

## WITHDRAWAL OF CONFESSIONS (*RUJU' AN AL-IQRAR*) IN SYARIAH CRIMINAL CASES: LEGAL ANALYSIS UNDER THE SYARIAH COURTS EVIDENCE ACT (FEDERAL TERRITORIES) 1997 [ACT 561]

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### ABSTRACT

Confession, or *al-iqrar*, is one of the key methods of proof in Islamic law. The withdrawal of *iqrar* refers to a situation where an accused person initially admits guilt but later retracts the confession before the punishment is executed. However, the legal framework does not explicitly provide for the procedure or implications of such a retraction. This study aims to examine the concept and legal position of retracting *iqrar* under the Syariah Courts Evidence Act (Federal Territories) 1997 [Act 561], supported by analysis of selected case law and relevant literature. Adopting a qualitative research methodology, this study analyses statutory provisions, fiqh principles, and judicial decisions to explore whether and how such retractions are recognized and assessed in court. Particular attention is given to the legal conditions required for an *iqrar* to be deemed valid or rejected upon retraction. The findings reveal that while the withdrawal of *iqrar* may be accepted in certain circumstances, it must satisfy the requirements of admissibility under the Syariah Courts Evidence Act. This research contributes to the understanding of evidentiary principles in Syarie criminal cases and highlights the need for clearer legislative guidelines to ensure justice and procedural fairness in cases involving retracted confessions.

## Introduction

The method of proof refers to the process by which parties involved in trial present evidence to substantiate or refute the claims made. This component is fundamental in legal proceedings, as it enables the court to reach a fair and just decision based on credible and substantiated facts. In Arabic legal terminology, the term for presenting evidence is *ithbāt*, which broadly encompasses the act of substantiating a right (*haqq*) before a judge (Saifuddin, 2019).

One of the significant forms of evidence in both Islamic and civil law is confession, referred to in Arabic as *al-iqrār*. A confession (*iqrār*) is legally binding only upon the individual who makes it and does not extend to implicate or impose liability on others. In other words, the legal effect of a confession is personal; it cannot be used to punish or charge another party who has not confessed. There are instances in criminal proceedings where the accused withdraws a previously made confession. The retraction of a false confession, or *rujūʿ ʿan al-iqrār*, refers to a situation in which an individual, having initially admitted to committing an offence, later denies the admission before the execution of the punishment (Rajamanickam, 2018). Such retractions may occur due to various factors, including coercion, abuse, psychological pressure, misinterpretation of the confession, or discomfort with the admission made.

Within the Islamic legal framework, the right to retract a confession is recognised as a fundamental safeguard to prevent injustice. However, the process of retracting a confession must be carried out in accordance with proper legal procedures and evidentiary standards. Therefore, this study aims to examine the legal implications of retracting confessions (*rujūʿ al-iqrār*) in Sharia criminal cases within the Federal Territories, as governed by the Islamic Evidence Law.

## Methodology

This study adopts a qualitative research methodology to examine the legal implications of retracting *iqrār* (confession) within the framework of the Sharia Courts Evidence Act of the Federal Territories 1997 [Act 561]. The qualitative approach is appropriate for exploring legal concepts, statutory interpretation, and practical applications in Sharia criminal proceedings.

Data collection will involve three main components: a comprehensive literature review, statutory analysis, and case study examination. The literature review will cover scholarly writings, Islamic jurisprudential sources, and previous studies relevant to the method of proof and *iqrār*. The Sharia Courts Evidence Act 1997 will serve as the primary legal reference, particularly in identifying the definition, admissibility, and limitations of *iqrār* as a form of evidence. In addition, selected case studies from Sharia Courts will be analyzed to understand how retractions of *iqrār* have been handled in practice.

The data will be thematically analyzed to identify key legal and procedural considerations, as well as recurring factors influencing the retraction of *iqrār*. This integrated approach allows for a nuanced understanding of both theoretical and practical dimensions of confession in Islamic criminal law within the Malaysian Sharia legal framework.

## Literature Review

Several previous studies have examined the methods of proof in Islamic law, including the role of *iqrār* (confession) in legal proceedings. However, to date, no specific study has focused on the retraction of confessions and its legal implications in Sharia criminal cases, particularly within the framework of Islamic evidence law as applied in the Federal Territories of Malaysia.

The presentation of evidence is a fundamental element in any legal proceeding. To ensure justice, all facts and issues raised during a trial must be supported by clear, admissible, and comprehensive evidence. Saifuddin (2019) discusses various methods of proof in Islam, including *iqrār*, but does not examine the legal treatment of its retraction. In Islamic legal theory, the presence of valid and Sharia-compliant evidence is essential to the success of any claim or defence. The *Shariah Courts Evidence Act 1997* [Act 561], which governs evidentiary procedures in the Sharia courts of the Federal Territories, serves as the primary legislative reference in such matters. While this Act incorporates principles derived from the Qur'an and Sunnah, its provisions relating to *iqrār*, particularly Sections 17 to 19, do not address the specific procedures or legal consequences of retracting a confession.

The legal weight of *iqrār* is significant, especially in cases involving *ḥudūd* offences such as *zinā'* (illicit sexual intercourse), where a voluntary confession can expedite judicial proceedings. According to Ismail (2008), *iqrār* is regarded as the strongest form of evidence in such cases. Beyond its evidentiary value, *iqrār* may also reflect an offender's sincere remorse and willingness to take responsibility. However, questions remain regarding the legal effect when such a confession is later retracted, particularly when the original admission was made under duress or misinterpretation.

In conclusion, while past research has addressed the concept and application of *iqrār* as a method of proof, the specific issue of its retraction—*rujū'* *'an al-iqrār*—remains underexplored. Therefore, this study seeks to fill that gap by investigating the legal position, causes, and implications of retracting *iqrār* in Sharia criminal proceedings in the Federal Territories.

## Findings and Discussion

### *Concept of Iqar According to Fiqh and Islamic Legislation*

*Al-iqrār* is an Arabic term that linguistically denotes acknowledgment or confession. It is derived from the root words *qarra*, *yuqirru*, and *iqrāran*, all of which carry the meaning of affirming or admitting (Aziz, 2021). Terminologically, *iqrār* refers to a statement made by an individual affirming that another person has a right over them—essentially, it is a form of notification (*ikhbār*) of liability. From a different juristic perspective, *iqrār* may also imply the establishment of a legal consequence based on that acknowledgment (Al-Sharbiniy, 1995).

In Islamic law, *iqrār* is recognised as a valid form of legal evidence (*bayyinah*) and is admissible in Sharia courts. For instance, in criminal cases, a voluntary confession by the accused may be accepted as conclusive proof, provided it meets the conditions of validity. Saad (2015) highlights the significance of *iqrār* made freely and without coercion, as it reflects sincerity and honesty—values central to Islamic legal ethics. Any element of coercion, duress, or undue influence nullifies the legal weight of *iqrār*.

Islamic jurists such as Mustofa al-Khin, Mustofa al-Bugho, and Ali Asy-Syarbaji define *iqrār* linguistically as confirmation, while juristically it is the notification of a right that binds only the person making the confession (Mustofa et al., 2010). Similarly, Mahmud Saedon A. Othman (2003) affirms that *iqrār* involves informing another that a right is due, regardless of whether that right arises immediately or in the future. According to the Shafi'i school, *iqrār* is viewed as an affirmation of liability and the avoidance of denial, whereas the Hanbali school defines it as a clear acknowledgment of guilt. The Maliki school considers it to be information that binds the confessor simply by stating it, while contemporary Hanafi scholars accept *iqrār* as acknowledgment of another's right—even if its enforcement is deferred (Aziz, 2021; Haneef, 1994).

### *The Status of Iqar According to Legislation*

In the Malaysian legal context, the status of *iqrār* is codified under the Sharia Courts Evidence Act 1997 [Act 561], which came into force on 1 April 1997 and contains 131 sections divided into four parts. This Act is the primary legislation governing the admissibility of evidence in Sharia courts within the Federal Territories.

Section 17(1) of the Act defines *iqrār* as a confession made orally, in writing, or by conduct, in which a person declares that another has a right over them. This form of confession is commonly referred to as *iqrār ṣarīḥ* (explicit confession). Meanwhile, Section 17(3) refers to a confession related to any fact in issue or a relevant fact, which is treated as *qarīnah* (circumstantial or corroborative evidence) (Zaidan, 1997). Additionally, Section 17(2) outlines the evidentiary requirement for *iqrār* made outside the courtroom—it must be witnessed by two just, adult, and sane male witnesses.

The classification of *iqrār* in Section 17 has been subject to differing interpretations. Some legal practitioners, including Sharia prosecutors, interpret Section 17(1) as referring to *iqrār ṣarīḥ*, which can independently establish guilt without corroboration. In contrast, *iqrār* under Section 17(3) is seen as *iqrār kināyah* (indirect confession), which lacks independent probative value and requires support from additional evidence to establish liability (Shariff, 2011).

This ambiguity in statutory language has led to varied interpretations and uncertainty within the Sharia legal fraternity. The lack of clarity concerning the scope and weight of different types of *iqrār* has resulted in inconsistencies in legal application. Therefore, there is a pressing need for legislative refinement and clearer judicial interpretation to ensure consistency, fairness, and procedural justice in handling *iqrār* in Sharia criminal proceedings.

### ***The Concept of Withdrawal of Iqar According to the Provisions of Law and Fiqh***

In the legal framework, an individual who has previously confessed to an offence retains the right to retract that confession under certain conditions. The retraction of a confession introduces complex dynamics into the judicial process, necessitating careful legal and procedural consideration. Although a confession (*iqrār*) may initially appear conclusive, the law recognises the possibility of retraction, especially where there are indications that the confession was made under duress, coercion, or procedural irregularity (Hisham, 2001). Additionally, strategic changes in legal defence or the emergence of new legal arguments may form a legitimate basis for retraction.

From a jurisprudential standpoint, the right to withdraw a confession is also supported by Islamic legal theory, particularly when the confession may have been made without full awareness of its implications, or in the absence of voluntary consent. Awareness of new facts, legal developments, or a reassessment of the legal position may justify the reconsideration of an earlier confession. Such developments are reflective of the dynamic and evolving nature of both substantive and procedural law. Hence, courts may acknowledge the retraction of *iqrār* as valid when it is founded upon reasonable and justifiable grounds, with the overarching aim of preserving justice and preventing potential miscarriages.

The process of retracting a confession typically involves the accused, legal counsel, and judicial authorities. It is imperative that legal authorities ascertain whether the retraction stems from a genuine change of position or is influenced by external threats or pressure (Mohamad, 2001). Ensuring that the retraction is made voluntarily is essential to upholding the integrity of the judicial process. The right to withdraw a confession serves as a safeguard against wrongful conviction and affirms the principle that any admission of guilt must be the result of free will, informed judgment, and procedural fairness. In this way, Islamic law and statutory provisions converge in promoting justice, fairness, and the protection of individual rights within the legal system.

### ***Condition of Withdrawal of Iqar***

The retraction of *iqrār* (confession) in Sharia criminal proceedings cannot be made arbitrarily. Two primary conditions must be satisfied to allow such retraction. First, the court has discretionary authority to determine the admissibility of the retraction. Second, the retraction must occur before the court becomes *functus officio* (Rajamanickam, 2018).

The discretionary power of the court allows for a contextual assessment of whether the withdrawal of the confession is legitimate and whether it was made voluntarily and free of coercion or undue influence. This ensures that the retraction aligns with the principles of fairness and procedural integrity. The second condition refers to the requirement that the retraction must occur before the court has issued its final judgment and exhausted its jurisdiction. Once the court is *functus officio*, meaning it no longer has legal authority over the matter, the retraction of *iqrār* can no longer be entertained. This maintains the finality and integrity of judicial decisions and ensures that legal processes are respected within a defined procedural framework.

### ***Status of Iqar Withdrawal According to the Syariah Courts Evidence Act (Federal Territories) 1997 [Act 561]***

The acceptance or rejection of a retracted *iqrār* (confession) under Sharia law depends on the reasons presented and whether the court deems those reasons reasonable. The accused is entitled to provide valid justifications for retracting their earlier confession, especially if the confession was made under duress, coercion, or inducement. Section 18 of the Syariah Courts Evidence Act 1997 [Act 561] provides specific legal provisions concerning the admissibility of *iqrār*, particularly in terms of the confessor's mental capacity, voluntariness, and legal competence.

Section 18 explicitly states that *iqrār* made by individuals who are not '*āqil bāligh* (of sound mind and legal maturity) is inadmissible. This reflects a core principle in Islamic law to protect those who may lack the cognitive or legal capacity to make binding confessions. The law thereby ensures that only those who fully understand the implications of their confession are held accountable. Furthermore, a confession remains valid if made—either in or outside the court—in the presence of at least two just, adult, and sane male witnesses (Saad, 2015).

The section also addresses the inadmissibility of confessions made by individuals suffering from mental disorders or cognitive impairments (Abdul, 2019). Such exclusion aligns with the Islamic legal framework, which prioritises justice and seeks to prevent the exploitation or unfair punishment of individuals incapable of making rational decisions. As such, the mental soundness of the individual is a crucial criterion in determining the legal weight of an *iqrār*.

Importantly, Section 18 affirms that an *iqrār* must be made directly by the individual and cannot be delegated to a *walī* (guardian) or any appointed representative. This provision reinforces the principle that liability must be based on the personal and voluntary admission of the confessor, preserving the integrity of the judicial process. While guardians act in the best interests of those under their care, they cannot substitute the legal responsibility of making a confession on behalf of others (Abdul, 2019).

The section also states that an *iqrār* is inadmissible if it is not made voluntarily or if it is made by someone who is legally interdicted (*mahjūr 'alayh*) from managing their own property. This reflects the Islamic commitment to ensure that confessions arise from the individual's free will and not under external compulsion. Confessions from individuals prohibited by law from managing property are excluded to prevent misuse, financial harm, or unjust liability.

However, Section 18(2) provides a conditional exception: a minor who has reached the level of *tamayyuz* (discernment) may make a valid *iqrār* in relation to matters of business or trade, provided such activity has been permitted by their guardian. This provision acknowledges that certain minors may possess intellectual maturity to engage in specific transactions under supervision. The law here seeks to balance granting limited autonomy with continued protection.

Lastly, the Act allows an *iqrār* to be binding even if the beneficiary is not legally competent—such as a minor who has not attained *tamayyuz*—as long as the property or right declared is intended for their benefit. In this instance, the confession is accepted, and the confessor remains bound by their acknowledgment (Abdul, 2019). This illustrates Islamic law's protective stance in upholding the rights of minors while ensuring that declarations made in their interest are legally recognised.

In summary, Section 18 of Act 561 provides a comprehensive framework that safeguards both the integrity of confessions and the rights of vulnerable individuals. It affirms that *iqrār* must be voluntary, made by a legally competent individual, and free from coercion, thereby aligning with the broader Islamic legal principles of justice (*'adl*) and protection (*ḥimāyah*).

#### *Concept of Withdrawal of Iqar According to Fiqh*

In Islamic jurisprudence (*fiqh*), the withdrawal of *iqrār* refers to an individual's retraction of a prior voluntary acknowledgment or confession related to a particular right, responsibility, or offence. *Iqar* itself denotes a deliberate and voluntary admission made by a legally competent person, often before a judge, concerning a matter that may incur legal consequences. The withdrawal of such a confession gives rise to several doctrinal debates among the *fuqahā'* (jurists), especially concerning the type of right involved—whether it relates to the rights of Allah (*ḥuqūq Allāh*) or the rights of individuals (*ḥuqūq al-ibād*).

The majority of Islamic jurists (*jumhūr al-fuqahā'*) agree that a confession involving *ḥuqūq Allāh*, such as *zinā'* (adultery) or consumption of alcohol, may be lawfully retracted. In such cases, the withdrawal is permissible due to the nature of these offences, which are subject to divine mercy and discretion, rather than personal grievance. This principle is grounded in the prophetic tradition: "Avoid applying the prescribed punishments (*ḥudūd*) in cases of doubt" (al-Zuhaylī, 1989). Thus, if a person confesses to committing *zinā'* but subsequently withdraws that confession before the sentence is carried out, many scholars—including Imām Abū Ḥanīfah, al-Shāfi'ī, and Aḥmad ibn Ḥanbal—hold that the *ḥadd*

punishment is to be annulled, even if the retraction occurs after sentencing or partial execution of the penalty, or if the individual absconds (Mohamad, 2001).

This legal leniency reflects broader Islamic values of justice (*'adl*), mercy (*rahmah*), and repentance (*tawbah*). A sincere retraction motivated by remorse and a commitment to reform may prompt the court to reconsider the judgment, especially when the original confession was the sole basis for conviction. This approach aims to avoid potential injustice resulting from confessions that may have been made impulsively or under internal pressure.

However, jurists also differentiate cases where the confession concerns *ḥuqūq al- 'ibād*—the rights of human beings—such as *qazf* (false accusation of adultery), *qatl* (murder), or theft. In such cases, once the confession has been proven in court and the rights of the victim are established, the *iqrār* generally cannot be retracted. This ensures the preservation of justice for victims and affirms legal certainty. Allowing retraction after conviction in such cases may undermine the rights of those harmed and potentially lead to injustice (Mohamad, 2001).

In certain situations, the offence may involve overlapping rights—where both the rights of Allah and the rights of individuals are implicated. A common example is *sariqah* (theft), which includes a divine element (the *ḥadd* punishment) and a human element (the property rights of the victim). In such instances, the withdrawal of *iqrār* may affect the *ḥadd* punishment associated with the right of Allah but does not extinguish the individual's obligation to restore the stolen property. Thus, while the *ḥadd* may be waived upon retraction, the offender remains liable to compensate or return the property to its rightful owner (Ahmad, 1992).

This distinction demonstrates Islam's balanced legal philosophy that upholds both divine justice and social responsibility. The permissibility of retracting confessions under certain conditions serves to prevent wrongful punishment, while the continued enforcement of compensatory obligations ensures justice for victims. This nuanced position affirms the comprehensive and equitable nature of Islamic criminal jurisprudence in dealing with confessions and their retraction.

#### *Effects of Withdrawing Iqrar*

The withdrawal of *iqrār* (confession) in Islamic law carries legal, social, and ethical implications, depending on the nature of the confession, the grounds for its retraction, and the context in which it occurs. In legal terms, retracting an *iqrār*—particularly when it pertains to *ḥudūd* (prescribed punishments)—may result in the suspension or nullification of a punishment, provided that the retraction occurs under valid conditions and with judicial approval (Ruslan, 1992). For instance, if a person voluntarily confesses to an offence such as *zinā'* (adultery) or consumption of alcohol and later withdraws the confession, the court may take the retraction into consideration and refrain from imposing the punishment, especially when doubt arises.

Socially, however, the act of retracting a confession may affect the individual's public image. As noted by Ismail (2008), society may perceive the withdrawal as a sign of inconsistency or lack of integrity. Since a confession is often regarded as a personal admission of guilt and moral accountability, withdrawing it may cast doubt on the individual's honesty, particularly if the original *iqrār* played a role in shaping public or legal perception. This can result in diminished credibility or a loss of trust within the community.

In relation to *ḥuqūq al- 'ibād* (individual rights), the retraction of *iqrār* does not negate the obligation to rectify any harm caused. If the original confession involved the violation of another person's rights—such as theft, damage to property, or unjust enrichment—the individual remains morally and legally responsible to restore those rights. The principle of compensation or restitution remains valid regardless of the withdrawal of the *iqrār*, reaffirming the Islamic legal emphasis on social justice and the restoration of rights.

Furthermore, from a religious and ethical standpoint, the withdrawal of *iqrār* may also reflect a process of repentance (*tawbah*) and personal reformation. If the retraction is motivated by sincere remorse and accompanied by an effort to change one's conduct, it aligns with Islamic values that encourage self-improvement and spiritual purification. Islam recognises repentance not only as the verbal acknowledgment of wrongdoing but also as a genuine commitment to refrain from repeating the offence.

and to seek forgiveness from Allah. Thus, the act of withdrawing a confession may symbolise a renewed moral awareness and a step toward ethical rehabilitation.

In conclusion, the effects of retracting *iqrār* must be evaluated holistically, balancing legal principles, ethical considerations, and social realities. Whether its impact is deemed positive or negative depends on the intention behind the retraction, the context of the confession, and the efforts made to address the consequences of one's actions. A comprehensive assessment of such cases requires sensitivity to legal obligations, community standards, and the overarching Islamic principles of justice, accountability, and mercy.

### ***Analysis of Cases of Withdrawal of Iqar Reported in The Syariah Court***

An analysis of cases involving the withdrawal of *iqrār* (confession) in Malaysian Syariah Courts reveals a complex intersection of legal reasoning, procedural safeguards, and ethical principles rooted in Islamic jurisprudence. These cases demonstrate the importance of ensuring due process while balancing the rights of the accused, the integrity of the confession, and the evidentiary standards in Islamic law.

#### ***Case Analysis 1: (Pegawai Pendakwa MUIS v Hj. Adib Datuk Said JH, 1988)***

In this case, Hj. Adib Datuk Said was charged with committing *zinā'* (adultery) with a woman named Cik Raini over two consecutive nights. Following the alleged incident, the accused gave Cik Raini RM200 and a plane ticket to Sandakan. When she later discovered that she was pregnant and failed to resolve the matter with the accused, she lodged a report with the Syariah Court.

Despite several attempts by religious officers to secure the attendance of the accused, he failed to appear. However, a confession was allegedly recorded in his office and witnessed by an employee. The court ruled to acquit the accused on the grounds that, for a confession to be admissible outside of court, it must be witnessed by individuals who are not part of the investigating authority. In this instance, the investigating officers had witnessed each other's statements, rendering the evidence inadmissible.

The judgment underscored the need for impartial and independent witnesses in cases involving confessions outside court. It reinforced the principle that a fair trial must be preserved, and that confessions should not be misused to secure convictions without fulfilling evidentiary requirements established by Sharia and procedural fairness.

#### ***Case Analysis 2: Mohd Ibrahim Mohd Sharif v. Pendakwa Syarie Pulau Pinang [1999]***

In this case, the accused, Mohd Ibrahim bin Mohd Sharif, initially confessed to the charge of *khalwat* (close proximity) and pleaded guilty after the charge was read three times, in accordance with standard Syariah court procedure. However, he later submitted an appeal to withdraw his confession (*iqrār*), arguing that it was a false admission.

The central legal issue in this case was whether the withdrawal of *iqrār* is permissible in *ta'zīr* cases. The court held that under Islamic law, the revocation of confession is generally permissible only in cases involving *ḥuqūq Allāh* (the rights of God), such as *ḥudūd* offences like *zinā'*. However, in *ta'zīr* cases—where the offence pertains to public order or discretionary punishment—the withdrawal of *iqrār* is not permitted once guilt has been admitted and the case has proceeded to sentencing.

The Penang Syariah Court of Appeal found no error in the initial decision of the Syariah High Court and rejected the appellant's plea to withdraw his confession. The sentence of three months' imprisonment and a fine of RM2,000 was upheld, with an additional six months' imprisonment in default of payment.

This case highlights the legal distinction between *ḥudūd* and *ta'zīr* offences in Islamic criminal jurisprudence, particularly with regard to the permissibility of withdrawing confessions. It affirms that, while mercy and leniency may apply in divine-right offences, procedural certainty and judicial authority prevail in discretionary punishments.

*Case Analysis 3: Safura Badarudin v. Azhar Arifin, 1998*

This case concerns an application by a wife (plaintiff) under Section 76 of the Islamic Family Law Enactment of Pahang 1987 to vary a previously recorded *sulh* (amicable settlement) consent order concerning the custody (*ḥaḍānah*) of a five-year-old child. The original consent agreement was made in exchange for the husband (defendant) granting a single *ṭalāq* (divorce), upon the condition that full custody of the child be granted to him. The plaintiff had agreed to this arrangement, and the consent order was formally recorded by the Temerloh Syariah Court.

Following the divorce, the plaintiff sought to regain custody rights and applied to the Syariah High Court to revise or set aside the consent order. She claimed she had misunderstood her legal position at the time of agreement due to unclear advice from her religious advisor (ustaz). The court considered whether the *sulh* agreement, which is legally binding and equated to *iqrār* (a form of confession or legal acknowledgment), could be invalidated or varied.

The Syariah High Court affirmed the decision of the lower court and upheld the original custody arrangement in favour of the father. However, visitation rights were granted to the mother during school holidays, weekends, and public holidays. The court also rejected the plaintiff's request for temporary custody. This case underscores that the withdrawal of *iqrār*—especially when embedded in a *sulh* agreement—requires strong, valid justification under Sharia principles and must meet the procedural and evidentiary thresholds of Islamic family law.

*Case Analysis 4: Public Prosecutor v. Jamalul Khair [1985] 1 MLJ 316*

This case, although heard in a civil court, offers valuable insight into the principles surrounding the withdrawal of a guilty plea, which parallels the Islamic concept of *iqrār*. The accused was charged under Sections 324 and 354 of the Penal Code. He pleaded guilty, and the court accepted both his plea and the prosecution's statement of facts. However, sentencing was deferred at the request of the accused.

On the day of sentencing, the accused sought to withdraw his guilty plea, claiming that it had not been made voluntarily. The presiding judge allowed the withdrawal and referred the matter to the High Court for review. The High Court ruled that, because sentencing had not yet occurred, the court was not *functus officio*—meaning it had not yet exhausted its jurisdiction over the matter—and therefore had the discretion to allow the retraction of the plea.

This decision affirms an important procedural principle: until sentencing is delivered, the trial court retains jurisdiction and may consider an application to withdraw a confession or plea. This aligns with Islamic legal reasoning, which similarly permits the withdrawal of *iqrār* before the execution of *ḥadd* or other punishments, particularly if the confession was not made voluntarily.

These cases illustrate how both Syariah and civil courts navigate the complex interplay between procedural justice and the legal status of admissions or acknowledgments. Whether in the context of family law, criminal law, or hudud-related matters, courts consistently require that any retraction of *iqrār* or plea be supported by legitimate grounds, ensuring fairness, voluntariness, and the preservation of legal integrity.

**Conclusion**

The withdrawal of *iqrār* refers to the act of retracting a previously made confession, which was initially expressed voluntarily by an individual acknowledging liability or guilt. In Islamic legal tradition, *iqrār* is a binding form of evidence when made consciously and without coercion. However, circumstances may arise where an individual seeks to withdraw such a confession, whether due to a change in understanding, evidence of coercion, or procedural irregularities. Notably, the Syariah Courts Evidence Act (Federal Territories) 1997 does not explicitly provide procedural guidelines for the withdrawal of *iqrār*. This legislative gap raises important concerns regarding how such retractions should be handled in court and what legal weight should be assigned to them. The absence of a codified procedure risks creating inconsistencies in judicial practice and uncertainty for litigants, which could undermine the integrity and predictability of the Syariah legal system. In light of this, it is recommended that express provisions be introduced into the Syariah Courts Evidence Act 1997 to regulate the admissibility and legal implications



of retracted confessions. Such provisions would offer clear guidance to Syariah court judges in assessing whether a withdrawal of *iqrār* should be accepted or rejected, thereby avoiding arbitrary or inconsistent rulings. A statutory framework would not only reinforce judicial fairness but also protect the rights of the accused and uphold the principle of due process.

Furthermore, incorporating such legal reform would contribute to strengthening the procedural integrity of the Syariah court system. It would ensure that decisions involving the retraction of confessions are made based on established legal standards, balancing both the rights of the parties involved and the public interest in maintaining justice. Legislative clarity in this area would enhance transparency, promote consistency, and reinforce public confidence in the administration of Islamic justice in Malaysia. In conclusion, the recognition and regulation of *iqrār* withdrawals within statutory law are essential to uphold fairness, accountability, and procedural justice. Introducing clear legal provisions would mark a significant step towards the refinement of Syariah evidentiary law and the continuous improvement of Malaysia's dual legal system.

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