

The Use of Electronic Evidence in Divorce Cases Due to Allegations of Domestic Violence at the Pematangsiantar Religious Court

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ABSTRACT

The development of information technology influences the evidentiary process in divorce cases, including those involving allegations of domestic violence. Digital communications, photos, videos, voice recordings, and electronic documents can record relevant facts, but their use still faces issues of authenticity, integrity, and evidentiary strength. This study analyzes the normative provisions, evidentiary strength, obstacles, and solutions for the use of electronic evidence in divorce cases at the Pematangsiantar Religious Court. This research is a holistic normative study with a prescriptive-analytical nature using the Theory of Evidence, the Theory of Legal Certainty, and the Theory of Legal Protection. Data analysis was conducted deductively-qualitatively. The results of the study indicate that electronic evidence has a valid legal basis, but its evidentiary strength depends on its authenticity, integrity, relevance, and connection with other evidence. Decision Number 129/Pdt.G/2024/PA.Pst demonstrates a formalist approach by rejecting the strength of electronic evidence that is not supported by expert examination, while Decision Number 63/Pdt.G/2025/PA.Pst demonstrates a contextual-integrative approach by positioning electronic evidence as preliminary evidence that can be corroborated by other evidence. This difference demonstrates the need for clearer assessment parameters and proportional expert examination.

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1. INTRODUCTION

Marriage is a physical and spiritual bond between a man and a woman as husband and wife, with the aim of forming a happy and eternal family based on the One Almighty God. This definition shows that marriage not only has a civil dimension but also contains religious, social, and moral aspects in community life. Therefore, marriage is seen as a legal institution that not only regulates the relationship between husband and wife but also shapes family life as part of the social order. (Government of the Republic of Indonesia, 2019).

From an Islamic legal perspective, marriage is a very strong contract (*mitssaqaan ghalidzan*) to obey God's commands, and its implementation is part of worship. This concept positions marriage as a bond with strong religious and moral values, so that domestic life is ideally built on a foundation of love, peace, and responsibility between husband and wife. Thus, both national law and Islamic law guide marriage toward the formation of a harmonious, prosperous, and sustainable family. (Ministry of Religious Affairs of the Republic of Indonesia, 2018).

In reality, the ideal goals of marriage cannot always be realized. Differences in interests, conflicts, and various issues in domestic life can cause a rift in the marital relationship, ultimately leading to divorce. Legally, divorce is the termination of a marriage, determined through a judicial process. Divorce cannot be carried out solely based on the will of one party; it must comply with legal grounds and procedures stipulated by statute. (Subekti, 2005; Government of the Republic of Indonesia, 2019).

In divorce cases for Muslims, the authority to examine and resolve cases rests with the Religious Courts. Religious Courts have the authority to examine, adjudicate, and resolve marital matters, including divorce. This provision positions the Religious Courts as institutions with a crucial role in providing legal certainty regarding the termination of a marriage while protecting the rights of the parties. (Government of the Republic of Indonesia, 2009).

One condition that can be a reason for divorce is domestic violence (KDRT). Legislation allows for divorce if one party commits cruelty or serious abuse that endangers the other party. This regulation is related to Law Number 23 of 2004, which recognizes physical violence, psychological violence, sexual violence, and domestic neglect as forms of domestic violence. (Government of the Republic of Indonesia, 1975; Ministry of Religious Affairs of the Republic of Indonesia, 2018; Government of the Republic of Indonesia, 2004).

Domestic violence has unique characteristics because it often occurs in private, domestic settings. Incidents of violence are not always known or witnessed by third parties, so victims can experience difficulties when having to prove their experiences in court. This situation makes the issue of proof a crucial aspect in divorce cases motivated by allegations of domestic violence, especially when direct evidence and witnesses who directly witnessed the violence are unavailable. (Government of the Republic of Indonesia, 2004; Fakhriah, 2017).

The development of information technology has brought changes to communication patterns in domestic life. Communication between husband and wife no longer occurs solely in person, but also through instant messaging applications, email, video calls, voice recordings, photos, videos, and social media. These activities create a digital footprint that, in certain circumstances, can record threats, insults, psychological abuse, and even physical violence. These changes have caused information technology to not only influence social relationships but also provide new sources of evidence in the legal process (Makarim, 2010).

Evidence has a fundamental position in the examination of civil cases because through evidence the judge obtains a basis for assessing the truth of the facts and events presented by the parties. Evidence is basically a process to convince a judge regarding the truth of a legal event which is the basis for the parties' claims or objections. Therefore, the existence of evidence is closely related to the process of forming the judge's confidence in making a decision. (Fakhriah, 2017; Mertokusumo, 2006).

In civil procedural law, the types of evidence are, in principle, determined by law. Article 164 of the HIR and Article 1866 of the Civil Code regulate the types of evidence that can be used in civil cases. This situation indicates that the parties cannot freely determine any information as evidence without considering legal provisions regarding its form, validity, and evidentiary strength. However, developments in information technology have encouraged the expansion of the evidentiary system with the emergence of electronic information and documents as sources of evidence in the judicial process (Mertokusumo, 2006; Fakhriah, 2017).

The recognition of electronic evidence has gained a stronger foundation through Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions. Article 5 stipulates that Electronic Information and/or Electronic

Documents and/or their printouts constitute valid legal evidence and constitute an extension of valid evidence under applicable procedural law in Indonesia. This provision provides normative legitimacy for the use of electronic evidence in the evidentiary process, including in family civil cases. (Government of the Republic of Indonesia, 2024).

However, normative recognition of electronic evidence does not automatically determine its evidentiary strength. Electronic evidence must still be assessed based on its authenticity, integrity, relevance, and connection to the facts being proven. The issue of authentication becomes increasingly important because electronic data is relatively easy to copy, alter, transfer, or manipulate. Therefore, examining the technical characteristics of electronic evidence can be a crucial part of determining its level of trustworthiness as evidence (Makarim, 2010; Government of the Republic of Indonesia, 2024).

This situation demonstrates a research gap between the normative validity of electronic evidence and its application in judicial practice. On the one hand, Law Number 1 of 2024 has recognized Electronic Information and Electronic Documents as valid legal evidence. On the other hand, issues remain regarding the parameters used by judges to determine the authenticity and evidentiary strength of electronic evidence, particularly when the evidence is submitted without the examination of a digital forensic expert. Thus, the emerging academic issue is no longer simply whether electronic evidence is recognized by law, but rather how this normative validity is concretely applied in the case examination process. (Government of the Republic of Indonesia, 2024; Makarim, 2010).

This gap can be seen in the practice of examining cases at the Pematangsiantar Religious Court. Decision Number 129/Pdt.G/2024/PA.Pst shows a tendency towards a formalist approach in assessing electronic evidence, especially when the evidence is not supported by expert examination to ensure its authenticity or authenticity. In contrast, Decision Number 63/Pdt.G/2025/PA.Pst demonstrates a contextual-integrative approach by positioning electronic evidence as preliminary evidence that can be considered when linked to and strengthened by other evidence, including witness testimony. This difference indicates that normative recognition of electronic evidence has not been fully followed by uniform parameters in the practice of judicial assessment.

This issue is increasingly relevant with the development of electronic administration and trials in the judiciary. Supreme Court Regulation Number 7 of 2022 provides the basis for the implementation of electronic case administration and trials. However, the use of technology in the judicial process still requires the readiness of human resources, facilities and infrastructure, data security, and the ability of officials to understand the characteristics of electronic evidence. Therefore, the effectiveness of the use of electronic evidence is determined not only by the existence of legal norms, but also by the ability of the judicial system to verify and assess such evidence. (Supreme Court of the Republic of Indonesia, 2022).

Based on these conditions, there is a problem that requires further attention, namely how to determine the authenticity and evidentiary strength of electronic evidence in the absence of a digital forensic expert examination. This issue is important in divorce cases motivated by allegations of domestic violence because electronic evidence can be a relatively important source of information when the violent incident occurred in a private space and was not directly witnessed by a third party. Therefore, the assessment of electronic evidence needs to be placed proportionally by considering the characteristics of digital evidence and its evidentiary relationship with other evidence (Fakhriah, 2017; Makarim, 2010).

This research is novel because it examines the application of Law Number 1 of 2024 to the actual practice of providing evidence in family civil cases in the 2024–2025 period. The research does not stop at analyzing the normative position of electronic evidence, but compares its application through Decision Number 129/Pdt.G/2024/PA.Pst and Decision Number 63/Pdt.G/2025/PA.Pst. This comparison is used to identify differences in judges' approaches, particularly between the formalist approach and the contextual-integrative approach in assessing the authentication and evidentiary strength of electronic evidence. With this approach, the research is directed at finding more

proportional evidentiary parameters in divorce cases related to allegations of domestic violence. (Government of the Republic of Indonesia, 2024; Supreme Court of the Republic of Indonesia, 2022).

Based on the description, this research is limited to three main problems, namely: How is the legal regulation regarding the use of electronic evidence in divorce cases in Religious Courts based on positive Indonesian law, especially after the enactment of Law Number 1 of 2024?; How is the evidentiary strength of electronic evidence in divorce cases based on allegations of domestic violence in the Pematangsiantar Religious Court based on Decision Number 129 / Pdt.G / 2024 / PA.Pst and Decision Number 63 / Pdt.G / 2025 / PA.Pst?; What are the obstacles faced in determining the authenticity and evidentiary strength of electronic evidence, especially without digital forensic expert examination, and what solutions can be applied in divorce cases in the Pematangsiantar Religious Court?

2. METHODS

This study uses a normative juridical method with a statute approach, a conceptual approach, and a case approach to examine the use of electronic evidence in divorce cases due to alleged domestic violence. Legal materials include primary, secondary, and tertiary materials obtained through literature studies, then analyzed qualitatively-deductively based on regulations, doctrines, and court decisions (Ibrahim, 2008; Sunggono, 2001). Decisions Number 129/Pdt.G/2024/PA.Pst and Number 63/Pdt.G/2025/PA.Pst were selected purposively because they are relevant to the focus of the study and show differences in the character of judges' reasoning in assessing electronic evidence. The first decision represents a formalist approach that emphasizes authentication through expert examination, while the second decision shows a contextual-integrative approach by assessing electronic evidence along with other evidence. This comparison is used to identify differences in evidentiary parameters. Evidence Theory is used to assess the validity, authentication, relevance, and strength of electronic evidence; The Legal Certainty Theory is used to test the consistency of the application of norms; while the Legal Protection Theory is used to assess the balance in protecting the rights of the parties, especially victims of domestic violence.

3. FINDINGS AND DISCUSSION

The Probative Power of Electronic Evidence in Divorce Cases

The development of information technology has transformed patterns of social interaction and has implications for the evidentiary system in civil procedural law. Communication that was previously conducted face-to-face now largely takes place through digital means, including instant messaging applications, electronic mail, social media, voice recordings, photos, videos, and various forms of electronic documents. These changes in communication patterns have also entered the realm of family life, including the implementation and resolution of marital relationships. Domestic disputes, allegations of infidelity, psychological violence, neglect, and communications depicting a breakdown in marital relationships often leave digital traces that can be used to explain a legal event. This situation makes electronic evidence increasingly relevant in the examination of divorce cases in Religious Courts (Ibrahim, 2008; Art et al., 2024).

The changing character of society toward a digital environment requires evidentiary law to adapt to new forms of legal facts. Complete reliance on conventional evidence has the potential to create limitations when a legal event occurs and is recorded electronically. Therefore, the evidentiary system needs to be positioned as part of the law that is responsive to technological developments and changing patterns of legal relations in society. The recognition of electronic evidence can be seen as a form of legal adaptation to reach facts that were previously difficult to present through conventional evidentiary instruments (Harahap, [year used]; Art et al., 2024).

Normatively, the recognition of Electronic Information and/or Electronic Documents as legal evidence has been based on the Electronic Information and Transactions Law. This provision was first

regulated in Law Number 11 of 2008 and subsequently amended, including through Law Number 1 of 2024. Article 5 paragraph (1) of Law Number 1 of 2024 stipulates that Electronic Information and/or Electronic Documents and/or their printouts are valid legal evidence, while paragraph (2) confirms their position as an extension of valid evidence based on the applicable procedural law in Indonesia (Republic of Indonesia, 2008, 2024). Thus, the existence of this norm provides legitimacy for the use of electronic evidence in the judicial process, including in civil cases and divorce cases in the Religious Courts.

The recognition of electronic evidence does not mean that conventional evidentiary systems are abandoned. Instead, electronic information and documents are placed within the existing evidentiary system and serve to expand the types of evidence that can be used in accordance with technological developments. Therefore, the acceptance of electronic evidence must still be accompanied by an assessment of its relevance, authenticity, integrity, and connection to the legal facts to be proven. With this approach, electronic evidence is assessed not only by its existence as a digital document, but also by its ability to provide credible support for the parties' arguments (Republic of Indonesia, 2024; Harahap, [year of edition used]).

Another problem arises because electronic evidence has different characteristics than conventional evidence. Digital data is relatively easy to copy, move, change, or manipulate without always producing changes that are easily recognized visually. This condition places judges in a position that requires caution in determining the authenticity and integrity of an electronic document. Thus, the legality of electronic evidence must be accompanied by an adequate assessment process so that the ease of technological manipulation does not reduce the reliability of the evidentiary process. (Mintarsih, M., Gayo, A., Suhariyanto, B., Rafsanjani, JI, Anggayudha, ZH, Farhana, F., Untoro, U., & Trisista, RGM 2026).

Legal literature also shows that the existence of electronic evidence is part of the development of procedural law that follows technological transformation. Normative recognition alone is not enough to guarantee its effective use in court. The strength of electronic evidence is also greatly influenced by the judge's ability to test its authenticity, integrity, relevance, and relationship to the overall evidence presented by the parties. Thus, the issue of electronic evidence has shifted from merely a question of legality to a question of the parameters and methods for assessing its evidentiary strength (Art et al., 2024).

The digitalization of the administration of justice also reinforces the need for an understanding of electronic evidence. Supreme Court Regulation Number 7 of 2022 amends Supreme Court Regulation Number 1 of 2019 concerning electronic case administration and court proceedings. This regulation demonstrates the strengthening of the use of information technology in the administration and trial process through electronic court mechanisms (Supreme Court of the Republic of Indonesia, 2022). Thus, modernizing the judicial system involves not only administrative aspects but also creating a judicial environment that is increasingly closely linked to the use of electronic documents and information.

In the cases studied, namely Decisions Number 129/Pdt.G/2024/PA.Pst and Decision Number 63/Pdt.G/2025/PA.Pst, the existence of electronic case administration demonstrates that the judicial process has adapted to technological developments. This is important because the digitization of case administration can go hand in hand with the increasing use of electronic documents in the evidentiary process. However, the use of this technology still requires the judge's ability to distinguish between reliable electronic evidence and evidence that still requires further testing based on the concrete circumstances of the case (Supreme Court of the Republic of Indonesia, 2022).

The law of evidence essentially serves to provide a basis for judges in assessing the facts presented by the parties. Therefore, the recognition of electronic documents cannot be interpreted to mean that all digital documents must be accepted without examination. Judges must still consider the relationship between the document and the subject matter of the case, the authenticity of its source, the integrity of its data, and its relationship to other evidence. This assessment is important to ensure that the use of

technology does not diminish the principle of prudence in the judicial process (Harahap, [year of edition used]; Art et al., 2024).

Although the legal basis for the use of electronic evidence exists, judicial practice still allows for differences in the evidentiary weight given to electronic documents. These differences can arise when one party questions the authenticity, integrity, method of acquisition, or context of digital evidence. In such circumstances, judges have the discretion to make an assessment based on the specific circumstances of the case and the totality of the available evidence. Therefore, a review of court decisions is necessary to understand how norms regarding electronic evidence are translated into judicial practice (Art et al., 2024).

According to Harahap, the assessment of evidence in civil cases essentially provides the Judge with the space to determine the weight of the evidence based on rational consideration of the entire evidence examined in court. This view is related to the principle of *vrije bewijswaardering*, which provides the Judge with the space to assess the strength of evidence by considering the entire chain of evidence, not solely based on the existence of one piece of evidence separately (Harahap, [year of edition used]). In the context of electronic evidence, this principle shows that the existence of a digital document does not necessarily determine the outcome of the evidence, because its evidentiary value still depends on the Judge's assessment of all the facts revealed in court. (Saputra, I., & Maysarah, A, 2026).

The use of electronic evidence must also consider the legal aspects in obtaining and using it. The Constitutional Court through Decision Number 20/PUU-XIV/2016 has provided considerations regarding the use of Electronic Information and/or Electronic Documents as evidence. The decision is the result of a review of Law Number 11 of 2008 concerning Electronic Information and Transactions and emphasizes the importance of paying attention to legal provisions in the use of electronic evidence, especially regarding evidence obtained through interception or wiretapping mechanisms (Constitutional Court of the Republic of Indonesia, 2016). Thus, the decision remains relevant in the development of electronic evidence law, even though it was issued before the enactment of Law Number 1 of 2024. (Jamaludin, J., & Kusumah, HA 2026).

The presence of an expert in the examination of electronic evidence cannot be positioned as an absolute requirement in every case. The need for expert testimony is more of a case-by-case basis and depends on the level of complexity of the technical issues that arise in the trial. If the authenticity or integrity of a document is questioned and the issue requires specialized knowledge in the field of information technology, expert testimony can assist the judge in understanding the characteristics of the evidence. Conversely, if electronic evidence is not questioned or is supported by other evidence, the judge can still make an assessment based on the overall facts revealed in the trial (Harahap, [year of edition used]; Art et al., 2024).

The evidentiary power of electronic documents is thus more appropriately placed in an integrated evidentiary construction. Electronic documents should not be viewed as stand-alone evidence, but need to be connected to other evidence, such as letters, witness statements, confessions, allegations and facts revealed in the trial. This approach allows judges to build a more comprehensive evidentiary construction and reduces the risk of assessing evidence separately from the context of the case (Harahap, [year of edition used]; Art et al., 2024).

This evidentiary construction becomes increasingly important in divorce cases because most events that form the basis of domestic disputes occur in private. Third parties often have no direct knowledge of disputes, allegations of infidelity, psychological abuse, neglect, or other forms of violation of marital obligations between husband and wife. In such circumstances, communication via instant messaging apps, photos, videos, audio recordings, and emails can be sources of information that help uncover relevant legal facts in divorce cases (Art et al., 2024).

From a theory of proof perspective, the primary purpose of using evidence is to assist the judge in obtaining a rational basis for determining the veracity of the arguments presented by the parties. Therefore, it is inappropriate to give electronic evidence absolute probative power, but it is also

inappropriate to always require it to be strengthened by expert examination. The assessment must be carried out contextually, taking into account its authenticity, integrity, relevance, and its relationship to the overall evidence examined in the trial (Harahap, [year of edition used]).

The principle of free will becomes relevant in such circumstances because it allows the judge to determine the evidentiary value based on a rational assessment of all evidence. In divorce cases, this flexibility is necessary because the facts of a marriage cannot always be proven using conventional evidence. However, flexibility should not be interpreted as unlimited freedom, as the judge's assessment must still be based on legal reasons and accountable facts (Harahap, [year of edition used]).

Applying overly formal standards to electronic evidence can make it difficult to prove the true legal facts. Conversely, accepting all digital evidence without adequate scrutiny can open the door to the inclusion of manipulated evidence. Therefore, electronic evidence requires a balance between openness to technological developments and caution in assessing data reliability. This balance is necessary so that technology can function as a means of seeking the truth without compromising the integrity of the judicial process (Art et al., 2024).

From the perspective of legal certainty, Law Number 1 of 2024 has provided a clear basis regarding the position of Electronic Information and/or Electronic Documents as evidence. Article 5 paragraph (1) recognizes Electronic Information and/or Electronic Documents and/or their printouts as valid legal evidence, while Article 5 paragraph (2) positions them as an extension of valid evidence based on applicable procedural law in Indonesia (Republic of Indonesia, 2024). These provisions provide certainty at the normative level regarding the existence and legality of electronic evidence in the Indonesian legal system.

However, this normative certainty is not entirely identical to implemental certainty. The law provides a basis for the validity of electronic evidence, but in practice, there is still room for interpretation regarding how the authenticity, integrity, relevance, and evidentiary weight of an electronic document should be assessed in concrete cases. These differences in interpretation have the potential to result in variations in judicial practice if there are no relatively consistent application parameters (Republik Indonesia, 2024; Art et al., 2024).

From a legal protection perspective, the use of electronic evidence must provide a proportional opportunity for the parties to prove their rights and interests. Protection is necessary not only for parties questioning the authenticity or method of obtaining electronic evidence, but also for those using such evidence to prove facts occurring in the private sphere of the household. Therefore, judges must maintain a balance between preventing the manipulation of digital evidence and fulfilling the parties' rights to a fair trial (Harahap, [year used]; Art et al., 2024).

Based on the overall description, the main issue in the use of electronic evidence in divorce cases no longer lies in the existence or absence of legal recognition of electronic evidence, because its existence has been normatively recognized. A more important issue lies in how the Judge determines its authenticity, integrity, relevance, and evidentiary weight in concrete cases. Therefore, the Decisions of the Pematangsiantar Religious Court Number 129/Pdt.G/2024/PA.Pst and Number 63/Pdt.G/2025/PA.Pst are important to study in order to determine the application of norms regarding electronic evidence in judicial practice and their conformity with the principles of evidence, legal certainty, legal protection, and justice for the parties (Republic of Indonesia, 2024; Supreme Court of the Republic of Indonesia, 2022; Art et al., 2024).

1. Analysis of the Evidential Strength of Electronic Evidence in the Pematangsiantar Religious Court Decision Number 129/Pdt.G/2024/PA.Pst

The Pematangsiantar Religious Court Decision Number 129/Pdt.G/2024/PA.Pst stems from a divorce suit filed by a wife against her husband on the grounds of repeated disputes and quarrels and allegations of domestic violence (KDRT). This case is relevant to the development of electronic evidence because some of the facts alleged by the parties are supported by information and documentation in electronic form. The lawsuit was registered on June 3, 2024, through the e-Court system. The parties

have been married since March 9, 2019, and have three children. According to the Plaintiff, their initially harmonious household life then experienced increasingly intense conflict until it reached its peak in May 2024. This condition is used as the basis for arguing that the goals of marriage can no longer be realized harmoniously (Republik Indonesia, 2019).

The conflict alleged by the Plaintiff is not only related to domestic disharmony, but also includes allegations of infidelity and physical violence. One of the incidents presented occurred after the Defendant accused the Plaintiff of infidelity through communication on the Shopee application. In this incident, the Plaintiff argued that he was pushed by the Defendant until he hit a metal cabinet. The Plaintiff also stated that the dispute had occurred repeatedly and escalated in May 2024. In contrast, the Defendant denied the existence of ongoing disputes or acts of domestic violence. The incident in May 2024, according to the Defendant, occurred in the context of a struggle for a cell phone and an attempt to avoid the Plaintiff's actions. This difference in factual construction makes proof the primary instrument for the judge to determine facts that can be declared legally proven (Harahap, 2017).

Prior to the main case examination, the parties had undergone mediation. The mediation resulted in a partial agreement regarding the custody and fulfillment of the child's needs, but did not result in an agreement regarding the continuation of the marriage. The examination then continued to the evidentiary stage. The Plaintiff submitted evidence P.1 through P.11 and three witnesses, while the Defendant submitted electronic evidence T.1 and two witnesses. Of all the evidence, P.9, P.10, P.11, and T.1 have particular relevance because they are in the form of or sourced from electronic information and are directly related to the disputed facts.

P.9 is a photocopy of a screenshot of the Defendant's message via Instagram, while P.10 is a printout of the Plaintiff's conversation with a psychologist. P.11 is a CD containing a number of video recordings, including a conversation between the Plaintiff and the Defendant, CCTV footage of the Defendant banging on the door, footage of the Defendant shouting at the Plaintiff's mother, and footage of a family argument. Meanwhile, T.1 is a CD which, according to the Defendant, contains recordings that support his rebuttal of the domestic violence allegation. These four pieces of evidence are essentially electronic information or printouts of electronic information that have been normatively recognized in Indonesian evidence law.

Article 5 paragraph (1) of the ITE Law as amended by Law No. 1 of 2024 confirms that Electronic Information and/or Electronic Documents and their printouts constitute valid legal evidence. Thus, normatively there is no issue regarding the status of electronic information or documents as evidence. However, the recognition of a piece of evidence as valid evidence is not identical to the granting of a certain evidentiary force. Validity relates to the admissibility of a type of evidence in the evidentiary process, while evidentiary force relates to the ability of the evidence to convince the judge of a legal fact. Therefore, after electronic evidence is declared valid evidence, the judge must still assess its authenticity, integrity, relevance, consistency, and relationship with other pieces of evidence (Republic of Indonesia, 2024).

The nature of electronic information demands caution. Digital data can be copied, moved, edited, cropped, or manipulated without leaving any visible changes. Screenshots, for example, only show a portion of a communication and may not necessarily reveal the entire context of the conversation. Similarly, video recordings can be edited before being presented in court. Therefore, the source, integrity, and potential for manipulation are crucial in determining the reliability of electronic evidence (Art et al., 2024). This caution is fundamentally justified because courts must prevent the use of inauthentic evidence.

In case No. 129/Pdt.G/2024/PA.Pst, the Panel of Judges placed the aspect of authenticity as an important consideration in assessing P.9 and P.10. This evidence was deemed to require validation from authorized parties and/or expert testimony to ensure its authenticity. Because the Plaintiff did not conduct validation and did not present a digital forensic expert, the evidence was not given probative value. Similar considerations were applied to P.11 containing audiovisual recordings and T.1 submitted by the Defendant. Thus, the Panel of Judges applied relatively the same standard to both parties.

From an impartial perspective, the application of the same standards to the Plaintiff and Defendant demonstrates consistent treatment in the examination of electronic evidence. However, similar standards do not necessarily equate to proportional standards. The primary issue is not the use of experts as an instrument for testing authenticity, but rather whether the absence of an expert should automatically eliminate all evidentiary value of electronic evidence. Law No. 1 of 2024 does not place expert testimony as the sole means of proving the authenticity of any Electronic Information and/or Electronic Document. Expert testimony is essentially necessary when there are technical issues requiring specialized knowledge, especially when the authenticity or integrity of the data is truly disputed (Republic of Indonesia, 2024).

This issue is important because Article 11, for example, is directly relevant to the allegation of domestic violence. Audiovisual recordings have the potential to reveal the voices, actions, expressions, timing, and context of an event more concretely than information obtained solely from the accounts of others. Similarly, Articles 9 and 10 can provide information about communication and psychological conditions related to domestic conflict. However, the relevance of evidence does not automatically prove the truth of its contents. Relevance only indicates the relationship between the evidence and the facts being proven, while its evidentiary strength must be determined through an assessment of its authenticity and its consistency with other evidence.

Therefore, the assessment of electronic evidence should not stop at the question of whether the evidence has been examined by an expert, but also consider the overall context of the evidence. This approach is important because civil procedure law does not treat each piece of evidence separately from other pieces of evidence. Judges must ultimately build legal certainty based on the relationship between the various pieces of evidence presented by the parties (Harahap, 2017). In this context, witness statements, confessions of the parties, supporting documents, medical records, photographs, and other facts that emerge during the trial can be used to test and strengthen or weaken the information contained in electronic evidence.

Parameters for Assessing the Authenticity of Electronic Evidence

Based on these issues, operational parameters are needed so that the assessment of the authenticity of electronic evidence does not depend solely on the availability of expert testimony. Judges can conduct a gradual and cumulative assessment by considering several parameters. First, the parties' acknowledgement or explanation, particularly regarding ownership of the account, telephone number, device, conversation, photo, or recording submitted. Acknowledgment of the source of the evidence can strengthen the connection between the electronic evidence and the parties associated with it.

Second, consistency with witness testimony. The content of messages, voice recordings, photos, or videos can be compared with the testimony of witnesses who knew or experienced the related events. Third, consistency with other evidence, such as letters, photos, medical records, communication documents, or other trial facts. The more evidence that is consistent, the stronger the basis for the judge to give weight to electronic evidence. Fourth, indications of manipulation, namely whether there are concrete objections regarding the cutting, changing, editing, or falsification of data. Objections that are technical in nature and cannot be assessed through other evidence can be a rational reason to request expert testimony.

Thus, expert testimony should be considered a technical, case-by-case testing instrument, not an absolute requirement for all electronic evidence. If there are concrete disputes regarding metadata, digital engineering, file integrity, device provenance, or data changes that cannot be assessed based on other evidence, expert examination becomes relevant and may even be necessary. Conversely, if the electronic evidence has a recognized source, is supported by witness testimony, is consistent with other evidence, and there are no concrete indications of manipulation, the judge can award probative value without always having to make expert testimony an absolute requirement. This approach is more proportionate because it maintains the reliability of the evidence while avoiding an unnecessary burden of proof (Harahap, 2017).

These parameters must also be placed within the overall framework of evaluating evidence. The use of the term "vrije bewijswaardering" does not grant judges the freedom to ignore the provisions of the law of evidence, but rather allows judges to assess the weight and appropriateness of evidence based on the facts of the trial within the boundaries of applicable procedural law. Therefore, electronic evidence is not assessed in isolation but is placed within an evidentiary framework that encompasses the source of the evidence, the substance of the information, its relationship to the facts of the case, the statements of the parties, the testimony of witnesses, and other evidence.

If these parameters are applied to P.9, P.10, P.11, and T.1, then each piece of evidence should not only be assessed based on whether or not it has been validated by an expert, but also based on its relationship to the overall facts of the trial. For example, if the contents of the recording in P.11 match the witness's account regarding the time, place, voice, or event recorded, this conformity can be a factor that strengthens its evidentiary value. Similarly, P.9 can be assessed by looking at whether the identity of the account and communication is recognized or can be linked to the Defendant through other facts. If there is a rebuttal regarding manipulation or the authenticity of the source, then the need for a technical examination becomes stronger.

This approach is also related to the principle of simple, fast, and low-cost justice as stipulated in Article 2 paragraph (4) of Law No. 48 of 2009 (Republic of Indonesia, 2009). Expert examination can indeed strengthen certainty regarding technical aspects, but its use must be adjusted to the concrete needs of the case. If every electronic evidence must always be examined by an expert without considering the existence of real authenticity disputes, the evidentiary process can become longer and more expensive. Conversely, if there are substantial technical doubts but the judge ignores them, the integrity of the evidentiary process can also be compromised. Thus, the need for experts must be determined based on the level of doubt, technical complexity, and the ability of other evidence to provide confirmation.

This issue is particularly relevant in divorce cases involving allegations of domestic violence. Incidents of domestic violence often occur in private settings, making it difficult to prove the case through direct witness testimony. In such circumstances, electronic messages, audio recordings, photographs, videos, or digital documentation can be crucial to establishing evidence. However, the use of electronic evidence must be approached with caution to ensure that the protection of the party alleging violence does not compromise the other party's right to an objective examination of the evidence. Therefore, a proportionate approach must be able to reconcile legal certainty, evidentiary integrity, and access to justice.

This is also related to SEMA Number 3 of 2023 concerning guidelines for handling divorce cases based on persistent disputes and quarrels. These guidelines, in principle, place persistent disputes and quarrels and the lack of hope of living together again as important elements in assessing grounds for divorce, with provisions regarding the duration of separation and exceptions if legal evidence of domestic violence is found (Supreme Court of the Republic of Indonesia, 2023). Thus, proving domestic violence can have consequences for the legal construction used by judges in determining grounds for divorce.

Based on this description, Decision Number 129/Pdt.G/2024/PA.Pst demonstrates a tension between two interests. On the one hand, the Panel of Judges needs to maintain the reliability and integrity of electronic evidence by ensuring that the submitted data is not manipulated. On the other hand, the application of overly formal authentication standards can reduce the effectiveness of electronic evidence as a means of proof, especially when the party submitting the evidence has limited access to digital forensic examination. Therefore, the issue is not the rightness or wrongness of using experts, but rather the proportionality of their use in each case.

Thus, the identifiable weakness of Decision Number 129/Pdt.G/2024/PA.Pst lies not in the recognition of electronic evidence as valid evidence, but rather in the method for determining its evidentiary weight. Normatively, Law No. 1 of 2024 has provided a clear basis for the status of Electronic Information and/or Electronic Documents as valid legal evidence. However, this recognition

still requires an assessment mechanism capable of distinguishing between validity, authenticity, and evidentiary strength. Validity determines the status of evidence as usable evidence; authenticity relates to the origin and integrity of the data; while evidentiary strength determines the extent to which the evidence can support the proof of a fact.

By using parameters such as the parties' confessions, their correspondence with witness statements, their correspondence with other evidence, and the presence or absence of any indication of manipulation, judges have a more operational basis for determining when an expert is needed and when electronic evidence can still be assessed based on the overall facts of the trial. This construction does not diminish the expert's function, but rather places him in the right position as an instrument for resolving technical issues that require specialized expertise.

Therefore, Decision Number 129/Pdt.G/2024/PA.Pst can be seen as demonstrating prudence in maintaining the authenticity of electronic evidence and applying the same standards to all parties. However, these standards can still be developed to be more proportional and contextual. The assessment of electronic evidence should not be determined solely by the presence or absence of expert testimony, but rather by the overall relationship between the source of the evidence, the substance of the information, authenticity, integrity, relevance, witness testimony, and other evidence. This approach will enable judges to maintain the certainty and reliability of evidence while fulfilling the principles of simple, speedy, and low-cost justice and providing proportional protection to justice seekers (Republic of Indonesia, 2009; Republic of Indonesia, 2024).

Thus, Decision Number 129/Pdt.G/2024/PA.Pst shows that the main issue in electronic evidence is no longer whether electronic information can be used as evidence, because this has obtained a normative basis through Law No. 1 of 2024, but rather how to determine its authenticity and probative weight proportionally. This finding also serves as a basis for comparing it with Decision Number 63/Pdt.G/2025/PA.Pst, which can provide a different perspective on the use of electronic evidence as part of the overall series of evidence in divorce cases related to allegations of domestic violence.

2. Analysis of the Evidential Strength of Electronic Evidence in the Pematangsiantar Religious Court Decision Number 63/Pdt.G/2025/PA.Pst

The Pematangsiantar Religious Court Decision Number 63/Pdt.G/2025/PA.Pst demonstrates a more contextual approach than Decision Number 129/Pdt.G/2024/PA.Pst in assessing electronic evidence. In case Number 63/Pdt.G/2025/PA.Pst, evidence P.4 and P.5 in the form of printed electronic communications are not assessed independently, but are linked to witness statements and other facts regarding the parties' household conditions. This approach shows that the evidentiary strength of electronic evidence is not solely determined by its digital form, but by its source, relevance, suitability, and connection with the overall evidence (Pematangsiantar Religious Court, 2025). This is in line with Articles 5 and 6 of Law No. 1 of 2024 which recognizes Electronic Information and/or Electronic Documents and their printouts as valid legal evidence, while still paying attention to the aspects of accessibility, integrity, and accountability of electronic information (Adinda, FA, Rahmawati, E., Suparman, E., & Woodward, J., 2026).

Based on a comparison of the two decisions, operational parameters are needed for judges to assess the authenticity and evidentiary strength of electronic evidence. First, the source and ownership of the evidence, namely the connection of the account, telephone number, device, or storage media to the relevant party. Second, the parties' admissions or denials, particularly whether there is an admission regarding ownership or the existence of the communication and whether the denials are concrete. Third, consistency with witness testimony, namely the consistency of the content of the electronic evidence with the facts known or experienced by the witness. Fourth, consistency with other evidence, such as letters, photographs, medical records, or supporting documents. Fifth, the presence of indications of manipulation, such as cutting, editing, changing, or falsifying data. These parameters are used cumulatively to determine the weight of the evidence, not as a requirement that must always be formally met.

Within this framework, expert testimony should not be positioned as an absolute requirement for all electronic evidence. Experts are needed when there is a technical dispute regarding the authenticity or integrity of data that cannot be assessed through other evidence. Conversely, if the source of the evidence can be identified, there is an admission or no concrete technical objection, the evidence is consistent with witness testimony and other evidence, and there is no indication of manipulation, the judge can assign evidentiary value based on the overall facts of the trial. This approach can be placed within the framework of *vrije bewijswaardering*, meaning the judge has the space to assess the weight and appropriateness of the evidence rationally while remaining within the limits of applicable evidentiary law (Harahap, 2017).

Thus, Decision Number 129/Pdt.G/2024/PA.Pst demonstrates the importance of caution regarding the authenticity of electronic evidence, while Decision Number 63/Pdt.G/2025/PA.Pst demonstrates the importance of an integrative assessment of evidence. The ideal approach lies in a balance between the two: authentication is still necessary when there is concrete doubt, but the absence of an expert should not automatically eliminate the entire evidentiary value of electronic evidence. This model is also in line with the principle of simple, fast, and low-cost justice as stipulated in Article 2 paragraph (4) of Law No. 48 of 2009 (Republic of Indonesia, 2009). Therefore, the evidentiary power of electronic evidence in divorce cases is contextual, cumulative, and casuistic, taking into account the source of evidence, the confessions of the parties, the agreement of witnesses, other evidence, and indications of manipulation before determining whether or not an expert examination is necessary.

4. CONCLUSION

That electronic evidence has a legitimate position in proving divorce cases based on Article 5 of the Electronic Information and Transactions Law as last amended by Law Number 1 of 2024, but this legality does not necessarily provide perfect evidentiary power. Its evidentiary value is still determined based on authenticity, integrity, relevance, method of acquisition, and its relationship with other evidence, so that validity, authenticity, and evidentiary power are aspects that must be distinguished. Comparison of the Decisions of the Pematangsiantar Religious Court Number 129/Pdt.G/2024/PA.Pst and Number 63/Pdt.G/2025/PA.Pst shows a difference in approach; Decision Number 129/Pdt.G/2024/PA.Pst is more formalistic, emphasizing validation and/or expert testimony, while Decision Number 63/Pdt.G/2025/PA.Pst uses a contextual-integrative approach by connecting electronic evidence, witness testimony, confessions, and domestic facts. Therefore, the ideal model of evidence is a casuistic, cumulative, and proportional assessment, with expert testimony used when there are technical issues requiring specialized expertise, not as an absolute requirement. This approach is necessary to maintain the integrity of the evidence while ensuring legal certainty, effective proof, simple, fast, and low-cost trials, and access to justice.

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