

Toward Human-Centered Artificial Intelligence Regulation: Integrating Maqāṣid al-Sharī'ah and Indonesian Positive Law

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Abstract: The development of Artificial Intelligence (AI) has driven digital transformation across various sectors and provided benefits in terms of increased efficiency, productivity, and innovation. However, its use also raises various legal and ethical issues, such as privacy violations, misuse of personal data, algorithmic discrimination, digital fraud based on deepfakes and voice cloning, and uncertainty regarding legal liability. To date, Indonesia has not yet established specific regulations that comprehensively govern AI; consequently, its regulation remains sector-specific and scattered across various laws and regulations. This study aims to analyze the urgency of regulating Artificial Intelligence based on Indonesian positive law and the principles of Maqāṣid al-Sharī'ah, as well as to formulate an adaptive regulatory framework oriented toward the public interest. This study employs a normative legal research method, using both a statutory and a conceptual approach, supported by a literature review of primary, secondary, and tertiary legal sources. The results indicate that current AI regulations in Indonesia have not adequately addressed aspects such as algorithmic transparency, accountability, risk classification, personal data protection, and adequate oversight mechanisms. From the perspective of Maqāṣid al-Sharī'ah, AI is an instrument whose legal status is determined by the purposes and impacts of its use; therefore, it must be directed toward achieving public interest and preventing harm. Therefore, comprehensive AI regulation is needed, through the establishment of an umbrella regulation that integrates the principles of public interest, human rights protection, transparency, accountability, human oversight, and risk mitigation, to achieve adaptive, equitable, and human-centered AI governance.

Keywords: Artificial Intelligence; Maqāṣid al-Sharī'ah; Artificial Intelligence Regulation; Legal Protection

Introduction

Advancements in digital technology have precipitated the proliferation of Artificial Intelligence (AI) as an innovation that is profoundly altering the manner in which individuals engage in their professional activities, interact with others, and make decisions. Artificial intelligence (AI) has evolved beyond its original application as a computational tool. It has developed into a system capable of self-learning, analyzing large amounts of data, generating content, and supporting decision-making processes across various sectors, including healthcare, education, government, industry, finance, and law enforcement.¹ These capabilities position AI as

¹ Revalya Nadya, Ika Amalia, and Ichsan Fauzi Rachman, "Analisis Potensi Dan Tantangan Dalam Penggunaan AI Di Bidang Pendidikan," *Semantik: Jurnal Riset Ilmu Pendidikan, Bahasa Dan Budaya* 3, no. 2 (2025).

a strategic technology for supporting digital transformation and enhancing the efficiency of public services and economic activities. These developments suggest that AI offers significant opportunities for societal progress, but concomitantly poses increasingly complex legal challenges.

The utilization of artificial intelligence (AI) presents a spectrum of advantages; however, it concomitantly engenders risks to the safeguarding of individuals' rights. The capacity of AI technology to generate automated decisions has raised concerns regarding potential algorithmic bias, discrimination, privacy violations, misuse of personal data, intellectual property rights infringements, and the propagation of false information through deepfake technology and AI voice cloning.² These developments indicate that AI is not merely a technological issue, but is also closely linked to the protection of human rights, legal certainty, accountability, transparency, and legal liability. This situation calls for regulations that can keep pace with technological advancements so that the benefits of AI can be realized without sacrificing the rights of the public.

The misuse of AI has become a matter of significant concern, both at the national and global levels. The East Java Regional Police have exposed an instance of fraud that utilizes deepfake technology, wherein videos of public figures are employed to deceive victims into engaging in fraudulent transactions.³ A comparable scheme has been identified, involving the use of manipulated videos of prominent figures to offer fraudulent financial assistance via mobile messaging applications. On a global scale, artificial intelligence (AI) voice-cloning technology is being used to mimic the voices of company executives, enabling perpetrators to illegally obtain authorization for fund transfers.⁴ The Indonesia Anti-Scam Center has also recorded approximately 608,000 reports of digital financial fraud;⁵ meanwhile, AI is increasingly being used by cybercrime syndicates to exploit vulnerabilities in information systems and gain illegal access to financial services. The preceding cases illustrate how the development of artificial intelligence (AI) has broadened the scope of digital crime while concomitantly increasing the complexity of establishing legal culpability.

However, these advancements have yet to be reflected in the capacity of Indonesia's legal infrastructure. Presently, Indonesia lacks legislation that expressly governs artificial intelligence. Regulations about AI are dispersed throughout various

² Imam Zaenuddin and Ade Bani Riyan, "Perkembangan Kecerdasan Buatan (AI) Dan Dampaknya Pada Dunia Teknologi," *Jitu: Jurnal Informatika Utama* 2, no. 2 (2024): 128–53.

³ Praditya Fauzi Rahman, "3 Pelaku Penipuan Deepfake Khofifah Ditangkap, Korban 100 Orang," *detikNews*, 2025, <https://news.detik.com/berita/d-7892188/3-pelaku-penipuan-deepfake-khofifah-ditangkap-korban-100-orang>.

⁴ Sandy P, "Celah Hukum Dan Tantangan Penegakan Pidana Di Indonesia Terhadap Fenomena Penipuan Digital Berupa Voice Cloning Berbasis AI," SIP Law Firm, 2025, <https://siplawfirm.id/fenomena-penipuan-digital-berupa-voice-cloning-berbasis-ai>.

⁵ "VIDEO: Indonesia Anti Scam Center Catat 608 Ribu Laporan Penipuan," *CNN Indonesia*, 2026, <https://www.cnnindonesia.com/tv/20260707121722-402-1377793/video-indonesia-anti-scam-center-catat-608-ribu-laporan-penipuan>.

legislative acts, including Law No. 27 of 2022 on Personal Data Protection, Law No. 1 of 2024 on the Second Amendment to Law No. 11 of 2008 on Electronic Information and Transactions, Law No. 28 of 2014 on Copyright, and Circular Letter of the Minister of Communication and Information Technology No. 9 of 2023 on Artificial Intelligence Ethics. These various regulations only address specific aspects related to AI without establishing a comprehensive legal framework regarding the definition of AI, risk level classifications, algorithmic transparency, system accountability, legal liability, or oversight mechanisms. The fragmentation of regulations has resulted in a regulatory vacuum, which has the potential to engender legal uncertainty for developers, users, and the public as affected parties.⁶

The urgency of establishing AI regulations is based not only on the need for legal certainty but also on the protection of the fundamental values that are the objectives of the law. The perspective of Islamic law, through the concept of Maqāṣid al-Syarī'ah, offers a relevant normative framework for responding to modern technological developments. According to Abu Ishaq al-Syathibi, the purpose of Sharia is to achieve the public interest through the protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), reason (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*).⁷ The evolution of Jasser Auda's thought subsequently broadened this orientation by positioning justice, human rights, transparency, and human dignity as objectives of Islamic law.⁸ This framework is pertinent to a variety of issues related to artificial intelligence (AI), including the protection of personal data, the prevention of the dissemination of disinformation, the mitigation of the misuse of deepfakes, the protection of assets by preventing digital fraud, and the oversight of the utilization of AI to ensure it does not pose a threat to the public interest.

An examination of the relationship between Maqāṣid al-Syarī'ah and the objectives of national lawmaking reveals a shared orientation toward ensuring the protection of society. The formulation of laws and regulations in Indonesia is, in essence, aimed at guaranteeing legal certainty, justice, public welfare, and the protection of citizens' rights, as reflected in the 1945 Constitution of the Republic of Indonesia. These values are consistent with the principle of public interest in Islamic law, which prioritizes human beings as the central focus of the legal framework. Regulations that focus solely on technical aspects without considering ethical and humanitarian dimensions risk producing regulations that fail to comprehensively address the challenges posed by technological advancements. The integration of Indonesian

⁶ Moh Hasanuddin, Ferika Nurfransiska, and Maryuliyanto, "Pengaturan Artificial Intelligence (AI) Dalam Perspektif Hukum Indonesia: Analisis Normatif Atas Tindakan, Implikasi, Dan Model Regulasi Ideal," *Judge: Jurnal Hukum* 06, no. 06 (2026): 1890–97.

⁷ Amirah Nur Hidayanti Jannah et al., "Menelusuri Perkembangan Sejarah Ijtihad Maqāṣidī: Dari Praktik Nabi Hingga Perumusan Ulang EKontemporer," *EL-IFTA : Jurnal Hukum Maqasidi* 1, no. 1 (2026): 1–16.

⁸ Luthviyah Romziana et al., "Maqāṣid Al-Syarī'ah Based on Jasser Auda's System of Perspective and Its Relevance for Contemporary Islamic Law," *JICN: Jurnal Intelek Dan Cendekiawan Nusantara* 2, no. 6 (2026): 3046–4560.

positive law and the principles of Maqāṣid al-Syarī'ah is imperative for the development of AI regulations that ensure legal certainty and the sustainable protection of the public's rights.

A survey of extant literature reveals that studies on AI from an Islamic legal perspective have primarily focused on the legitimacy of AI use in religious practices and the concept of digital *ijtihad*. The study by Arif Fikri, Sawaluddin Siregar, and Misbah Mardia (2026) emphasizes Islamic law's response to the use of artificial intelligence (AI) in religious activities based on the perspectives of *uṣūl al-fiqh* and *maqāṣid al-syarī'ah*;⁹ meanwhile, Fadli Dwi Herlambang (2025) examines AI as a tool to support *ijtihad* through a literature review approach.¹⁰ A critical examination of these studies reveals a conspicuous absence of analysis concerning the urgency of regulating AI under Indonesian positive law. Additionally, there is a dearth of exploration of the interconnection between the principles of Maqāṣid al-Syarī'ah and the necessity for national regulations. Consequently, there is still room for further research on the integration of Indonesian positive law and the principles of Maqāṣid al-Syarī'ah as a normative foundation for developing comprehensive AI regulations.

In light of these circumstances, the present study proposes a novel integrative analysis of the urgency of regulating artificial intelligence through the lens of Indonesian positive law and Maqāṣid al-Syarī'ah. This study identifies the deficiencies in current AI regulations and elucidates the significance of the principles of Maqāṣid al-Syarī'ah as a philosophical foundation for the development of AI regulations. These regulations are to be oriented towards legal certainty, the protection of public rights, justice, and the public interest. This study is expected to provide a conceptual contribution to the development of national law in responding to advances in digital technology in an adaptive, responsible manner, and in accordance with the values that are alive in Indonesian society.

Methods

This study employs a qualitative research method within the framework of normative legal research, which views law as a system of norms examined through legislation, legal doctrine, and relevant scholarly literature.¹¹ The selection of this method is predicated on the research objective to analyze the urgency of regulating artificial intelligence under Indonesian positive law and to examine its relevance based on the principles of *maqāṣid al-syarī'ah* as a normative foundation for

⁹ Arif Fikri, Sawaluddin Siregar, and Misbah Mardia, "Respons Hukum Islam Terhadap Penggunaan Kecerdasan Buatan Dalam Praktik Keagamaan Di Indonesia," *I'tiqadiyah: Jurnal Hukum Dan Ilmu-Ilmu Kesyarifan* 3, no. 1 (2026): 46–60.

¹⁰ Fadli Dwi Herlambang, "Artificial Intelligence Dan Ijtihad Digital : Perspektif Hukum Islam Terhadap Inovasi Modern," *Al-Ilmiya: Jurnal Pendidikan Islam* 1, no. 4 (2025): 1143–49.

¹¹ Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif, Dan R&D*. (Bandung: Alfabeta, 2019).

regulatory development. The approaches employed in this study encompass two distinct methodologies. Firstly, a statutory approach involves the examination of various legal provisions related to the utilization of AI, including but not limited to the Law on Electronic Information and Transactions, the Personal Data Protection Law, and other pertinent regulations. Secondly, a conceptual approach is utilized for the analysis of the concepts of AI, Maqāṣid al-Sharia, and the legal theories that form the basis of the discussion.

The legal materials employed in this study encompass three primary categories: primary legal sources, including laws, regulations, and policies pertinent to AI; secondary legal sources, comprising books, scholarly articles, journals, and expert opinions; and tertiary legal sources, such as legal dictionaries, encyclopedias, and other reference materials that substantiate the research. A comprehensive collection of legal materials was meticulously assembled through a diligent research process conducted in academic libraries. This endeavor entailed a thorough examination of assorted pertinent literature, official documents, and scholarly publications. A qualitative analysis of the legal materials was conducted through systematic and argumentative legal interpretation to identify the interrelationships between legal norms, assess the adequacy of existing regulations, and formulate arguments regarding the urgency of regulating artificial intelligence based on Indonesian positive law and the principles of maqāṣid al-syarī'ah.

Results and Discussion

The Role of Artificial Intelligence in Indonesia's Positive Law

The development of Artificial Intelligence (AI) has become a primary catalyst for global digital transformation, including in Indonesia. The capabilities of artificial intelligence (AI) in machine learning, natural language processing, image recognition, predictive analytics, and data-driven decision-making have resulted in a paradigm shift in the manner in which people, businesses, and governments operate.¹² The use of AI is no longer limited to the information technology sector but has expanded into healthcare, education, manufacturing, finance, transportation, public services, law enforcement, and even social and religious activities. This expansion of use demonstrates that AI has become an integral part of the digital infrastructure that influences the functioning of society. While it offers benefits such as increased efficiency, productivity, and service quality, the development of AI also raises various legal issues that the national legal system has not yet been able to fully address.

In the context of Indonesia's strategic national development priorities, the nation has prioritized digital transformation, leveraging artificial intelligence (AI) as a tool

¹² Dkk Sehan Rifky, *Artificial Intelligence (Teori Dan Penerapan AI Di Berbagai Bidang)*, 2024.

to enhance economic competitiveness, strengthen public services, and drive technology-based innovation. This policy is reflected in Indonesia's National Artificial Intelligence Strategy 2020–2045 (Stranas KA), which was developed by the Agency for the Assessment and Application of Technology (BPPT). The strategy identifies five priority sectors for AI development: healthcare, bureaucratic reform, education and research, food security, and mobility and smart cities. Furthermore, the National AI Strategy (Stranas KA) identifies ethics, governance, data infrastructure, human resource development, and the innovation ecosystem as the key foundations for national AI development. Nevertheless, the strategy remains a policy document that lacks the binding force of legislation, and thus cannot yet provide a comprehensive legal basis for all AI-based activities.

The status of AI within the Indonesian legal system remains implicit to date, as there are no specific regulations governing the definition, scope, mechanisms of use, oversight, and legal liability related to this technology. Provisions regarding AI are currently dispersed throughout various legal frameworks, including electronic systems, personal data protection, intellectual property rights, electronic transactions, consumer protection, and cybersecurity.¹³ This sectoral approach indicates that AI has not yet been positioned as a legal entity with its own distinct characteristics, but is still viewed as part of the broader development of information technology. Consequently, particular aspects of AI, including its capacity for independent learning, algorithm-based decision-making processes, the utilization of generative models, and the prospect of system autonomy, have not yet been adequately regulated.

The discrepancy between technological advancements and legal preparedness is exemplified by the emergence of various issues related to the utilization of AI. In contradistinction to conventional technologies, AI systems are capable of producing outputs that cannot always be fully predicted by either developers or users, as they are influenced by the process of learning from large amounts of data.¹⁴ One notable example is generative artificial intelligence (AI), which has the capacity to automatically generate text, images, audio, video, and even programming code.¹⁵ These circumstances give rise to a series of legal issues, including the status of works produced by AI, the use of data as training data, algorithm transparency, potential systemic bias, digital discrimination, personal data protection, and liability in cases where AI causes harm. The absence of clarity in the regulations that govern these

¹³ Heru Wardoyo, "Analisis Yuridis Penggunaan Artificial Intelligence Dalam Aktivitas Bisnis Digital Di Indonesia: Tantangan Regulasi Dan Kepastian Hukum," *Jurnal Serambi Hukum* 19, no. 02 (2026): 133–48.

¹⁴ Lou Blouin, "AI's Mysterious 'Black Box' Problem, Explained," *M Dearborn News*, 2023, <https://umdearborn.edu/news/ais-mysterious-black-box-problem-explained>.

¹⁵ Tantri Annisa Hanjani, Retta Farah Pramesti, and Gilar Budi Pratama, "Penyusunan Buku Panduan Praktis Penggunaan Generative AI Yang Beretika Dalam Kegiatan Akademik Mahasiswa," *Edu Cendikia: Jurnal Ilmiah Kependidikan* 5, no. 2 (2025): 357–69, <https://doi.org/10.47709/educendikia.v5i02.5952>.

aspects has the potential to engender legal uncertainty in the implementation of AI and the resolution of disputes involving AI.

The government's response to the need for governance of artificial intelligence (AI) is beginning to take shape through the issuance of Circular Letter No. 9 of 2023 from the Minister of Communication and Information Technology on Artificial Intelligence Ethics. This circular delineates a set of principles for the development and utilization of AI, encompassing inclusivity, humanity, security, transparency, credibility, accountability, personal data protection, sustainable development, and intellectual property protection. The existence of this policy indicates an acknowledgement that the implementation of AI necessitates not only technological advancement but also the establishment of ethical frameworks to ensure that its utilization remains aligned with human interests. However, within the overarching framework of laws and regulations, this circular does not carry the same obligatory force as laws or government regulations. Consequently, the ethical principles delineated in the document cannot yet serve as a foundation for law enforcement measures against violations arising from the use of AI.

The development of AI also underscores the escalating risk of technology misuse, including the creation of deepfakes, voice manipulation (voice cloning), the propagation of disinformation, digital fraud, and the exploitation of personal data.¹⁶ These phenomena demonstrate that AI not only serves as a means of innovation but can also be used as a tool to commit legal violations. This development signifies that AI-related concerns have transitioned from mere predictions to a tangible legal reality, necessitating a regulatory response. From the perspective of the rule of law, as affirmed in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the state is obligated to ensure that technological development proceeds within the framework of legal certainty, justice, and public benefit. The formulation of AI regulations must be meticulously designed to ensure a balanced approach, thereby preventing the misuse of technology while concurrently fostering innovation and catalyzing the growth of the digital economy.

The absence of specific regulations regarding Artificial Intelligence (AI) does not imply that the use of this technology is without legal basis within the Indonesian legal system. A considerable number of laws and regulations already have substantial relevance to the use of AI, although these regulations remain sector-specific and have not yet formed an integrated legal framework. This observation suggests that AI remains an integral component of the overarching development of information technology, resulting in its regulatory framework being dispersed across a range of legal systems, contingent upon the specific disciplines involved.

¹⁶ Sheza Aulia Zahrani et al., "Penyalahgunaan Artificial Intelligence Dalam Cyber Crime Dan Tantangan Perlindungan Hukum Di Indonesia," *Jurnal Media Akademik (JMA)* 4, no. 5 (2026).

Constitutionally, the regulation of AI is grounded in the 1945 Constitution of the Republic of Indonesia. Article 28D, paragraph (1), ensures equitable legal certainty for all citizens, including in circumstances where technological advancements may impinge upon the rights and interests of the public. Additionally, Article 28G, paragraph (1), ensures the protection of an individual's person, honor, dignity, and sense of security—all of which are closely associated with the utilization of AI based on big data processing. Concurrently, Article 28F establishes the foundational framework for the advancement of information technology by ensuring the public's right to access and process information. These provisions suggest that the state is obligated to encourage digital innovation while ensuring that its implementation continues to respect the constitutional rights of citizens.

The regulatory framework most pertinent to AI operations is the Electronic Information and Transactions Law (ITE Law). While it does not explicitly regulate AI, the ITE Law establishes the legal framework for the operation of electronic systems, the processing of digital information, and the responsibilities of electronic system operators. The implementation of artificial intelligence (AI) in various digital services is inherently associated with the domain of electronic system operation. This operation is governed by the principles of security, reliability, and accountability. However, the UU ITE has yet to address specific aspects of AI, such as the obligation of algorithmic transparency, the explainability of automated decisions, and accountability mechanisms when an AI system produces decisions that cause harm to certain parties.

The legal basis for personal data protection in the use of AI is established by the Personal Data Protection Act (PDP Act). The development of AI technology is contingent upon the collection, processing, and analysis of data, which serves as the training material for the system.¹⁷ Consequently, the legality of data usage is a pivotal factor in ensuring that the development of AI does not infringe upon individuals' privacy rights. The PDP Act establishes a framework for the processing of personal data, delineates the rights of data subjects, stipulates the obligations of data controllers and processors, and emphasizes the imperative for maintaining information security. However, these regulations do not yet specifically address the use of personal data as training data, the limits on the use of anonymized data, or individuals' rights regarding decisions generated through automated decision-making processes.

The emergence of generative artificial intelligence (AI) has given rise to a series of concerns within the domain of intellectual property rights, particularly with respect to the legal status of works produced by AI systems. The Copyright Law principally provides protection for works that emerge from human creativity and intellectual

¹⁷ Dini Fakta Sari, "Data Engineering: Fondasi Penting Di Balik Kecerdasan Buatan," *Kedaulatan Rakyat*, 2025.

ability. However, the capacity of AI to autonomously generate works gives rise to inquiries regarding the determination of the creator. This is a matter of concern, as it is not clear who should be considered the creator—whether it is the developer, the user, the system owner, or whether there is no legal entity that qualifies as the creator.¹⁸ This ambiguity suggests that Indonesia's copyright regime has not yet fully addressed the advancements in AI-based generative technology.

The implementation of artificial intelligence (AI) in government administration is also associated with Law No. 30 of 2014 on Government Administration. The utilization of artificial intelligence (AI) in public services has the potential to enhance the efficacy and integrity of decision-making processes. However, the implementation of AI must adhere to the fundamental principles of legality, accuracy, transparency, and accountability to ensure the optimal functioning of these systems and the protection of individual rights.¹⁹ It is imperative to acknowledge that AI systems cannot supplant the responsibility of government officials to exercise discretion in decision-making processes that bear legal ramifications. Consequently, a mechanism for human oversight is imperative to ensure that the implementation of AI does not conflict with the fundamental principles of good governance.

In addition, the use of AI in e-commerce and digital services raises consumer protection issues. The Consumer Protection Act has granted consumers the right to safety, convenience, and accurate information, but it does not specifically address consumers' right to know how AI is used in a service or to receive an explanation of automated decisions that affect their interests. This situation highlights a gap between conventional consumer protection and the complexity of algorithm-based digital transactions.

The Status of Artificial Intelligence as a Technological Product from the Perspective of Islamic Law Based on the Principles of Maqāṣid al-Syarī'ah

Islamic law does not explicitly recognize the term "Artificial Intelligence" (AI) because this technology emerged long after the classical sources of Islamic law were established. However, the absence of textual provisions regarding AI does not imply an absence of a perspective on modern technological developments. The malleable character of Islamic law enables the examination of multifarious contemporary issues through the lens of general principles of Sharia, the method of *ijtihad*, and the fundamental objectives of lawmaking (*maqāṣid al-syarī'ah*). From an Islamic

¹⁸ Martha Tri Lestari, "Status Kepemilikan Terhadap Karya Cipta Hasil Dari Penggunaan Artificial Intelligence (AI) Chat GPT Ditinjau Dari UU No 28 Tahun 2014," *Majel* 3, no. 1 (2026): 160–69.

¹⁹ Putri Ramadani, "Pemanfaatan Artificial Intelligence Dalam Administrasi Publik: Persepsi Aparatur Dan Tantangan Implementasinya," *Journal of Artificial Intelligence and Digital Business (RIGGS)* 4, no. 4 (2026): 9271–77.

perspective, technology is regarded as the consequence of human reason, bestowed by Allah SWT. Consequently, its existence is deemed permissible, provided it is directed towards achieving the public interest and does not conflict with the fundamental values of sharia.

The foundation for the utilization of science and technology in Islam can be found in various principles contained in the Qur'an. Q.S. Al-Baqarah [2]: 29 explains that everything on earth was created for the benefit of humankind, while Q.S. Al-Jātsiyah [45]: 13 explains that Allah has subjected His various creations so that they may be utilized by humankind.²⁰ The aforementioned verses suggest that Islam fosters the advancement of scientific knowledge as a component of the broader endeavor to cultivate civilization. However, this advancement is not unrestricted, as it must remain consistent with the principles of responsibility and the prohibition against causing harm, as emphasized in Surah Al-A'rāf [7]: 56. Consequently, the utilization of AI should be channeled towards objectives that are conducive to the well-being of humanity and that serve to avert any potential harm to individuals.

This perspective is closely tied to the concept of humanity as *khalifah fil ardh*—that is, those entrusted with the responsibility to manage life responsibly.²¹ Pengembangan AI dapat dipahami sebagai bagian dari pelaksanaan fungsi kekhalifahan melalui pemanfaatan ilmu pengetahuan untuk meningkatkan kualitas kehidupan manusia. The development of AI can be understood as part of fulfilling this stewardship by leveraging scientific knowledge to enhance the quality of human life. The potential of AI to offer advantages in a variety of disciplines, including but not limited to healthcare, education, research, and public administration, is a subject of considerable interest. Nevertheless, humanity's role as *khalifah* entails a moral obligation to ensure that technology is not used as a means to cause *fasād* or harm.²² Consequently, the legal challenges posed by AI do not stem from the mere existence of the technology itself. Instead, they are rooted in its intended applications, the mechanisms through which it is employed, and its profound impact on human life.

In contemporary *fiqh* scholarship, technology is fundamentally regarded as a *wasīlah* (means), rather than as a *ghāyah* (ultimate goal).²³ The principle of *al-wasā'il lahā aḥkām al-maqāṣid* signifies that the adjudication of a means is contingent upon the objective to be accomplished.²⁴ In accordance with this

²⁰ Hak Milik and A Pendahuluan, "Perspektif Al- Qur'an Tentang Hak Milik Kebendaan," *Ad-Daulah* 4, no. 1 (2015): 1–15.

²¹ Mardinal Tarigan et al., "Manusia Sebagai Abdullah Dan Manusia Sebagai Khalifah Fil Ardh," *INNOVATIVE: Journal Of Social Science Research* 4, no. 3 (2024): 16974–80.

²² Tarigan et al.

²³ Farhan Muzakki Fakhridana, Siti Nur Azizah, and Muhammad Zaironi, "Integrasi Artificial Intelligence Dalam Pembelajaran Pendidikan Agama Islam Untuk Meningkatkan Literasi Anak Sekolah Dasar," *Jurnal Alwatzikhoebillah* 12, no. 1 (2026): 208–20.

²⁴ Olivia Rahma Oktaviani et al., "Penerapan Kaidah Fiqh Mā Ḥurrima Fi'Lah Ḥurrima Ṭalabuh Terhadap Praktik Judi Online," *CAUSA: Jurnal Hukum Dan Kewarganegaraan* 16, no. 1 (2025).

principle, the utilization of AI in domains that yield public benefit, such as enhancing the precision of medical diagnoses, broadening educational access, or streamlining public services, can be regarded as a favorable development. Conversely, the utilization of artificial intelligence (AI) for the creation of deepfakes, the commission of digital fraud, the dissemination of false information, or the exploitation of personal data is an action that contradicts Sharia principles because it results in harm and constitutes a violation of human rights.²⁵

Contemporary scholars concur with this assessment, positing that Islamic law possesses the capacity to adapt to technological developments. According to Yusuf al-Qaradawi, Islam permits innovation, provided that it does not contradict the tenets of faith, sharia, and ethics.²⁶ In alignment with this perspective, Wahbah al-Zuhaili expounds on the concept of *murūnah*, a quality inherent in Islamic law, which enables the accommodation of novel circumstances through the process of *ijtihad* while maintaining adherence to the tenets of sharia.²⁷ These perspectives demonstrate that AI can be analyzed within the framework of Islamic law without the need to seek explicit provisions. Instead, an approach grounded in the values and principles contained in the sources of Islamic law can be utilized.

The status of AI from the perspective of Islamic law must also be distinguished from the status of humans as legal subjects (*mukallaf*). Despite its capacity to process data and generate decisions based on algorithms, AI is distinct from humans in its lack of consciousness, intention (*niyyah*), free will, and moral responsibility. In Islamic law, legal obligations (*taklīf*) are imposed exclusively on humans. The rationale behind this distinction is that humans possess reason and the ability to distinguish between right and wrong actions.²⁸ Therefore, AI cannot be regarded as a legal entity responsible for its actions. Responsibility remains with the humans who create, develop, control, or use this technology.

Subsequent analysis can be conducted through the *maqāṣid al-syarī'ah* approach developed by Imam al-Shathibi via the concept of *al-ḍarūriyyāt al-khams*. The utilization of AI must be mindful of the imperative to safeguard the five fundamental objectives of Sharia: the preservation of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), reason (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*).²⁹ In the context

²⁵ Herry Sujaini, "Digital Transformation in Protecting Intellectual Property Rights in Indonesia," *Russian Law Journal* XI, no. 4 (2023): 4.

²⁶ Zunita Hidayatul Chusna et al., "The Moderate Perspective Of Yusuf Al-Qardhawi On Career Women," *ICES: International Conference on Education and Sharia* 1 (2024): 249–57.

²⁷ Muhammadun, "Pemikiran Hukum Islam Wahbah Az-Zuhaili Dalam Pendekatan Sejarah," *Mahkamah: Jurnal Kajian Hukum Islam* 2, no. 2 (2017): 188–202.

²⁸ Ridho Aji Pangestu, Oera Erwani, and Gustiya Sunarti, "Tentang Makna Hukum Syar'i Dan Hukum Taklifi Serta Hukum Wadhi: (Pembagian Hukum Syar'i, Taklifi Dan Hukum Wadhi)," *JPIDS: Jurnal Pemikiran Islam Dan Dinamika Sosial* 1, no. 2 (2025): 112–25.

²⁹ Rahmat Gilang Ramadhan, "Konsep Al-Khabā'its Dalam Hukum Islam Kontemporer Perspektif Yūsuf Al-Qarāḍāwī Dan Ibn' Āshūr," *Jurnal Al-Muqaranah: Jurnal Hukum Dan Pemikiran Islam* 4, no. 2 (2026): 1–16.

of safeguarding reason, for instance, it is imperative to forestall the propagation of disinformation and the manipulation of information that has the potential to compromise the public's capacity for critical thinking. Concerning the protection of property, the utilization of artificial intelligence (AI) should be oriented towards the prevention of digital fraud, identity theft, and technology-based economic crimes. Concurrently, the safeguarding of succeeding generations necessitates the implementation of regulatory measures to forestall the malapropistic utilization of artificial intelligence in the realm of digital pornography and sexual exploitation.

The determination of the legal status of Artificial Intelligence (AI) under Islamic law cannot be achieved through an absolute approach that directly classifies the technology as halal or haram. Islamic law holds that the assessment of AI should not focus on the technology itself, but rather on its purpose, the mechanisms of its use, and the impact it has on humans and social life.³⁰ This approach is consistent with the fundamental principles of Islamic law, which differentiates between means (wasīlah) and ends (maqṣad). As a product of scientific inquiry, artificial intelligence (AI) is an instrument that has the potential to yield both benefits and harm, depending on how humans develop and use it. Consequently, the legal status of AI is malleable and contingent upon the context of its utilization.

The fundamental principle underlying the legal status of AI can be analyzed through the fiqh rule الأصل في الأشياء الإباحة (al-aṣlu fī al-aṣyā' al-ibāḥah). This rule posits that the default legal status of everything is permissible as long as there is no evidence prohibiting it.³¹ This principle establishes the permissibility of AI, categorizing it as mubāḥ due to the absence of explicit prohibitions in the Qur'an or the hadith that address the creation and utilization of this technology. This permissibility indicates that Islam allows for the advancement of science as part of humanity's efforts to manage life. However, this principle of permissibility is not without limits. The technology must be used in accordance with Sharia law, must not conflict with moral values, and must not cause harm to humanity.

The legal status of AI may vary depending on its intended use, as explained by the principle of الوسائل لها أحكام المقاصد (al-wasā'il lahā aḥkām al-maḥāṣid), which states that the legal status of a means follows that of the end it is intended to achieve.³² The utilization of AI for beneficial purposes, including the enhancement of healthcare services, the support of educational initiatives, the facilitation of scientific research, the streamlining of government administration, and the fortification of security

³⁰ Muhammad Fauzi Al Ghifari, Anugerah Dimas Saputra, and Muhammad Ramdan, "Tinjauan Fikih Kontemporer Terhadap Penggunaan Artificial Intelligence (AI) Dalam Kehidupan Umat Islam," *Jurnal Ilmiah Penelitian Mahasiswa (JIPM)* 4, no. 4 (2026).

³¹ Segara Gustanto and Jaih Mubarak, "Kaidah Fikih 'Al -Ashlu Fi Al- Asyya' Al-Ibahah" Dalam Konteks Ekonomi Dan Bisnis Syariah," *Tamaddun Journal of Islamic Studies* 2, no. 2 (2023): 81–93.

³² Oktaviani et al., "Penerapan Kaidah Fiqh Mā Ḥurrima Fi' Lah Ḥurrima Ṭalabuh Terhadap Praktik Judi Online."

systems, can be regarded favorably from a Sharia perspective. In certain circumstances, the use of AI may become obligatory if it serves as an effective means of safeguarding the public interest. For example, the use of AI technology in disease detection, disaster mitigation, or the protection of public safety could be considered obligatory.

Conversely, the application of AI may become *ḥarām* if it is directed towards actions that contradict the principles of Islamic law. The misuse of AI, including the creation of deepfakes, the dissemination of fake news, the manipulation of information, digital fraud, sexual exploitation, privacy violations, and actions that harm others, constitutes a form of technology use that contradicts the objectives of Sharia. This is predicated on the principle of لا ضرر ولا ضرار (*lā ḍarar wa lā ḍirār*), which proscribes actions that cause harm to oneself or others. Consequently, the determination of haramness is not inherent to the AI technology itself, but rather, it is determined by the actions of humans who utilize this technology to cause harm (*mafsadah*).

The principle of preventing the negative impacts of AI is also linked to the rule of درء المفسد مقدم على جلب المصالح (*dar'u al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ*), which states that preventing harm must take precedence over seeking benefit. This regulation underscores the imperative for technological progress to be met with a concomitant commitment to the safeguarding of human rights. The state is obligated to regulate the use of high-risk AI, including systems with the potential for algorithmic discrimination, unlimited surveillance, manipulation of public opinion, or misuse of personal data. These restrictions do not constitute a rejection of technology; rather, they are an effort to maintain a balance between innovation and the protection of the public interest.

The *maqāṣid al-syarī'ah* approach furnishes a more comprehensive framework for determining the direction of AI use. The utilization of AI must align with the concept of *al-ḍarūriyyāt al-khams*, which posits that the protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), reason (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-naṣl*), and property (*ḥifẓ al-māl*) is paramount. The utilization of artificial intelligence (AI) in the dissemination of knowledge, enhancement of human safety, support of educational development, protection of family honor, and safeguarding of economic security is consistent with the objectives of Sharia. Conversely, the use of AI that undermines these values must be prevented through adequate regulation and oversight.

From this perspective, the use of Artificial Intelligence (AI) does not pose a conflict with Islamic law; rather, it is regarded as a tool whose legal status is contingent upon the purpose and impact of its utilization. Islamic law, as established through a comprehensive framework of sources including the Qur'an, *ḥadīth*, *qiyas*, *maṣlaḥah mursalah*, *sadd al-dzarī'ah*, and *maqāṣid al-syarī'ah*, dictates that the development of AI must be guided by the pursuit of three fundamental principles: the promotion

of the public good, the protection of humanity, and the prevention of harm. Consequently, AI is widely regarded as *mubāḥ*; however, its categorization may undergo a shift to *mandūb*, *wājib*, or *ḥarām*, contingent upon its utilization. Furthermore, the notion of AI as a legal subject is predicated on the absence of reason, will, and moral responsibility, characteristics that are inherent to the human condition. Consequently, the legal responsibility for the development, implementation, and utilization of AI technology rests with humans as its creators and users.

Solutions for Regulating Artificial Intelligence Based on the Principles of Maqāṣid al-Syarī'ah and Indonesian Positive Law

The rapid advancements in the field of Artificial Intelligence (AI) have necessitated the development of regulatory frameworks that can effectively address the intricate nature of these technologies. The role of AI has evolved beyond that of a mere digital instrument; it has become a system with the capacity to conduct analyses, formulate automated decisions, and exert influence on various aspects of human life. This scenario gives rise to legal concerns pertaining to the safeguarding of citizens' rights, the establishment of legal liability, data security, the transparency of algorithms, and the supervision of technology utilization. Concurrently, the regulatory framework concerning artificial intelligence (AI) in Indonesia is dispersed across a multitude of sectoral regulations that govern discrete aspects, including electronic systems, personal data protection, intellectual property rights, and consumer protection. This fragmentation has impeded the establishment of a legal framework that specifically addresses the characteristics of AI, thereby necessitating comprehensive regulations to provide legal certainty while ensuring that the technology develops responsibly.

The necessity of regulating AI within the framework of Indonesian positive law is not solely driven by technological advancements. Instead, it is also grounded in the principle of the rule of law, as articulated in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The rule of law stipulates that all societal activities, including the utilization of digital technology, must adhere to established norms that ensure certainty, justice, and the protection of citizens' rights. A disparity between the advancement of artificial intelligence (AI) and the development of regulatory frameworks may result in a legal vacuum, which could impede the protection of the public. Consequently, the responsibility for establishing regulations regarding artificial intelligence (AI) falls upon the state, with the objective of ensuring that advancements in this field remain within the bounds of the law and do not result in harm to the public interest.

The main issue with AI regulation in Indonesia lies not merely in the absence of legal norms, but in the lack of an integrated regulatory system. Current regulations each have their own scope, such as the ITE Law, which governs the operation of electronic systems; the PDP Law, which provides protection against the processing of personal data; the Copyright Law, which governs the protection of intellectual property; and the Consumer Protection Law, which protects the rights of digital service users. Although these regulations can be applied to certain aspects of AI use, their provisions do not yet address specific issues such as AI risk classification, algorithmic transparency obligations, the public's right to receive explanations for automated decisions, and the allocation of liability among AI developers, providers, and users. This situation underscores the need for specialized regulations capable of integrating various legal aspects into a single national AI governance framework.

This necessity can be analyzed through the lens of Gustav Radbruch's theory of the three fundamental values of law: legal certainty, justice, and utility.³³ From the perspective of legal certainty, the public and businesses still face uncertainty regarding the scope of legal obligations and liabilities in the use of AI. From a justice perspective, AI systems have the potential to produce discriminatory decisions due to data bias or algorithmic errors that could harm certain groups. Conversely, from a regulatory perspective, ambiguity can impede innovation and engender uncertainty for technology investments. Consequently, the regulation of artificial intelligence should not be perceived as a measure aimed at constraining technological advancement; rather, it should be regarded as a mechanism designed to achieve a harmonious balance between the pursuit of technological progress and the safeguarding of public interests.

The development of AI regulations is also relevant to Philipus M. Hadjon's theory of legal protection, which distinguishes between preventive and repressive legal protection. The prevailing regulatory framework concerning artificial intelligence (AI) in Indonesia continues to tend towards repression, as legal mechanisms are predominantly activated subsequent to the occurrence of harm stemming from the malpractice of technology. However, the intricate nature of AI necessitates a preventative approach through oversight from the design and development stages through to the implementation of the system. AI regulations must encompass provisions on risk assessment, algorithm audits, system transparency, data security, and the implementation of the principle of human oversight. This will ensure that the potential for misuse can be mitigated before it results in adverse consequences.

The necessity of regulating artificial intelligence (AI) is also associated with the principle of Maqāṣid al-Syarī'ah, which is oriented toward safeguarding the welfare of humanity. This concept prioritizes the protection of religion (ḥifẓ al-dīn), life (ḥifẓ

³³ Adji Samekto, *Memahami Ajaran Hukum Gustav Radbruch* (Depok: Rajawali Pers, 2025).

al-nafs), reason (ḥifẓ al-'aql), lineage (ḥifẓ al-nasl), and property (ḥifẓ al-māl) as the primary objectives of lawmaking. The utilization of artificial intelligence (AI) must be directed towards the provision of benefit (maṣlaḥah) and the prevention of harm (mafsadah). In the context of safeguarding life and reason, for instance, the utilization of AI must not result in the propagation of detrimental information or manipulation that undermines human decision-making capabilities. In the context of property regulation, the establishment of guidelines concerning artificial intelligence (AI) is imperative to forestall digital fraud, the misuse of economic data, and financial losses engendered by opaque automated systems.

The integration of the principles of Maqāṣid al-Syarī'ah and Indonesian positive law provides a conceptual foundation for the development of AI regulations that are not only focused on technical and economic aspects but also take into account moral values and social interests. This approach aligns with the nature of the Indonesian legal system, which is grounded in Pancasila and recognizes the role of religious values in national legal life. AI regulations developed based on these principles are expected to foster human-centered AI governance, prioritizing the protection of rights and the public interest as the primary objectives.

An analysis of Indonesia's positive law reveals that regulations concerning artificial intelligence (AI) remain sector-specific and scattered across various laws and regulations. This situation has yet to address the intricacies inherent to AI, which is characterized by adaptability, autonomy, and a cross-sectoral scope. Conversely, a study of Islamic law suggests that AI can be regarded as an instrument (wasilah) that can be utilized to achieve the public interest, provided its use does not conflict with the objectives of Sharia. The alignment between Indonesian positive law and Islamic law is evident in their shared commitment to safeguarding human dignity and rights. This commitment is manifested in the guarantee of legal certainty, justice, and benefit for all individuals, underscoring the fundamental importance of the sanctity of the individual within these legal frameworks. These shared values function as the basis for the formulation of AI regulations that integrate the principles of the rule of law with the maqāṣid al-syarī'ah.

The establishment of AI regulations does not necessitate the creation of an entirely new legal framework; rather, it can be achieved through the formulation of an Artificial Intelligence Act that functions as a overarching regulatory framework. This legislative initiative would function as a foundational framework, integrating various regulations concerning personal data protection, electronic transactions, intellectual property rights, consumer protection, public services, and other sector-specific provisions. The implementation of such a model would serve to reduce regulatory fragmentation while establishing legal certainty with respect to the definition of AI, the classification of AI systems, the rights and obligations of the

parties involved, oversight mechanisms, forms of legal liability, and sanctions for the misuse of AI. The establishment of a comprehensive regulatory framework would facilitate harmonization among regulations, thereby preventing overlapping jurisdictions and inconsistencies in regulations.

The foundational principles of AI regulations must be grounded in ten fundamental tenets that seamlessly integrate the values of positive law with the *maqāṣid al-syarī'ah*. First, the principle of public interest (*maslahah*) must be considered. This principle dictates that the development and application of AI must yield substantial benefits to society and bolster national development. Secondly, the principle of respect for human rights, which guarantees the protection of dignity, privacy, freedom, and the right to fair treatment. Third, the principle of algorithmic transparency stipulates that AI operators are obligated to furnish information regarding the system's operational mechanisms, the basis for decision-making, and users' right to an explanation. Fourthly, the principle of accountability establishes legal liability for developers, service providers, and AI users for any harm caused by the systems under their control.

The fifth principle is the principle of human oversight, which states that every strategic decision affecting the rights of the public must remain under human supervision and not be entirely delegated to an AI system. Sixthly, the principle of personal data protection governs the use of data for training AI models. This principle is based on valid consent, purpose limitation, data security, and respect for the rights of data subjects, as stipulated in the Personal Data Protection Act (PDP Act). The seventh principle is that of AI risk classification, which establishes regulations that differentiate oversight levels based on AI usage risk categories. These risk categories range from minimal risk, limited risk, high risk, to uses that must be prohibited. This risk-based approach aligns with international best practices, including the EU AI Act, ensuring that regulations do not impede innovation while providing adequate protection for the public.

The eighth principle of AI auditing and certification stipulates that specific AI systems must undergo testing for safety, reliability, non-discrimination, and compliance with ethical standards prior to their widespread implementation. The ninth principle is the principle of collaborative oversight, which involves the government, academics, industry stakeholders, and religious scholars, particularly regarding AI used in religious contexts. The involvement of religious scholars is imperative to ensure that AI providing religious services does not deviate from Sharia principles and does not supplant the authority of *ijtihad* or *fatwas*. The tenth principle is the principle of law enforcement and the restoration of victims' rights. This principle guarantees the availability of complaint mechanisms, dispute

resolution, compensation, and administrative, civil, or criminal sanctions against the misuse of AI that causes harm to the public.

Harmonisation between Indonesian positive law and Islamic law is a crucial aspect in the development of AI regulations. Positive law provides binding instruments through legislation, while Islamic law offers an ethical and moral foundation to ensure that the use of AI remains oriented towards the public good. The integration of the two can be achieved by adopting the principles of Maqāṣid al-Sharī'ah as the philosophical basis for regulatory development, without altering Indonesia's character as a state governed by law and based on Pancasila. This approach aligns with constitutional values that prioritise respect for human dignity, justice, and the common good as the objectives of state governance. Thus, AI regulations not only provide legal certainty, but also reflect the moral values that are deeply rooted in Indonesian society.

This framework positions AI as a technology that must be developed responsibly (Responsible AI) and in a human-centred manner (Human-Centred AI). Regulation is not intended to hinder innovation, but rather to strike a balance between technological advancement, the protection of citizens' rights, and national development interests. The integration of Indonesian positive law principles and Maqāṣid al-Sharī'ah is expected to produce an AI regulatory system that is adaptive, accountable, transparent, and just. This model also serves as a conceptual contribution from this research, offering a direction for the formulation of AI regulations in Indonesia that not only keep pace with global technological developments, but are also aligned with constitutional values and the principles of Islamic law.

Conclusion

The development of Artificial Intelligence (AI) has brought numerous benefits in terms of improving efficiency, productivity, and innovation across various sectors; however, it has simultaneously raised legal and ethical challenges that have not yet been fully addressed by Indonesian positive law. Research findings indicate that AI regulation in Indonesia remains sector-specific and lacks a comprehensive legal framework, making it unable to provide legal certainty regarding accountability, the protection of human rights, data security, algorithmic transparency, or liability for risks arising from the use of AI. These conditions underscore the urgent need for regulations that can keep pace with technological advancements while ensuring the protection of the public interest.

From the perspective of Maqasid al-Sharia, AI is essentially a neutral instrument, and its legal status is determined by the purposes and impacts of its use. The principles of protecting religion (hifz al-din), life (hifz al-nafs), reason (hifz al-'aql),

property (hifz al-mal), and lineage (hifz al-nasl) provide a relevant normative foundation for guiding the development and utilization of AI so that it remains oriented toward the public good and prevents harm. Therefore, the integration of Maqashid al-Sharia values and Indonesian positive law can serve as a conceptual foundation for formulating AI regulations that are adaptive, just, and focused on human protection, without hindering technological innovation.

The findings of this study suggest that the development of AI regulations in Indonesia requires not only technical and legal approaches, but also an ethical approach that ensures a balance between technological advancement and human values. Therefore, the government needs to formulate comprehensive AI regulations by establishing principles of transparency, accountability, personal data protection, risk mitigation, and effective oversight mechanisms. Furthermore, the values of Maqashid Syariah can serve as a normative framework for AI policy formulation, ensuring that technological development in Indonesia not only provides legal certainty but also promotes the common good and protects all segments of society.

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