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The proof of WhatsApp messages in light of Saudi evidence system

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Abstract

Social media has become one of the greatest means of communication between individuals in this time, and considerable information may be sent through these means, and these sent messages may contain something that offends to the individuals. One of these application programs is WhatsApp, which has become a means of communication between individuals and sends significant messages and information through this program. There has been much debate about the extent to which social media platforms are considered as proof after their appearance, which prompted the Saudi regulator to work to find a clear system that removes the ambiguity surrounding the extent to which these messages are considered as proof as a means of evidence. Social media did not exist in the Saudi system, and it was viewed as mere evidence to be relied upon, and did not rise to the level of evidence relied upon. After the issuance of the Saudi Evidence System, digital evidence, including social media, became as proof as written evidence. In this paper I will address: First: Explaining the concept of digital evidence in the Saudi system and Islamic jurisprudence. Second: Introducing the WhatsApp application and the program's advantages and disadvantages. Third: The proof of digital evidence in Islamic jurisprudence and in the Saudi system, including the WhatsApp application.

First: The concept of digital evidence in the Saudi system and Islamic jurisprudence

When looking and contemplating the digital evidence, we are faced with a new evidence born of the communications and technology revolution that the world is experiencing in our time, and since the Kingdom of Saudi Arabia is part of this world, the digital evidence has its importance.

The digital guide in the language:

Evidence is what is inferred, It is the guide to something. Show him the path, that is guide him to it

In its general sense, this digital directory means: the electronic system that aims to provide a central electronic source containing various digital information.

The World Computer Evidence Organization defines digital evidence as information of potential value stored or transmitted in digital form.

The Saudi regime has tended to consider the digital directory as part of the state's efforts to promote and develop digital productive services.

The Saudi Evidence System came to clarify the concept of digital evidence in Article (53) that it is any evidence derived from any created data, issued, delivered, preserved, or communicated by a digital means that is retrievable or obtained in a way that can be understood, The Evidence

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System stated that digital evidence It includes several means, including: means of communication or any other digital evidence.

The digital evidence of its diversity is difficult to quantify, and referring to the commercial court system and the system of evidence, I can mention a group of digital evidence as follows:

- 1- The electronic editor.
- 2- Electronic media.
- 3- Means of communication.
- 4- E-mail.
- 5 - Electronic records.
- 6 - Any other electronic evidence specified by the regulations.

The evidence system mentioned some digital evidence, including:

- 1 - Digital record.
- 2 - Digital editor.
- 3- Digital signature
- 4- Digital correspondence.
- 5 - Means of communication.
- 6 - Digital media.
- 7 - Any other digital form

Since the Saudi Evidence Guide is the latest issued system, it is relied upon, It stipulates digital evidence, including means of communication.

This is in the Saudi system, and it becomes clear that the system clarified the concept of digital evidence, and when reviewing Islamic jurisprudence to know the concept of digital evidence: we find that the means of evidence in Islamic jurisprudence are not limited to a specific evidence, but rather absolute, and everything with which the plaintiff proves his claim is considered, and Ibn al-Qayyim, may God have mercy on him, made it clear. The evidence in the words of God, His Messenger, and the words of the Companions is a name for everything that establishes the truth.

When looking at digital evidence, we find that it is nothing more than writing, whether it is a means of communication or otherwise, and writing is considered a means of evidence in Islamic jurisprudence, indeed, the jurists, may God Almighty have mercy on them, considered writing to be the same as oral speech, and the written to be like the spoken word.

Second: WhatsApp: It is an application that uses the Internet to send text and voice messages, pictures, and videos. It can be downloaded on smartphones and computers.

The WhatsApp application is considered one of the most important means of digital communication.

Advantages of the WhatsApp application

1. One of the most important features of this application is that it is a free application, and you can communicate with family and friends for a long time and without fees.
2. The WhatsApp application has become one of the necessities of life and cannot be dispensed with, and through it the distances between friends and relatives are bridged.
3. The WhatsApp user can share his location on Google Maps. Through it, it is possible to send many pictures, audio clips, and other relevant means, and this in turn leads to interaction

between friends and relatives.

4. The WhatsApp application is considered one of the easiest applications that anyone can deal with easily and conveniently.

Disadvantages of the WhatsApp application

1. Although the WhatsApp application provides continuous communication, it may affect social relationships between family and friends, It may eliminate meeting with friends, which leads to the user of this application living in isolation and being away from his family.

2. WhatsApp leads to wasting time on useless matters and may even be used to insult others.

3. This application can be hacked, resulting in fraudulent issues.

Third: The proof of digital evidence, including the WhatsApp application - in Islamic jurisprudence and the Saudi system

1-The proof of digital evidence in Islamic jurisprudence:

Some jurists consider the evidence limited. Some of them considered the evidence to be unlimited

The majority of jurists considered the means of proof to be confined and restricted to what was mentioned in the legal texts, and there was no room for diligence. Whatever evidence was received that proves the inference thereof is to be acted upon, unless there is a text in it, it is not considered an argument.

Some jurists believed that the methods of evidence in Islamic jurisprudence are not limited, but rather evidence is a name for everything that clarifies the truth. WhatsApp messages and other digital evidence in our time are nothing more than writing, and there is no doubt that writing is a means of evidence.

It is stated in Hanafi jurisprudence: Writing is from one who has distanced itself, in the same position as speech from one who is close.

In our contemporary time, the Islamic Jurisprudence Academy, by its Resolution No. 54/3/6 in its sixth conference held in 1411 AH, approved contracts using modern machines.

Accordingly, there is nothing in Islamic law that prevents the use of the fruits of scientific progress, including digital evidence, its proof and evidence are subject to the discretion of the judge, who scrutinizes them and ensures their integrity and conformity with reality.

Failure to take this digital evidence, including the WhatsApp application, opens the door to crime, especially after the development and diversity of its methods.

2-The proof of digital evidence in the Saudi system

The digital directory did not have a presence in the Saudi system even though it existed at the beginning of this century

Digital evidence is only viewed as counterpart to enjoy with it.

When reviewing the Saudi systems, we find that the Sharia Procedures System stipulates that writing is considered a means of proof, and this is in line with what was mentioned in Islamic jurisprudence.

Then some Saudi systems came to stipulate that documents should be considered, as in the codes of Criminal Procedure and the Enforcement System.

Then came Supreme Court Decision No. 34 on 24/4/1439 AH, considering digital evidence (electronic media as a means of evidence that has the evidence proof. Then the Saudi Regulator issued Decree No. (43), dated 26/56/1443 AH, the Evidence System and stipulated that “it is considered digital evidence. All evidence derived from any generated data, issued, delivered, saved or communicated by digital means.

The system also stipulates that the digital directory includes means of communication.

Saudi evidence system relies on the principle of verifying the validity of the presented evidence in lawsuits, and WhatsApp methods can be used as part of that evidence after verifying important matters, including:

- 1- Verify that the WhatsApp message is original and has not been forged.
- 2- Verify the identity of the sender and recipient, as well as the timing and date of the message, and match the date with the events related to the case.
- 3- The WhatsApp message must be understandable and proportionate to the issue.

Thus, the validity of the invocation of WhatsApp messages in the Saudi system of evidence and Islamic jurisprudence becomes clear, and it is considered a type of writing relied upon for evidence.

God bless.

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