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Evidentiary value of electronic evidence Qanun-e-Shahadat Order, 1984: Challenges in the digital era

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Abstract

In Pakistan, there seem to be no signs of the electronic evidence being admitted in court and it is now proving to be of great value in criminal and civil matters. The concept of accepting such material has been given legal basis/instances in Article 164 of the Qanun-e-Shahadat Order of 1984 and also in the Prevention of Electronic Crimes Act 2016, which has given electronic records and electronic forensic investigation more weight. The issues that a court needs to consider when dealing with such data sources as CCTV footage, WhatsApp messages, emails, and call data records are whether they are admissible and whether they are of evidentiary weight and whether the data has been authenticated, whether it has been compromised, what the chain of custody is, what metadata is available, whether the data has been acquired forensically, and whether a forensic expert has verified it. With the rise of AI-generated content and the deepfakes, these fears have grown more pressing, and raise the need for clearer judicial protocols and lawmaking.

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Introduction

Facing the increasing need of society for digital means and dealing in social, commercial and criminal matters has significantly altered the nature of evidence presented in the court in Pakistan. Nowadays, CCTV recordings, messages sent through WhatsApp, emails, call detail records (CDRs), mobile phone data and other types of electronically produced material are increasingly included in the evidence. Although such material has been given legal recognition. This has done so gradually rather than through the introduction of a single all encompassing system of evidence.

The Electronic Transactions Ordinance 2002 and later, Prevention of Electronic Crimes Act 2016 (PECA), have been instrumental in developing the legal framework in Pakistan, to the extent that the Qanun-e-Shahadat Order 1984 (QSO) is the key mechanism that covers rules of relevance, admissibility and proof.In particular, Article 164 provides that evidence made available through modern devices or techniques may be accepted by courts provided there is adherence to justice and provision of proper proof. Now the issue isn't whether electronic evidence can be introduced in court, it is how much weight should be afforded to it when it is produced.

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Evidence which is admissible is not necessarily reliable. In Ishtiaq Ahmed Mirza v. Federation of Pakistan, PLD 2019 SC 675, the Supreme Court issued directions for the audio and video recordings to be presented as authentic and unaltered, highlighting the significance of forensic examination and sound legal evidence. Likewise, later court decisions have placed emphasis on authentication in cases where electronic materials are in question.

Research Justification

As electronic evidence and communications have become the lifeblood of the legal profession, it is now imperative that the status of digital communication and electronic evidence as enshrined in the QSO 1984 is reviewed. The courts today are faced with issues involving the authenticity, integrity, chain of custody, and forensic validity of CCTV footage, call data records, emails, social media communications and documents in digital format, but there is still a lack of resolution on these issues..This has only made the legal situation more complex, with the addition of the Prevention of Electronic Crimes Act, 2016 which has included special investigative and technological procedures. The present study is therefore necessary as it investigates the gap between the law and the practice of judges, points out the lacunae in the procedure and doubts whether Pakistan's evidentiary system will be able to keep up with and maintain the rights of a fair trial and maintain the integrity of the judicial process in light of the new technologies.

Literature Review

Digital evidence has become a significant aspect in a criminal case in Pakistan. Different studies have discussed problems related to the use of electronic evidence in courts (Abdullah et al., 2025). The fact that it is easily replicable, modifiable and deletable poses a major question of authenticity and reliability (Nazir et al., 2025). Video, mobile data, e-mail and messages, as well as other electronic records, can offer helpful information, but the source and originality of the information needs to be thoroughly verified. Therefore, in court situations where evidence is presented in electronic format, chain of custody and credentials are critical (Rizwan & Rahman, 2024).

Another area of interest in the literature is the legal aspects of addressing digital evidence in criminal proceedings. Pakistan has legislations which allow courts to take evidence based on modern devices and technologies (Siddiqui & Rehman, 2025). However, there are practical issues of obtaining, storing and presenting such evidence (Ullah et al., 2025). Another reason for the importance of forensic processes is that if the electronic records are handled improperly, it adds to the uncertainty of the accuracy of these records. These problems can lead to misconduct in criminal trials, and to difficulties with the courts deciding the validity of evidence (Ismail & Ariffin, 2025).

Another existing body of literature also shows that there is a need to develop clear rules of admissibility and probative value of digital evidence. Acceptance of electronic evidence is just one-half of the equation; the other half is the weight to be given to it (Gul et al., 2025). Questions of manipulation, incomplete records, authorship and the reliability of forensic methods could affect its weight (Bakhsh et al., 2025). In general, authentication, chain of custody and proper evaluation is an obstacle. Therefore, a need is felt to conduct more

studies on the effective approach of the Pakistani courts towards these matters (Shahzad et al., 2026).

Historical Context

The Pakistani system of evidence as it is, mostly relied on the traditional documentary and oral evidence and left little scope for records created electronically. With the rapid development of digital communication, however, the inadequacies of the Qanun-e-Shahadat Order, 1984 (QSO) started to be revealed particularly in cases where the evidence was only in digital format. In the subsequent years, a step-by-step legislative response has appeared, in the shape of a series of amendments that have given courts jurisdiction over evidence that is produced with the use of modern devices or techniques. The Prevention of Electronic Crimes Act, 2016 (PECA) then strengthened the law by various amendments to the existing law that rendered the offences which take place through electronic means, criminal offences and gave procedures to follow in the investigation and preservation of electronic material.

This has caused the courts to be central to the question of the admissibility or whether electronic records, such as CCTV images, call data, email communications or WhatsApp messages are sufficiently authentic and reliable to be admissible as evidence. In recent years, Pakistani courts have begun to take note of the origin of digital evidence, the process of its acquisition and the chain of custody of such evidence, in addition to its preservation and verification. The evolution of the old concepts of rules of evidence into the new concepts involving modern technology is demonstrated here. The process of dealing with digital evidence is still evolving, however, and is not fully developed.

Theoretical Context

The Qanun-e-Shahadat Order 1984 (QSO) for electronic evidence presents some problems as the traditional rules for evidence were primarily enacted for physical evidence. Earlier documents were typically most likely to be fixed into a known person and their possession could be tracked from one person to another. Digital information is distinctive in that it can be easily created, copied, modified and shared. Bulk copy of an electronic record, however, contradicts all of these assertions: That an electronic record can be copied without changes to it becoming perceptible; that an electronic record can be altered from a distance; that an electronic record can be automatically produced; and that an electronic record may be stored in more than one jurisdiction.

The authenticity, integrity, reliability and provenance of such evidence is much more important than the physical evidence. Article 164 of the QSO is an example of a practical approach which permits the introduction of evidence which has been made available by the modern devices and methods. But, the fact that evidence will be allowed in is not a sign of high probative value. This is significant because digital evidence might seem to be fine at first, but issues may arise regarding the evidence's altered state, the evidence's origin, the metadata, and the manner in which the evidence was gathered and preserved.

Relevant Laws

1. **Qanun-e-Shahadat Order 1984 (QSO):** The main law of evidence. Article 164 allows evidence to be adduced by means of modern devices and techniques; Article 59 is related to expert opinion; Articles 46-A and 73 are related to relevance and the first adduced of the electronic record.

2. **Electronic Transactions Ordinance 2002 (ETO):** Pakistan's first specific law relating to the topic. Under section 3, electronic communications and transactions are not to be denied legal recognition or admissibility merely because they are in electronic form .
3. **Prevention of Electronic Crimes Act 2016 (PECA):** sets out the definition of cyber offences and in Chapter III gives powers to proceed with the investigation of such offences.
4. **Criminal Laws (Amendment) Act 2023:** section 12 replaces the definition of Article 164 with terms related to the taking of evidence by video call, WhatsApp, Skype and the like.
5. **Punjab Forensic Science Agency Act 2007:** Sets up the Punjab Forensic Science Agency for analysis in forensic cases, which will assist courts.

Challenges

The use of electronic records is on the rise, and issues with the current evidence system in Pakistan have become more apparent. One of the primary issues is the authentication and integrity of digital evidence. Electronic records are susceptible to being altered, deleted, made copies of and altered copies of themselves; thus, it is essential to establish the source and history of the electronic record by appropriate forensic means. The unreliability of hash values, forensic imaging, metadata preservation and chain of custody may impact their reliability. The distinction between admissibility and evidentiary weight is another question. In spite of the fact that Article 164 of the Qanun-e-Shahadat Order 1984 provides for evidence from modern devices, questions might arise as to their authenticity and probative value.

The situation has become even more complicated due to technological advances. Cloud computing, encryption, AI, deepfakes, and multi jurisdictional data storage has made it challenging to get and confirm information. While PECA 2016 provides an important statutory basis there is still a lack of procedures, and a lack of forensic aspects. This puts a burden on the Pakistani courts to interpret conventional rules of evidence in a manner that is fair, ensures due process of law, and maintains the rule of law in a rapidly evolving technology.

Opportunities

In Pakistani society, with the advent of digitalization, there has been a demand for the law of evidence to take a step forward with technological advancement. Nowadays, there are modes of evidence which were not prevalent at the time of enacting the Qanun-e-Shahadat Order 1984, such as the use of CCTV cameras, mobile phones, emails, social media records, cloud storage, biometric systems and digital financial transactions. Article 164 is a crucial legal basis for the admission of evidence gathered by modern devices and techniques, which enables courts to address new technologies without the constant need to update the law.

As forensic science is increasingly being used, the courts can also use forensic science to verify digital evidence through hash values, metadata, forensic imaging, audit trails, and digital signatures. Similarly, PECA 2016 provides the legal framework to be followed for investigation and retention of electronic evidence in the investigation of cybercrimes. However, there are still some questions which need to be clarified: what is the standard for authenticity, what is the standard for chain of custody, what is the standard for expert exam, and what is the standard for admissibility and probative value?

Future legislative changes need to be made to include a common way to capture, hold, and incorporate electronic evidence, including evidence in cloud-based storage systems or otherwise encrypted. In today's AI and deepfake era, these changes are more critical than ever. Establishing a clear and reliable legal framework can help increase the credibility of digital evidence and public trust in the use of digital evidence in the Pakistani courts.

Discussion

As the law becomes paperless, one by one, there is an increasing importance of electronic evidence and in the further development of paperless transactions in other areas of law. Article 164 provides that evidence may be accepted from a modern device and/or method and that this can include evidence of type such as CCTV, emails, call-data records or electronic communications. The question of admissibility is only the first; accuracy, completeness and authenticity of the evidence and reliability of the process used to collect and preserve evidence is the next big question. The procedures are not standardized, particularly with regards to hash values, the preservation of metadata, expert examination and the chain of custody, resulting in a lot of uncertainty. Thus, a well-defined evidentiary framework mindful of the realities of technology and cognizant of the principles of relevance, authenticity and the standard of proof is important.

Conclusion

The use of electronic records is increasing and presents new questions to Pakistan's evidence law. More protection and safeguards are needed based on Article 164 of the Qanun-e-Shahadat Order (QS), 1984 and PECA 2016. What would be the problem is, is the record real, is it correctly acquired and is it correctly maintained and kept with proper chain of custody. Documents that are critical like CDRs, WhatsApp messages, emails, and CCTV footage have to be authenticated and even go through forensic analysis to ensure that they are authentic. Justice is thus in need of more specific forensic guidelines and uniform judicial practices and protections from the generation of deep fake and AI generated evidence in Pakistan, to ensure fair trials.

Recommendations

Better and more workable guidelines for electronic evidence in the courts in Pakistan. A clear process in place for the collection, storage and presentation of digital evidence for easy verification of authenticity. Court should pay more consideration to chain of custody, metadata, hash values and be more interested in forensic examination of evidence like CCTV footage, WhatsApp messages, emails and call records etc. The authenticity of evidence should be doubted and raise the need for participation of digital forensic experts. It's also important that the judges, lawyers, investigators and forensic personnel are regularly updated on new technologies. The need arises of having clear guidelines regarding AI generated contents and Deep Fakes to enable fair and reliable decisions.

Research Limitations

However, these are some limitations in the study due to the electronic evidence in Pakistan are in a state of flux. It is focused on the QSO (in particular article 164) and the clauses of PECA 2016 and judicially reported pronouncements. Current legislation and case law may not be able to keep up with the booming advances of digital technologies, artificial

intelligence, deepfakes, encrypted communication and clouds. Furthermore, the research is based on public records of statutes, reported case law and legal texts, and does not have the ability to freely access confidential forensic records and unpublished case law. But the opinion may also differ as to how the courts will resolve such cases, and making a standard of evidence uniform will be challenging. Despite these limitations, the analysis of the study is still sound and highlights the necessity for further investigation concerning the Pakistani courts and legislators and their approach towards the new breed of digital evidence.

Research Implications

The implications of the study are far reaching not only on the future trajectory of the law of evidence in digital age of Pakistan but also have its impact on the general body of evidence. In regard to Article 164 of Qanun-e-Shahadat Order, 1984 and PECA 2016, it demonstrates that a distinction needs to be made between admissibility and weightage of evidence. In all the cases, the probative value of the evidence is primarily dependent on the authenticity of the evidence (CCTV footage, WhatsApp messaging, emails and call data records) and the forensic integrity of the evidence. The study also points out shortcomings in the procedures relating to chain of custody, hash verification, expert testimony and material produced by AI. Future research can focus on the comparative view of electronic evidence and some practical guidelines for the courts, investigators and forensic laboratories to address the ever increasing problems of electronic evidence.

Future Research Directions

Future research should be directed towards developing uniform set of rules for the authentication of electronic evidence in the light of article 164 of Qanun-e-Shahadat Order 1984 by the courts in Pakistan. Empirical research might take place on the use of CCTV footage, whats app messages, email and call data records by superior and subordinate courts. Further studies on the collection and presentation of hash, metadata analysis, acquisition procedures and expert testimony are needed. Further research is required to address the issue of detection, attribution and set a threshold for evidence created through AI and deepfakes. Comparative analysis with India, United Kingdom and others may be useful in facilitating the enactment of statutory changes in the area of cloud evidence, encryption, cross border access to data and digital chain of custody.

References

Abdullah, H. O., Maqsood, M., & Nadeem, A. (2025). Digital evidence in criminal proceedings: Legal standards, chain of custody, and evidentiary reliability in the digital era. *Research Journal for Social Affairs, 3*(5), 795–805. https://doi.org/10.71317/RJSA.003.05.0375

Bakhsh, F., Mallah, M. R., Abbasi, S., & Abbasi, W. A. (2025). The use of forensic evidence in criminal proceedings: Assessing reliability and the need for reform. *Academia International Journal for Social Sciences, 4*(4), 473–482. https://doi.org/10.63056/ACAD.004.04.0902

Gul, S., Ahmad, F., & Ahmad, R. (2025). Digital evidence and procedural fairness: Reforming cybercrime prosecution in Pakistan. *Journal for Social Science Archives, 3*(2), 544–554. https://doi.org/10.59075/jssa.v3i2.260

Ismail, I., & Ariffin, K. A. Z. (2025). The admissibility of digital evidence from open-source forensic tools: Development of a framework for legal acceptance. *PLOS ONE, 20*(9), Article e0331683. https://doi.org/10.1371/journal.pone.0331683

Nazir, S., Asif, M., & Khan, A. U. (2025). Digital evidence in Pakistan: A doctrinal assessment of admissibility and reliability in criminal trials. *Advance Social Science Archive Journal, 4*(1), 1941–1951. https://doi.org/10.55966/assaj.2025.4.1.0107

Rizwan, S., & Rahman, L. U. (2024). Admissibility of recordings of evidence through video conferencing in the eye of law. *International Journal of Social Science Archives, 7*(3), 1425–1432. https://doi.org/10.5281/zenodo.14600726

Shahzad, M. K., Imdad, A., & Sultana, N. (2026). Rethinking the authentication of AI-generated evidence under Article 164 of the Qanun-e-Shahadat Order, 1984: Reforming Pakistan's evidentiary framework. *Journal for Social Science Archives, 4*(1), 2553–2570. https://doi.org/10.59075/jssa.v4i1.684

Siddiqui, K. M., & Rehman, T. U. (2025). Use of Article 164 Qanun-e-Shahadat Order, 1984 in criminal justice system of Pakistan. *Journal of Applied Linguistics and TESOL, 8*(1), 1–10. https://doi.org/10.63878/jalt2346

Ullah, Z., Ullah, M. K., & Abbas, H. (2025). The impact of digital evidence laws on cybercrime prosecution in Pakistan. *ACADEMIA International Journal for Social Sciences, 4*(4), 5517–5527. https://doi.org/10.63056/ACAD.004.04.1373