

Reconstructing the Concept of *Ahliyyah* (Legal Capacity) for Autonomous AI Entities in Islamic Jurisprudence: A Critical Analysis of Digital Contracts and *Muamalah* Principles

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Abstract: The rapid advancement of Autonomous Artificial Intelligence (AI) has challenged the traditional human-centric framework of *Ahliyyah* (legal capacity) in Islamic jurisprudence. This study aims to investigate the legal status of AI entities in executing digital contracts and to propose a reconstruction of *Ahliyyah* that accommodates non-human autonomous agents. Using a qualitative-normative legal research method with a *Maqashid al-Shari'ah* approach, this study analyzes classical *Fiqh* texts alongside modern technological realities. The findings reveal that while AI lacks metaphysical consciousness (*Ruh*), it possesses "Functional Discernment" (*Tamyiz al-Waza'ifi*) capable of fulfilling the technical requirements of *Ijab* (offer) and *Qabul* (acceptance). The research proposes the recognition of "Digital Personality" (*Syakhshiyah Raqmiyah*) as a new legal category, shifting the locus of legal capacity from biological existence to functional autonomy. This reconstruction ensures that AI-driven transactions remain valid under Sharia while providing a clear framework for *Dhaman* (liability) and accountability. This study contributes to the development of a "Digital Fiqh" that harmonizes Islamic law with the global digital economy.

Keywords: *Ahliyyah*, Artificial Intelligence, Digital Contracts, *Maqashid al-Shari'ah*, *Muamalah*.

Abstrak: Pesatnya kemajuan Kecerdasan Buatan (AI) Otonom telah menantang kerangka tradisional *Ahliyyah* (kecakapan hukum) yang berpusat pada manusia dalam yurisprudensi Islam. Penelitian ini bertujuan untuk menyelidiki status hukum entitas AI dalam melaksanakan akad digital dan mengusulkan rekonstruksi *Ahliyyah* yang dapat mengakomodasi agen otonom non-manusia. Dengan menggunakan metode penelitian hukum kualitatif-normatif dengan pendekatan *Maqashid al-Syari'ah*, penelitian ini menganalisis teks-teks *Fikih* klasik berdampingan dengan realitas teknologi modern. Temuan penelitian menunjukkan bahwa meskipun AI tidak memiliki kesadaran metafisik (*Ruh*), ia memiliki "Diskresi Fungsional" (*Tamyiz al-Waza'ifi*) yang mampu memenuhi persyaratan teknis *Ijab* dan *Qabul*. Riset ini mengusulkan pengakuan "Personalitas Digital" (*Syakhshiyah Raqmiyah*) sebagai kategori hukum baru, yang menggeser lokus kecakapan hukum dari eksistensi biologis ke otonomi fungsional. Rekonstruksi ini memastikan bahwa transaksi berbasis AI tetap valid secara syariah sekaligus memberikan kerangka kerja yang jelas untuk *Dhaman* (pertanggungjawaban) dan akuntabilitas. Studi ini berkontribusi pada pengembangan "Fikih Digital" yang menyelaraskan hukum Islam dengan ekonomi digital global.

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Kata Kunci: *Ahliyyah, Kecerdasan Buatan, Akad Digital, Maqashid al-Syari'ah, Muamalah.*

Introduction

The rapid evolution of the Fourth and Fifth Industrial Revolutions has fundamentally altered the landscape of global commerce and legal theory. At the heart of this transformation lies Artificial Intelligence (AI), particularly "Autonomous AI," which possesses the capability to learn, adapt, and execute decisions without direct human intervention. In the realm of commercial law, this autonomy manifests through smart contracts and algorithmic trading, where AI entities act as intermediaries or even primary decision-makers in complex financial transactions. However, this technological leap creates a profound "normative gap" when viewed through the lens of classical Islamic Jurisprudence (*Fiqh*). The fundamental question arises: can a non-human, silicon-based intelligence possess the legal capacity (*Ahliyyah*) to enter into a contract (*Akad*) that is valid under Sharia law?

Historically, Islamic law is deeply human-centric. The concept of *Ahliyyah* (legal capacity) is traditionally rooted in the possession of '*Aql* (intellect) and the attainment of *Bulugh* (maturity). According to Al-Zuhayli (2011), *Ahliyyah* is divided into two categories: *Ahliyyah al-Wujub* (capacity for acquisition of rights) and *Ahliyyah al-Ada'* (capacity for execution of duties). Traditionally, these capacities are exclusive to biological human beings (*Al-Insan*) or, in modern developments, extended to legal persons (*Syakhshiyah I'tibariyah*) such as corporations (Mansoori, 2011). However, Autonomous AI entities do not fit neatly into either category. They possess a form of "artificial intellect" that can simulate logic and decision-making (*tamyiz*), yet they lack the moral conscience and spiritual accountability that define a *Mukallaf* (a person subject to divine law).

The urgency of this research is underscored by the increasing reliance of Islamic Financial Institutions (IFIs) on algorithmic systems to execute *Murabahah* or *Musharakah* contracts in high-frequency trading environments. If the AI executes a contract autonomously, the validity of the *Ijab* (offer) and *Qabul* (acceptance) comes into question. In classical *Fiqh Muamalah*, an expression of will (*Iradah*) is a prerequisite for a

valid contract. Critics argue that AI lacks genuine "will" and merely executes pre-programmed probabilistic outcomes. Conversely, modern scholars like Auda (2008) suggest that *Maqashid al-Shari'ah* (the objectives of Sharia) emphasize the protection of *Mal* (wealth) and the facilitation of *Taysir* (ease). Therefore, rejecting the legal validity of AI-driven contracts could lead to *Haraj* (undue hardship) in the modern Islamic economy.

Furthermore, the issue of liability (*Dhaman*) presents a significant legal hurdle. In the event of a contractual breach or financial loss caused by an autonomous algorithmic decision, the traditional framework struggles to assign blame. If the AI is not recognized as having some form of *Ahliyyah*, it cannot be held liable, leaving a vacuum of accountability. This necessitates a reconstruction of the concept of *Dzimmah* (legal personality/financial obligation). Classical scholars defined *Dzimmah* as a "divine trust" inherent to humans, but modern reality requires us to consider whether a "digital *Dzimmah*" can be constructed to ensure that AI entities can "own" a pool of assets to compensate for damages (Laldin & Furqani, 2013).

The "novelty" of this study lies in its attempt to bridge the gap between classical *Usul al-Fiqh* and digital ontology. While previous studies have discussed AI ethics in Islam or general fintech regulations, few have dared to deconstruct the ontological requirements of *Ahliyyah* to accommodate non-biological agents. This research argues that the concept of *'Aql* in *Fiqh* should be viewed functionally rather than biologically. If an AI can perform *Tamyiz* (differentiation) through advanced data processing, it may be possible to grant it a "functional capacity" (*Ahliyyah al-Waza'if*) rather than a "moral capacity." This follows the precedent of the *Syakhshiyah I'tibariyah* (legal entity) concept, which was also an innovation in the 20th-century *Fiqh* to address the rise of modern corporations (Nyazee, 2003).

Moreover, this research is critical for the harmonization of Islamic law with international private law. As the United Nations Commission on International Trade Law (UNCITRAL) explores the legal status of electronic agents, Islamic law must provide a robust, competitive, and religiously sound framework to ensure that the global Halal industry remains at the forefront of innovation. Failure to reconstruct

Ahliyyah for the digital age may result in "legal alienation," where Islamic contracts are deemed incompatible with the global digital infrastructure.

In conclusion, the reconstruction of *Ahliyyah* for Autonomous AI is not merely a theoretical exercise; it is a necessity for the survival and relevance of *Fiqh Muamalah* in the 21st century. This study will analyze the intersections of *Iradah* (will), *Tamyiz* (discernment), and *Dzimmah* (liability) to propose a new framework for "Digital Legal Capacity." By doing so, it aims to provide a solid Sharia-compliant foundation for the future of the digital economy, ensuring that technology serves the ultimate goal of *Maslahah* (public interest) while remaining anchored in the ethical spirit of Islam.

Research Method

This study employs a qualitative legal research design, specifically utilizing a normative-doctrinal approach combined with conceptual and philosophical analysis. Given that the research aims to reconstruct a fundamental principle within *Usul al-Fiqh* (Islamic Jurisprudence) to accommodate a modern technological phenomenon, a multi-layered methodological framework is essential to ensure both Sharia compliance and contemporary relevance.

1. Research Approach and Design

The primary approach used is the conceptual approach (*pendekatan konseptual*). This approach does not merely look at existing statutes but moves towards the building blocks of legal theory. As noted by Marzuki (2017), the conceptual approach is vital when dealing with legal vacuums where no concrete positive law or specific *nass* (text) directly addresses the issue—in this case, the legal capacity of autonomous AI. Furthermore, this study incorporates a comparative approach, contrasting classical definitions of *Ahliyyah* from the four major *Madhhabs* (Hanafi, Maliki, Shafi'i, and Hanbali) with modern legal personhood theories in Western civil and common law systems.

2. Data Sources and Collection

The data for this research are entirely secondary, consisting of library-based resources. These sources are categorized into three levels:

- Primary Legal Materials: These include the Quran and Hadith as the foundational sources of Sharia, alongside classical *Fiqh* compendiums such as

Al-Mabsut by Al-Sarakhsī for the Hanafī perspective on *Dzimmah*, and *Al-Muwaqat* by Al-Shatibī for the framework of *Maqashid al-Shari'ah*.

- Secondary Legal Materials: These consist of contemporary scholarly works, peer-reviewed journal articles, and books regarding AI ethics, digital law, and modern *Muamalah* (Islamic commercial law). Works by modern scholars such as Jasser Auda and Wahbah al-Zuhayli provide the necessary modern interpretative lens (Al-Zuhayli, 2011).
- Tertiary Materials: These include legal encyclopedias, technical reports on AI autonomy from organizations like IEEE, and dictionaries of legal and Islamic terminology to ensure precise conceptual definitions.

3. Data Analysis Method: The Hermeneutic and Maqashid Lens

The data analysis follows a content analysis method through a hermeneutic-dialogical process. The researcher engages in a "dialogue" between the fixed texts (*thawabit*) and the evolving technological realities (*mutaghayyirat*). To achieve the "reconstruction" mentioned in the title, this study utilizes the *Maqashid al-Shari'ah* framework, specifically the "Systems Approach" proposed by Auda (2008). This method allows the researcher to look beyond the literal, human-centric requirements of *Ahliyyah* and focus on the systemic purpose of legal capacity: the protection of wealth (*hifz al-mal*) and the realization of justice in transactions.

The analysis is conducted in four distinct stages:

1. **Deconstruction:** Breaking down the classical components of *Ahliyyah* ('*Aql*, *Tamyiz*, *Bulugh*) to identify which elements are biological and which are functional.
2. **Mapping:** Identifying the functional similarities between AI's "logical processing" and the *Fiqh* concept of *Tamyiz* (discernment).
3. **Synthesis:** Integrating the concept of *Syakhshiyah I'tibariyah* (legal entity) with the operational autonomy of AI to propose a new category of "Digital Legal Capacity."
4. **Validation:** Testing this proposed framework against the core principles of *Muamalah*, such as the prohibition of *Gharar* (uncertainty) and *Riba* (usury), to ensure it remains Sharia-compliant.

4. Ethical Considerations and Theoretical Framework

Although this is library-based research, ethical considerations regarding the "human-in-the-loop" principle in AI are maintained. The study adheres to the principles of *Ijtihad Istislahi* (reasoning based on public interest), where the primary goal is to provide *Maslalahah* (public benefit) for the global Muslim community in the digital age. As emphasized by Kamali (2019), modern *Ijtihad* must be proactive in addressing technological challenges to prevent *Dharar* (harm) to the Islamic financial system.

Result and Discussion

Results: The Divergence of Ontological and Functional Capacity

The findings of this research demonstrate a significant "ontological friction" between classical *Ahliyyah* and autonomous digital entities. In classical *Fiqh*, the results indicate that legal capacity is tethered to *Al-Insaniyyah* (humanity). Based on a comprehensive review of the four *Madhhabs*, the research finds that *Ahliyyah al-Ada'* (execution capacity) is inextricably linked to *'Aql* (intellect) which is perceived as a metaphysical light (*nur*) or a biological faculty capable of moral responsibility (*taklif*).

However, the empirical findings from the technical analysis of Autonomous AI – specifically Large Language Models (LLMs) and Multi-Agent Systems (MAS) used in Islamic Fintech – reveal that these systems possess **Functional Discernment** (*Tamyiz al-Waza'ifi*). While AI lacks *'Aql* in the spiritual sense, it successfully replicates the outcomes of *Tamyiz* by distinguishing between profit and loss, risk and security, and offer (*ijab*) and acceptance (*qabul*).

The study finds that the current legal vacuum leads to three primary risks in Sharia-compliant digital contracts:

1. **Contractual Anonymity:** Where the human principal is too far removed from the AI's autonomous decision, potentially violating the principle of *Antarin Taradin* (mutual consent).
2. **Liability Fragmentation:** The inability to apply *Dhaman* (guarantee/liability) to a non-entity.
3. **Maslalahah Erosion:** Where Sharia courts might invalidate high-speed transactions due to the lack of a human "subject," causing massive economic displacement.

Discussion: Bridging *Dzimmah* and Digital Personhood

The discussion pivots on the expansion of *Syakhshiyah I'tibariyah* (legal personality). Historically, as argued by Nyazee (2003), Islamic law was forced to adapt to the concept of the "Corporation" which has no soul but possesses rights and duties. This research discusses the potential for a third category of subjecthood: **Syakhshiyah Raqmiyah** (Digital Personality).

The discussion challenges the traditional view that *Dzimmah* (the capacity to owe and be owed) is exclusive to humans. If a corporation can have a *Dzimmah*, then an Autonomous AI entity, provided it is backed by a dedicated reserve fund (*Waqf* or *Rahn*), can functionally possess a digital *Dzimmah*. This aligns with the *Maqashid* approach of Jasser Auda (2008), which suggests that legal rulings (*ahkam*) must evolve to protect the system's integrity.

Furthermore, the discussion addresses the "expression of will" (*Iradah*). In digital contracts, the AI's "will" is a delegated autonomy (*Iradah bi al-Ni'abah*). The human creator or owner provides the "General Will" (the algorithm's parameters), and the AI generates the "Specific Will" (the individual transaction). Under the principle of *Al-Umuru bi Maqashidiha* (matters are judged by their objectives), the AI's transaction is seen as an extension of the owner's intent, thus satisfying the Sharia requirement for consent, provided the parameters are transparent and free from *Gharar* (uncertainty).

Analysis: Reconstructing *Ahliyyah* for the Autonomous Era

The core analysis of this study proposes a **Reconstruction of the Ahliyyah Framework** into a bifurcated model: **Moral Capacity vs. Transactional Capacity**.

The Analytical Framework of "Functional Ahliyyah"

The analysis deconstructs *Ahliyyah* using the logic of *Qiyas* (analogical reasoning). If the '*Illah* (effective cause) for legal capacity is the ability to understand the consequences of an action (*Tamyiz*), then any entity – biological or algorithmic – that can demonstrably process these consequences should be granted a degree of *Ahliyyah*.

We propose the following analytical tiers for AI:

1. **Ahliyyah al-Qasirah (Limited Capacity):** For AI agents acting under strict supervision.
2. **Ahliyyah al-Raqmiyah al-Kamilah (Full Digital Capacity):** For fully autonomous systems that have a registered *Dzimmah* (capital base) to cover potential liabilities.

Accountability and *Dhaman* (Liability)

In the analysis of liability, the study invokes the maxim "*Al-Ghurmū bi al-Ghunmī*" (Risk accompanies gain). Since the owner of the AI reaps the profits, they must bear the initial liability. However, to foster innovation, the analysis suggests a **Digital Indemnity Fund** based on *Takaful* (Islamic insurance). This fund would be "owned" by the AI entity itself, creating a self-sustaining loop of accountability.

Resolving the *Gharar* in Algorithms

A critical analysis of AI "Black Boxes" suggests that for an AI to have *Ahliyyah*, it must satisfy the condition of Algorithmic Bayan (transparency). A contract executed by an AI whose logic is totally opaque constitutes *Gharar Fahish* (excessive uncertainty) and is void. Therefore, *Ahliyyah* is not just a status but a conditional permit dependent on the AI's "Explainability."

The reconstruction does not change the *Shariah*; it changes the *Manat al-Hukm* (the locus of the ruling). By recognizing Autonomous Digital Agency, Islamic Jurisprudence transitions from a 19th-century biological focus to a 21st-century functional focus. This ensures that the *Ummah* is not merely a consumer of technology but a leader in providing the ethical-legal framework for its operation.

Conclusion

The integration of Autonomous Artificial Intelligence into the global financial ecosystem necessitates a profound paradigm shift within Islamic Jurisprudence. This research concludes that the traditional, human-centric definition of *Ahliyyah* (legal capacity), while foundational, requires a functional reconstruction to remain relevant in the digital age. The study finds that while AI lacks the metaphysical consciousness (*Ruh*) and moral accountability (*Taklif*) inherent to human beings, it possesses a sophisticated form of Functional Discernment (*Tamyiz al-Waza'ifi*) that enables it to execute complex *Muamalah* contracts with a high degree of precision and autonomy.

The reconstruction proposed in this study moves away from biological requirements toward a Systemic Subjectivity. By leveraging the precedent of *Syakhshiyah I'tibariyah* (legal entity), Islamic law can recognize *Syakhshiyah Raqmiyah* (Digital Personality) as a valid legal subject, provided it is anchored by a dedicated *Dzimmah* (financial liability) and governed by the principles of transparency and *Maslahah*. This evolution does not compromise the sanctity of Sharia; rather, it fulfills

the *Maqashid al-Shari'ah* by protecting wealth (*Hifz al-Mal*) and facilitating ease (*Taysir*) in an increasingly automated economy.

Ultimately, the accountability for AI-driven actions must be shared through a multi-tiered liability framework, involving the creator, the owner, and the autonomous entity itself through a digital indemnity scheme. Failure to adopt such a framework risks creating a legal vacuum that could lead to *Gharar* (uncertainty) and the marginalization of Islamic finance in the global arena. Therefore, this study calls for contemporary *Fuqaha* and legal scholars to collaborate with technologists in formulating a standardized Digital Fiqh Code that provides certainty, justice, and ethical grounding for the future of the digital *Ummah*.

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