment to preserving the sanctity of Shariah law while accommodating the structure of statutory enactments.

The second method entailed incorporating provisions that did not conflict with Shariah law or the jurisdiction of the Shariah Courts, a strategy referred to as *Ihtisab al-Asl*. This approach allowed for the selective inclusion of beneficial elements from the existing legal framework, ensuring the enactment's applicability in a modern context while respecting Islamic jurisprudence. It represents a deliberate effort to integrate established legal methodologies with the principles of *fiqh* (Islamic jurisprudence). The final method involved adopting diverse opinions from various Islamic schools of thought through the approaches of *al-Talfiq* and *al-Takhayyur*. *Al-Talfiq* refers to combining rulings from different schools of thought within a single matter alongside the traditionally practiced school, while *al-Takhayyur* involves selecting rulings from a different school for specific issues [20]. For

instance, in the application of the principles of *al-Bayyinah* (evidence) and *al-Syahadah* (testimony), the enactment incorporates perspectives from scholars such as Ibn Qayyim of the Hanbali school to define the concept of *al-Bayyinah*. These methods demonstrate the enactment's flexibility and inclusivity, ensuring its effectiveness across various Islamic legal traditions. Confession (*iqrar*) and testimony (*shahadah*) serve as critical evidence in ensuring justice in trials. This is because the determination of guilt or innocence relies heavily on the evidence presented by the prosecution and the defence. Such evidence is vital in assisting judges in seeking the truth and delivering fair and equitable judgments. Besides, in Evidence law, the party bearing the burden of proof must present evidence to meet the required standard of proof. The standard of proof is defined as the specific level or degree of certainty that must be achieved by the prosecution and the accused to fulfil the burden of proof. Thus, the standard of proof determines whether the accused is found guilty or acquitted [21].

The role of the SCEE is pivotal in standardising and guiding the evidentiary process within the Shariah Courts. Firstly, it ensures that the principles of Islamic law are consistently applied in judicial proceedings, providing a clear framework for the acceptance and presentation of evidence. Secondly, the SCEE enhances the efficiency and fairness of legal proceedings by delineating the scope and methods of proof admissible in court, thus minimising ambiguities and potential procedural errors. Thirdly, the enactment serves as a bridge between traditional Islamic principles and modern legal systems, allowing the Shariah judiciary to function effectively within the broader Malaysian legal framework while maintaining the integrity of Shariah law. Lastly, the enactment safeguards the rights of individuals within the judicial process by ensuring that evidence is assessed and admitted based on principles rooted in justice and equity, core values of Islamic jurisprudence.

Despite these integration efforts, notable differences persist between the terminologies used in the SCEE and those in Shariah principles. Under the SCEE, "evidence" serves as an overarching term encompassing methods of proof, which include processes such as *al-Iqrar* (confession) and *al-Syahadah* (testimony) used to substantiate a fact. Conversely, in Shariah principles, "proof" is considered the foundation of evidence, signifying the broader framework within which evidence operates. This distinction underscores the nuanced interplay between modern statutory frameworks and traditional Shariah jurisprudence. It also highlights the challenges and opportunities in creating legal instruments that preserve the integrity of Islamic law while addressing the demands of contemporary legal systems. The careful drafting of the SCEE represents a significant step forward in the modernisation of Shariah law, ensuring its continued relevance and adaptability in a dynamic and evolving legal landscape.

4. Findings

4.1 Issues and Challenges in the Enforcement of Shariah Criminal Law on Social Media Related to Evidence Law

Evidence law is a critical aspect of any trial, as it determines the credibility and integrity of judicial proceedings. The application of evidence laws is essential for producing well-reasoned judgments, as the evidentiary aspects must be detailed and thoroughly examined in every decision. Proper application of evidence law significantly impacts public perception of the credibility of Shariah courts, reinforcing the principles of justice and equity they uphold. However, the enforcement of Shariah criminal law on social media encounters several challenges, including in evidence law. Among these, gaps in the Shariah Court Evidence Enactment (SCEE) represent a major hurdle [5].

A key challenge lies in the lack of provisions for the admissibility of computer-generated evidence within the SCEE, which significantly hampers the enforcement of Shariah law, especially in

cases involving digital or electronic evidence. While the Evidence Act 1950 (Act 56) under Sections 90A, 90B, and 90C allows computer-generated documents to be admissible in court, such provisions are absent in the SCEE. This gap makes it difficult for prosecutors to present digital evidence, such as photographs, electronic receipts, emails, videos, ATM transaction logs, instant messaging histories, and content from social media platforms like Facebook, Instagram, and WhatsApp, as well as data from websites or blogs. These forms of evidence, critical in cases involving social media offences, often have a significant impact on the outcome of trials.

Moreover, digital forensic analysis outcomes, such as data retrieved from mobile devices, computers, or networks, cannot be admitted as valid evidence in Shariah courts without explicit legal provisions recognising electronic evidence. This poses substantial difficulties for prosecutors seeking to substantiate their cases. The importance of legal provisions for the acceptance of digital evidence has been highlighted in cases such as *Gnanasegaran a/l Pararajasingam v. PP* [1997] 3 MLJ 1 and *Hanafi Mat Hassan v. PP* [2006] 4 MLJ 134, where courts emphasised the significance of Sections 90A, 90B, and 90C of Act 56 in facilitating the admission of computer-generated documents. Without equivalent provisions in the SCEE, the admissibility and fair consideration of digital evidence in Shariah criminal cases remain a major challenge. Thus, updating and improving the SCEE is essential to align it with rapid technological advancements and ensure the effective enforcement of Shariah law.

In addition, the absence of provisions for presumptions in publication, as outlined in Section 114A of Act 56, complicates the prosecution's ability to prove material facts. This provision is critical for identifying individuals responsible for publishing or disseminating seditious materials on social media. Law enforcement agencies face significant challenges in tracing and identifying individuals involved in online publication or dissemination of such materials, as perpetrators often hide their identities online. The vast and open nature of the internet, coupled with the rapid transfer of information between parties, further exacerbates these difficulties. Without these provisions, the application of presumptions to identify anonymous individuals involved in online publications becomes challenging. For instance, under subsection (1) of Section 114A, a presumption of fact applies when the prosecution successfully establishes a related fact. For example, the presumption that a suspect made a Facebook post applies if the prosecution proves the suspect's name exists as the account administrator. Failing to prove this fact renders the presumption inapplicable. The application of this provision is illustrated in cases such as *Ahmad Abdul Jalil v. PP* [2015] 5 CLJ 480 and *PP v. Aszroy Achoi* [2018] 8 CLJ 762.

The definition of "computer" in the SCEE of various states also lags behind that in the Act 56, which has been updated to include more contemporary interpretations. The Act 56 further clarifies presumptions concerning telegraph messages and electronic letters, including emails, which are admissible as evidence. The absence of these provisions in the SCEE of different states makes enforcing Shariah criminal law more difficult. Additionally, provisions regarding presumptions of regularity under Section 89 of the Act 56 and those related to 20-year-old documents under Section 90 are not included in the SCEE. The presumptions of fact provided under the SCEE are also limited compared to those in the Act 56. For instance, the examples in Section 114 of the Act 56, which are more comprehensively detailed, could be incorporated into the SCEE for better clarity and application. These issues and challenges are summarised in the figure below:



Fig. 1. Key Challenges and Their Impacts on the Enforcement of Shariah Criminal Law on Social Media Related to Evidence Law

Figure 1 illustrates the key challenges in enforcing Shariah criminal law on social media related to evidence law and their corresponding impacts on judicial effectiveness. Among the main challenges are the lack of provisions for the admissibility of computer-generated evidence under the SCEE, the absence of presumptions for publication as outlined in Section 114A of the Act 56, and the outdated definition of "computer" within the SCEE. Additionally, limited presumptions compared to the Act 56 and the challenges of admitting digital forensic evidence further hinder effective prosecution. These issues result in significant barriers to presenting crucial digital evidence, identifying offenders, and aligning Shariah law with technological advancements. Consequently, they restrict the ability of Shariah courts to enforce justice effectively in the digital age, underscoring the urgent need for comprehensive updates to the SCEE.

4.2 Recommendations for Improvement

The need for a comprehensive legislative and policy framework is crucial in addressing complex enforcement challenges in Malaysia [22]. The call for dismantling outdated and rigid legal structures in favour of justice and moral integrity reflects the pressing need to reform Syariah legal enforcement mechanisms. In the digital era, where offences transcend physical boundaries, relying solely on traditional evidentiary rules without necessary adaptation may compromise the very objectives of justice within Islamic law [23].

This paper proposes amendments to SCEE to address the challenges in enforcing Shariah criminal law, particularly concerning the admissibility of digital evidence and the applicability of presumptions. The proposed provisions draw on Sections 90A, 90B, and 90C of the Act 56 and include additional clarifications and definitions to modernise the SCEE for cases involving digital and electronic evidence. This paper proposes the inclusion of specific provisions to address the challenges in enforcing Shariah criminal law, particularly concerning evidence law. The proposed amendments aim to enhance SCEE by incorporating elements from Sections 90A, 90B, and 90C of the Act 56, alongside additional presumptions and definitions to modernise the framework for cases involving digital and electronic evidence.

One of the key recommendations is the inclusion of provisions that explicitly recognise computer-generated documents as admissible evidence. Section 90A(1) proposes that any document or statement produced by a computer during its ordinary use should be admissible as evidence, regardless of whether the person presenting it is the document's creator. To validate the production of such documents, Section 90A(2) allows for the use of a certificate signed by an authorised individual responsible for managing the computer or its activities. Section 90A(3) further simplifies this process by permitting such certificates to be admissible as *prima facie* evidence without requiring verification of the signer's signature, as long as the facts stated are based on the signer's knowledge or belief.

Additional provisions aim to address practical challenges in handling computer-generated evidence. Section 90A(4) introduces a presumption that the computer referred to in the certificate was functioning properly unless evidence to the contrary is provided. Section 90A(5) clarifies that documents are admissible regardless of whether they were created with or without human intervention. To address timing issues, Section 90A(6) ensures that documents generated after investigations or proceedings have commenced remain admissible, provided they were created during the computer's ordinary use. However, to prevent misuse, Section 90A(7) excludes documents in criminal proceedings if they are produced by the accused person who manages or controls the computer.

To guide courts in evaluating digital evidence, Section 90B proposes that courts consider the circumstances of the document's creation, such as its purpose, accuracy, timing, and the credibility of individuals involved in its production. This provision ensures that courts adopt a comprehensive approach in assessing the reliability of digital evidence. Section 90C prioritises these provisions over any conflicting laws, ensuring their seamless application in all relevant proceedings. Another critical gap in the SCEE relates to the absence of presumptions in publication, as outlined in Section 114A of the Act 56. The proposed inclusion of similar provisions will address accountability issues in online publications. Section 114A(1) presumes that individuals whose names, pseudonyms, or photographs appear as administrators, editors, or hosts of online publications are responsible for the content unless proven otherwise. Similarly, Sections 114A(2) and 114A(3) extend this presumption to registered network service subscribers and individuals controlling the devices from which the content originated. These presumptions will enhance the ability to hold individuals accountable for online content and deter misuse of anonymity.

The definition of "computer" in the SCEE also requires modernisation. It is recommended to align it with Section 3 of the Act 56, which broadly defines a computer to include devices with electronic, magnetic, or optical data processing capabilities. This ensures clarity and applicability in cases involving advanced technologies. Additional presumptions from the Act 56 should also be incorporated into the SCEE to improve its functionality. Section 89 presumes the regularity of judicial acts and official documents when procedural requirements have been fulfilled, while Section 90

presumes the authenticity of documents over 20 years old if they are produced from proper custody. These presumptions will provide practical tools for Shariah courts to streamline proceedings and make informed judgments. For example, courts could presume adherence to prohibited ideologies if materials related to those ideologies are found in a person's possession, unless a reasonable explanation is provided. Similarly, missing documents, such as paternity DNA test results, could be presumed unfavourable to the party withholding them.

Syariah Law, based on Islamic principles, aims to ensure justice and fairness in the legal process [24]. While the proposed amendments to the Shariah Court Evidence Enactment (SCEE) adopt several key provisions from the Act 56 1950, their incorporation into the Shariah legal framework must be justified through appropriate Islamic legal reasoning. In this regard, the principle of *maslahah mursalah* (public interest) serves as a valid basis for harmonising civil evidentiary rules with Shariah law, especially when such provisions do not contradict clear Islamic texts (*nas*). The growing prevalence of cyber-related Shariah offences demands urgent legal mechanisms that can effectively establish proof in line with both *maqasid al-shariah* (the higher objectives of Islamic law), particularly the protection of *al-din* (religion), *al-'aql* (intellect), and *al-'ird* (honour). Moreover, adopting procedural tools such as digital presumptions and evidentiary certificates enhances the efficiency and credibility of Shariah court proceedings without compromising Islamic jurisprudential integrity. These reforms are consistent with the dynamic nature of *fiqh* (Islamic jurisprudence), which allows for *ijtihad* in procedural matters (*murūnah fi al-ithbat*), particularly in areas where technology has outpaced classical legal discussions. Thus, the integration of selected civil provisions, when properly contextualised and aligned with Shariah objectives, strengthens the administration of Islamic justice in contemporary society.

In conclusion, the proposed amendments to the SCEE aim to address critical gaps in the framework for handling digital evidence. By incorporating these provisions, the SCEE can modernise its approach, align with contemporary technological advancements, and strengthen the credibility of Shariah courts. These changes will enhance the courts' ability to enforce justice effectively in the digital era while upholding the principles of fairness and accountability. These proposes are summarised in the figure below:

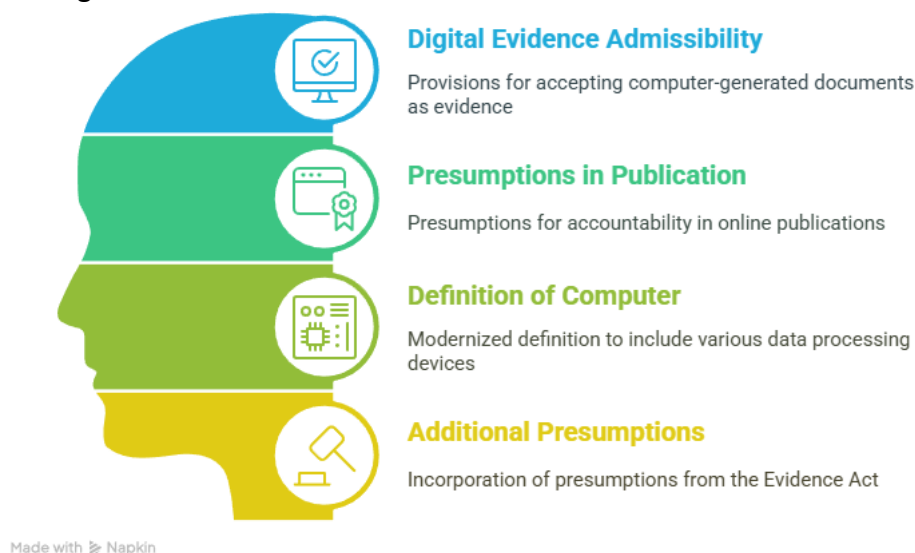


Fig. 2. Proposed Amendments to Enhance the Shariah Court Evidence Enactment (SCEE)

Figure 2 outlines the proposed amendments to the Shariah Court Evidence Enactment (SCEE) to address challenges in handling digital and electronic evidence. It highlights five key recommendations: ensuring the admissibility of computer-generated evidence through provisions like Section 90A, establishing guidelines for evaluating digital evidence as outlined in Section 90B, introducing presumptions for accountability in online publications inspired by Section 114A of the Act 56, modernising the definition of "computer" to align with technological advancements, and incorporating additional presumptions from Sections 89 and 90 of the Act 56 to streamline judicial processes. These amendments aim to modernise the SCEE, improve its evidentiary framework, and strengthen Shariah courts' ability to uphold justice in the digital era.

5. Conclusions

This study has highlighted the critical challenges in enforcing Shariah criminal law on social media, particularly concerning the admissibility and evaluation of digital and electronic evidence under the Shariah Court Evidence Enactment (SCEE). The findings underscore significant gaps, such as the absence of provisions for computer-generated evidence, outdated definitions, and the lack of presumptions for online publications. By proposing specific amendments inspired by Sections 90A, 90B, and 90C of the Act 56 1950, the study addresses these gaps and provides a framework for modernising the SCEE to align with technological advancements and contemporary legal standards. The research demonstrates that recognising computer-generated documents as admissible evidence and incorporating clear guidelines for their evaluation can significantly enhance the reliability and efficiency of judicial proceedings. Additionally, the proposed inclusion of publication presumptions and updated definitions strengthens accountability for online activities and ensures clarity in handling digital evidence. Moreover, the study emphasises the need for harmonising civil evidentiary principles with Islamic jurisprudence through recognised methodologies such as *maslahah* and *maqasid al-shariah*. It is also imperative that future legal reforms consider empirical realities by engaging with Syariah practitioners, judges, and enforcement officers to validate the practical applicability of these recommendations. Further empirical research should be conducted to assess how these amendments could be effectively implemented within the existing procedural and institutional framework. Ultimately, these reforms are vital not only to improve legal clarity but also to uphold the integrity of Islamic law in the digital era, where new forms of transgressions demand equally progressive and principled legal responses.

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