

## THE LEGAL CAPACITY (*AL-AHLYYAH*) OF ARTIFICIAL INTELLIGENCE FROM AN ISLAMIC JURISPRUDENTIAL PERSPECTIVE

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### ABSTRACT

Capacity is the legal right and empowerment of a legal person to individual responsibility. A legal person has the right to social, economic, and political duties and responsibilities in the society to sue and be sued in the law court. However, the issue of artificial persons has been gaining attention in recent times, especially its legal capacity. This paper examines the legal capacity of Artificial Intelligence from Islamic jurisprudential perspective. For instance, legal and juristic issues remain around the legal capacity of humanoids like Sophia Robot which was granted the first full citizenship in Saudi Arabia. Does that citizenship translate to full rights and responsibility like a normal human? The study uses a qualitative method to employ the doctrinal approach of analyzing Islamic jurisprudential opinions on the legal personality of an artificial person. Although there are Islamic thresholds on minors and other interdicted persons, however, the study explores the extent of interpolating classical Islamic rulings of the legal capacity of certain corporations, entities, and interdicted persons on the artificial intelligence robot. The study found that an artificial intelligence robot does not have the complete traits to be considered for natural legal capacity. However, AI has the trait of artificial personality that is justified in Islamic jurisprudence. The vicarious tortious liability can be interpolated on the artificial personality of AI to ensure the protection of the public interest. Therefore, this study lays the groundwork for further studies in understanding how Islamic law can address the rights, responsibilities, and ethical considerations surrounding the use of AI, thereby facilitating the development of comprehensive, and religiously sensitive regulatory frameworks.

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## Introduction

Legal capacity is the right and recognition of individuals under established human rights principles based on the national and international legal system (Peters, 2014). The legal capacity of individuals under the United Nations conventional law specifies the rights of an average individual and their capacities for duties and responsibilities. For instance, the conventional right of persons with disabilities (CRPD) focuses on non-discrimination to be recognized as a person under the law despite physical or mental challenges (Szmukler, 2019). The emergence of the Internet of Things and artificial intelligence disruptions have called for legal concerns about the legal capacity of the robot personality either as a full or incomplete person under the law. Persons with physical and mental challenges are required by legal rights to seek support in rights and responsibilities (Avila Negri, 2021). However, the legal capacity of disabled persons is understood under the pretext of elements such as support for mentally and physically challenged persons. Nevertheless, mental and physical support for disabled persons does not replace their legal capacity just like an artificial person is supported in society (Craigie et al., 2019). The socio-legal implication of artificial disruption has a significant effect on the legal capacity system in modern times. The introduction of nanny made, industry robot workers, and house partners are current issues under the legal capacity of the artificial intelligent person (Alexandre, 2017). Also, the move by the government of Saudi Arabia to grant the Sofia Robot artificial citizenship suggests the reality of AI nanny in the contemporary time that has come to stay with us. At this juncture, the most important issue remains to analyze the legal rights of an artificial person in Islamic law (Chen S. (2024). This study explores the reality of the legal capacity of the AI person. The existing law of tort and the capacity of the incomplete person in Islamic law need to be reinterpreted based on contemporary consequences and realities (Pagallo, 2018). The legal capacity of those people living physically and mentally is a socio-legal policy meant to protect the person with disabilities from discrimination. However, the extent of legal interpolation of the legal capacity of disabled persons and animals in tort to the contemporary artificial intelligent person deserves investigation. The advent of AI robots as nannies and employees in the workforce of some Muslim countries, especially Saudi Arabia, calls for an interpretation of the legal implications from the Shariah perspective (Hart, 2018).

## Literature Review

The nascent AI is growing fast but there are legal interpretation issues facing the growth and adoption of humanoid. The industry is facing intricately challenges of traditional and modern approaches to Islamic law have influenced the interpretation of juristic rulings on the application of Artificial Intelligence especially on the constitutional challenges related to AI's legal status, ethical considerations in AI decision-making, and proposes options for establishing liability for damages caused by AI systems. Overall, it highlights the need for a comprehensive understanding of the implications surrounding the incorporation of advanced AI into societal decision-making (Koos, 2018; Shabana Kausar, 2024).

The adoption rate of AI is chiefly influenced by concerns extent of ethical consideration in the development of AI for corporate and personal use. Mohadi et al. (2023), argued that inculcating the framework of Maqasid al-Shari'ah into the process and elements can reduce the ethical challenges posed by the rapid development of artificial intelligence (AI), particularly in terms of privacy and manipulation and impact on human protection and welfare. Although leveraging AI presents the potential for Islamic sciences to keep pace with modern advancements by achieving the objectives of Islamic Shariah, however, AI development at the peak of the fourth industrial revolution has a notable deficiency in lack of Islamic educational perspective incorporated in machine learning, deep learning, and expert systems (Tarshany, 2022). In recent times, AI applications have propelled the Islamic fintech industry through text mining, which extracts valuable information from vast datasets to aid market analysis and forecasting and the use of algorithmic Trading (AT) as a pivotal AI tool in Islamic investment, emphasizing its ability to reduce errors by providing a more accurate and efficient approach than human decision-making (Gazali et al., 2020).

## Methodology

This study employs a doctrinal approach of qualitative method to explore library information and analysis of data set from Shariah perspective. This study employs an inductive approach to exploring the meaning and juristic implication of specific terminology based on legal and Shariah perspectives. The research examines the classical and modern juristic implications of the concept of AI in socioeconomic realities. Legal capacity of artificial intelligence entities as legal actors or entities capable of having rights, obligations, and responsibilities within a legal system. The analysis aims to understand how Shariah views and addresses the legal capacity of AI. The method analyses the pertinent shariah issues relating to the legal capacity of artificial intelligence and possible interpolation such as how the classical principle of interdiction (*hajr*) in Islamic jurisprudence can be related to the legal capacity of AI in society.

## Artificial Intelligence

Artificial intelligence (AI) is the tool of programmed simulation in the machine system to act like human intelligence (Dong et al., 2020). The AI-enhanced simulated machine thinks like human beings and mimics human actions. In the contemporary world, artificial intelligence is considered present in any machine that displays features associated with the human mind and actions in learning and rationalization to solve problems. The trait of humans in artificial intelligence machines is the ability to rationalize issues and take appropriate action toward a set goal (Advani, 2020). The present understanding of artificial intelligence permeates the application of robots in socio-economic and industrial work with the established capacity of humanoids to imitate human intelligence in machines to perform tasks (Bird et al., 2020). AI machines have advanced over the period from calculating machines of basic functions to computerized machines and now sensory simulation to perform any human super task. AI experts have opined that the industry will continue to emerge as much as human societal needs demand (Bormann & Brauchitsch, 2017).

AI machines are now applicable in cross-disciplinary studies using the principles in mathematics, computer science, linguistics, psychology, and others. The algorithm is another concept in AI applications. The algorithm uses precise rules and specifies procedures for solving problems (Cioffi et al., 2020). The algorithm is one of the most important components of artificial intelligence applications. Human endeavors and needs are shaping the application of artificial intelligence. Since human needs are unlimited from some perspectives, the application of artificial intelligence remains endless as experts in AI advance daily on discoveries (Bormann & Brauchitsch, 2017).

AI technology is now applicable to different sectors as it has disrupted several industries in modern times. The artificial intelligence market is highly employed in the healthcare sector for diagnosing patients and prescription cures. Medical experts now rely on AI machines for sophisticated surgical operations (Bohr & Memarzadeh, 2020).

Another important feature of AI is that it weighs in consequences for human benefits, for instance, AI application in chess playing is to win the game, AI application in health care is to diagnose effectively and prescribe a cure, and AI for self-driving is to transport people or things from one place to another without an accident. AI in the financial industry has introduced smart contracts for business transactions and investment portfolios. The daycare, house care, and adult care industries are also emerging in the artificial industry (Matheny et al., 2019).

The AI industry has two main categories; the weak AI and the strong AI (Khurram Abbas, 2021). Weak artificial intelligence still relies on human support and instruction to carry out the task. The AI systems in Amazon and Apple are categorized as weak AI. The strong AI is the most advanced stage of AI whereby the simulated machine is a robot working on a task without assistance from a human. Self-drive cars, Healthcare robots, house nanny robots, and adult care robots are common examples of strong AI (Colclough, G. et al., 2018). This section explores the legal capacity of strong artificial intelligence which thinks, rationalizes, and mimics human actions. There is an ongoing argument about whether strong AI robots should be awarded the same human rights because of the similarity in rationalization and execution of tasks. For instance, the experts in the production of self-driving cars have argued that

this machine is a strong AI to the extent that it is designed with the capacity to calculate risk and operate with the least casualties because of the inbuilt sensor to calculate and avoid collision with other vehicles and humans (Matheny et al., 2019).

### Present and Future Market Size of AI Product Adoption

According to Figure 1, the AI adoption rate was below 250,000 from 2020 to 2021. Predictions indicate that by 2024, this rate will increase to 260,000. By 2028, AI adoption is expected to undergo a significant surge, surpassing 1,000,000. It is projected that before the conclusion of 2030, approximately 2,000,000 individuals will have adopted AI in both residential and corporate contexts. The implication is that AI market growth is driven by the needs of people across the globe, hence, legal and moral issues surrounding its production and use require urgent attention among researchers and policymakers. The component of AI as humanoid has the software and hardware to act like a human but lacks the heartware to be granted equal and similar human legal capacity (Noordin, M.F. 2017).

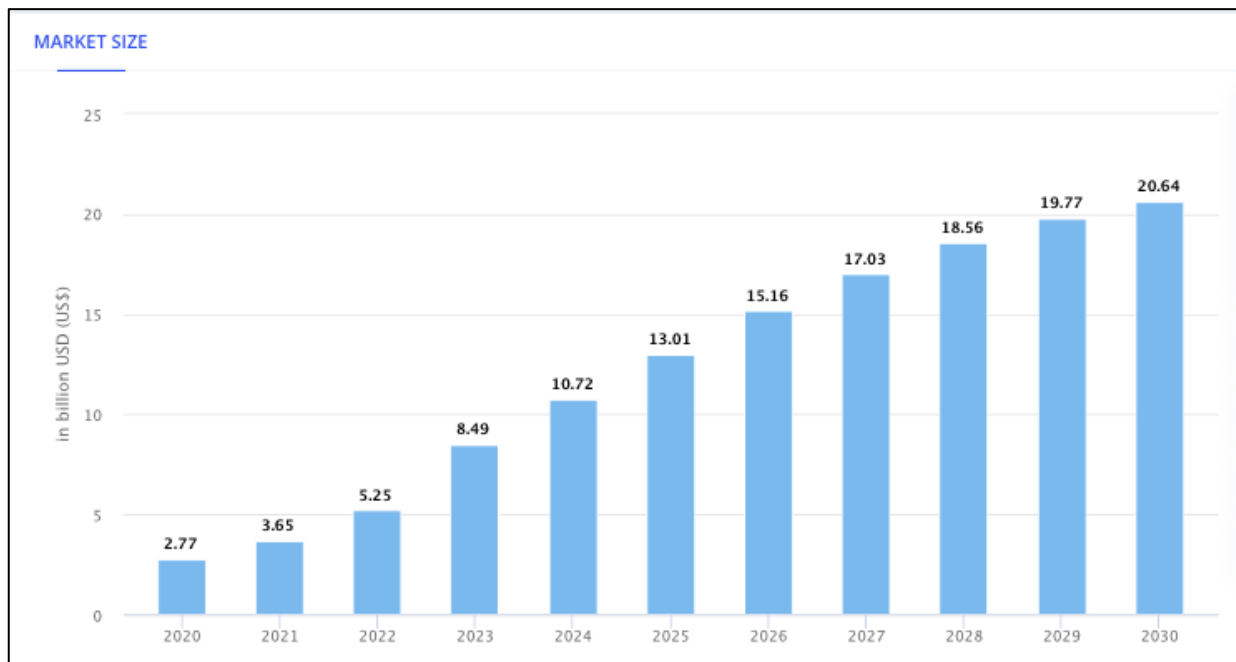
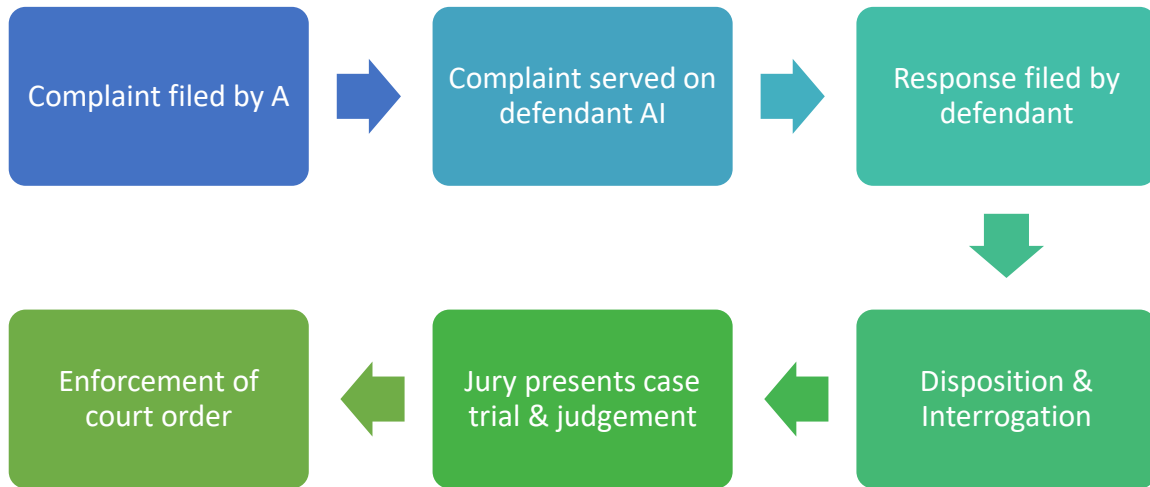


Figure 1. Humanoid Global Market Size (Statista Market Insight, 2023)

### Legal Capacity of Artificial Intelligence

The growth of AI development and adoption today has triggered the urgent call for legal policy to address the contractual and ethical issues surrounding its application (Dzahrudin Mansor, 2021). For instance, AI is playing significant roles in autonomous vehicles, surgical robotics, and healthcare diagnostic systems (Siala, H. & Wang Y., 2022; Gerke, S., et al., 2020). Worldwide, nations have created laws addressing liability for injuries, intellectual property, fair credit and employment practices, and privacy. These laws typically do not exempt AI systems, but adapting them to AI may pose challenges for courts, leading regulatory agencies and legislatures to contemplate the need for specific AI-related rules (European Parliamentary Research Service, 2020).



**Figure 2.** Court case procedure involving AI

Figure 2 simplify the procedure of law suits involving AI adapted from Gerke et al. (2020) and Schröder, (2021). For instance, when Mr. A (human being) files a suit against AI at the court registry, claiming damages for personal injury or accidents caused by a humanoid. This seeks the court to determine the liability and assess the damages claimed by Mr. A. by quantifying the extent of the personal injury or property damage and determining an appropriate compensation amount. This Filing is usually done at the Court Registry and a sealed copy of the court paper will be served by the Court to the Defendant within a certain period. In this scenario, the assumption of a humanoid being a defendant raises intriguing questions about legal responsibility, rights, and accountability in the context of emerging technologies. The legal system would need to adapt to address the unique aspects of humanoid involvement in legal proceedings, considering issues such as legal personhood, liability, and the implications of serving court papers to non-human entities. A response to a legal lawsuit provides the respondent a chance to counter the factual assertions and legal assertions made in the complaint while presenting "affirmative defenses" facts or legal arguments to challenge the plaintiff's case. However, the response filed by the defendant (AI) is a subject of legal concern about the capacity to respond to court suits. The purpose of disposition is to have access to candid responses from a party to a lawsuit.

The interrogatory is used to access accurate information prepared and written on questions relating to the lawsuit. Hence, how can one party be human and the other is AI? The legal system may need to adapt to handle these differences. Questions directed at the human party might explore subjective experiences, emotional states, and personal beliefs. In contrast, questions for the AI may focus on the programming, data sources, algorithms, and decision-making processes. In criminal cases, the potential verdicts are "guilty" or "not guilty." In civil litigation, the jury decides the winner between the plaintiff and defendant and, if the plaintiff prevails, assesses the amount of damages, typically in a separate hearing. The damages awarded in civil cases can take various forms, including compensatory damages to cover actual losses suffered by the plaintiff (such as medical expenses or property damage) and punitive damages, which are intended to punish the defendant for particularly egregious conduct. The goal in civil cases is to provide a remedy to the harmed party rather than to punish the defendant in the way criminal cases aim to punish the guilty. The court possesses the authority to execute and enforce the judgment or order, which is initiated by the prevailing party through a distinct and new application process. If the AI is found guilty, is the punishment justifiable or the user should be liable?

### ***The Concept of Legal Capacity in Islamic Law***

Legal capacity in Islamic law is an individual right for both males and females. Every sane, mature, and prudent Muslim irrespective of gender has an equal right to legal capacity in Islamic law. However, there is the provision of guardianship and interdiction that grant legal authority to act on behalf of the person as a result of necessity, personal, and public interest. Guardianship in Shariah law is legal permission to act on behalf of a minor, or person with physical or mental challenges. Moreover, the process of interdiction also encapsulates disallowing a person from full or partial legal capacity because of bankruptcy or physical or mental incapacity to act normally (Amelia et al., 2017).

The Shariah objectives of acting on behalf of interdicting a person are to ensure the protection of the five fundamental objectives of Shariah such as the protection of religion, life, senses, progeny, and wealth from violations. The guardianship is awarded to an individual who has full competency to safely guide the fundamental interest of the person or subject under interdiction. Can we interpolate guardianship of minors, physical and mental challenge persons to artificially intelligent machines that are performing a task on behalf such as acting as nanny or caregiver on behalf of a natural person? (Bukhari, 2017).

Legal capacity in lexical terms means the right to act and responsibility (Ibn Manzūr, 1994). However, in shariah, legal capacity is categorized as the features that permit a person the eligibility right and responsibility to rules and regulations in shariah. The legal capacity in Shariah is categorized as obligatory eligibility (*ahliyah al-wujūb*) and performance eligibility (*ahliyah al-adā'*). Obligatory eligibility is subject to the life and existence of a person while performance eligibility of a person is subject to mental wellness, sanity, and maturity of the mind (al-Zawawi et al., 2017).

The obligatory eligibility of a person in Shariah is either the full legal capacity or partial legal capacity. According to Islamic jurisprudence, a baby in the womb is awarded partial obligatory eligibility and legal right to own the asset from an inheritance, will, and endowment but not awarded any right to gift and charity (Busari et al., 2019). The full obligatory eligibility of a person begins at birth but will not be awarded the performance eligibility capacity until maturity. The threshold of maturity is mainly determined by attainment of the age of puberty which varies based on environmental and biological differences in people (al-Zarqā, 2004).

According to the Ḥanafī School of Law, a child under the age of puberty is only awarded full obligatory eligibility and partial performance eligibility capacity because of shariah obligatory rules and regulations such as obligatory charity (*zakat*) pilgrimage (*hajj*), fasting (*sawm*) and other spiritual rituals are not obligatory on children until they reach the age of puberty (Zuhair, 2011). The same principles apply to underage children regarding criminal law and justice in Islamic law. Apart from necessary juvenile punishment for retribution, blood money (*al-diyah*) cannot be imposed on children because they lack the full capacity for performing financial responsibility as an excusatory in law (Islam, 2015). Similarly, the underage child will not be responsible for financial damage instead the guardian might be held responsible. Shariah law awards full legal capacity to obligatory and performance eligibility on a mature person. An average mature person, who is mentally sound is obliged in shariah to all rules and regulations and shall be personally held responsible for any criminal offenses and financial liabilities from contractual agreements (al-Zarqā, 2004).

### ***Legal Capacity of Interdiction in Shariah***

The concept of Interdiction literarily means to ban or to restrict. Interdiction in Shariah terms means to ban or restrict someone from having legal capacity over-owned properties. Interdiction is the process of restricting someone from performance eligibility over estate because of certain legal issues arising from debt, sickness, and mental weakness to protect the rights of individuals and the public. The primary basis of interdiction in Shariah has been expressed in the verse thus:

Translation: And do not give the weak-minded your property, which Allah has made a means of sustenance for you, but provide for them with it and clothe them and speak to them words of appropriate kindness

(Surah An-Nisā', 4:5)

The prophet (p.b.u.h.) was reported in one of the traditions to have exercised interdiction on Muaz by selling out his property to pay off his debt (Al-Bayhaqi, 1994, no. 790).

Since the intent of interdiction is for the protection of individuals or the public interest, there are five categories of interdiction (al-Kasānī, 1986):

- a) interdiction on a minor to protect from violating personal and other rights,
- b) interdiction of the bankrupt person to protect creditors' claim from the remaining assets,
- c) interdiction on a sick person for protection from mistakes in actions and disposition of properties,
- d) interdiction on a mentally challenged person to protect owned assets and others' interest from violation,
- e) interdiction on a wife to protect the properties of the husband.

Nevertheless, the Hanafi school of law opined that a mentally well and mature person can only be interdicted for the public interest in three scenarios, first; the mentally challenged scholar (*muftī mājin*) can violate the religion of the Muslims. Second, ignorant medical practitioners (*mutaṭābīb jāhil*) can violate health. Finally, a bankrupt hirer (*mukāri muflis*) might violate the wealth of people after promising to offer a service but unfortunately, reality shows do not have the capacity to deliver the paid services (al-Kasānī, 1986).

According to Mazhab Shafii, one of the higher objectives of *ḥajr* (interdiction) either on children or insane persons is to protect the personal rights of the interdicted person and the public from violation. Therefore, a commercial transaction with a child or an insane person is not valid except with the supervision of a guide (Saeed al-Khanu et al., 1992). However, since interdiction is meant to protect social rights, apart from a child or insane person, a creditor may be interdicted based on the rulings of the law court (al-Dardi, n.d.).

Despite all the related terms discussed above, it might seem challenging to find a space for artificial intelligence legal capacity. However, it is also necessary to explore the liability of tort in Shariah as an avenue to address the potential obligatory responsibility of liability in Shariah and the possibility of interpolation to artificial intelligent robots.

### ***Legal Capacity to Tortious Liability in Shariah***

A tort is a kind of liability as a result of a wrongful act against another. The tortious liability is a breach of the right of others that can attract legal liability. In the common law jurisdiction, tortious liability is under civil law whereby a claimant who suffers from loss claims legal liability against the person that infringes the act (Ravindra Kumar Singh, 2016). Tortious liability includes claims against the intentional cause of distress, negligence, economic and financial losses, infringement of privacy, injuries, and others. The status of artificial intelligence in law will determine whether it should be categorized as strict liability or vicarious liability (Wendehorst, 2020, 2022). Strict liability and vicarious liability are two types of liabilities in criminal law in the event of an infringement of a right against another. Strict liability is a tort law that holds a person legally responsible for offenses committed against another party despite unintentional (Goldberg & Zipursky, 2016). The invasion of farmland by livestock is an act of strict liability in the law of tort. Vicarious liability is a tort law that is an offense committed by acting on behalf of one party against another. Employee offenses by acting on behalf of the employer are a good example of vicarious liability. The principle of justice in the law of

tort is to determine and measure the breach of unliquidated damages caused by a person and compensate the other for the loss suffered on the trust property (Goldberg & Zipursky, 2016).

The law of tort in Islamic jurisprudence can be traced to the concept of harm (*darar*). In the Islamic jurisprudence of crime (*fiqh jināyah*), the claimant has the right to claim compensation against loss or harm on property against the culpable person. In the scope of Islamic law, the legal process for seeking redress and compensation for injury inflicted on body, property, or loss of life is through compensation (*qīṣaṣ* or *diyyah*) (Karmi, 2007). *Jināyah* in the general description means prohibited acts committed against the other party's human body or life or wealth as prescribed by the Shariah (Islamic law). The punishment for *jināyah* can either be Shariah limit (*ḥadd*) or discretion punishment (*‘uqūbah tāzīriyah*) (Mohamad, 1997).

Translation: And do not wish for that by which Allah has made some of you exceed others. For men is a share of what they have earned, and for women is a share of what they have earned. And ask Allah of his bounty. Indeed, Allah is ever, of all things, Knowing

(Surah An-Nisā', 4:32)

Although human nature is inclined to uneasy feelings of jealousy and envy yet, Quran warns everyone to be cautious of the shares of life fortunes Allah decreed with everyone (Ghazālī, 2000). In sum, does an AI robot have a tort liability legal in Shariah, and in which capacity? An error committed by the robot is intentional or based on vicarious action representing another subject intent and capacity.

## Juristic Discussion

AI robots in the socio-economic application are one of the realities of contemporary time. However, since AI is meant to ration issues and actions like a human being, there is a need to determine the legal capacity of AI, especially from Shariah parlance. There is no doubt that AI is a new phenomenon in Islamic law, but Islamic jurisprudence procedure permits juristic conditioning for emerging issues as it affects the human socio-economic and political sphere. There is a need for juristic conditioning in the right to contract, interdiction, tort, inheritance, and others.

### *Legal Capacity of AI to Contractual Agreement*

Contractual agreement in Islamic jurisprudence requires that the two parties to the contract should have maturity and sanity of senses. Hence, a child, and mentally challenged person requires the interdiction of a guardian to mediate in the formation of a contractual agreement (Muhammad Jamui, 2022). This is emphasized in the Quran thus:

Translation: But if the one who has the obligation is of limited understanding or weak or unable to dictate himself, then let his guardian dictate in justice.

(Surah Al-Baqarah, 2:282)

Secondly, contractual agreement in the scope of Islamic jurisprudence requires that parties to the contract have a choice and the formation is not based on imposition and under duress. AI-Quran also states that contractual formation should observe the party's willingness based on the offer and acceptance of both parties.

Translation: do not consume one another's wealth unjustly but only [in lawful] business by mutual consent.

(Surah An-Nisā', 4:29)



It is necessary to note this juncture that there is no yet convincing evidence that an AI robot is similar to a human being, however, can it be considered a minor whereby a guardian can stand in place for it, especially in the formation of contractual agreements? AI robots do not have the same choice as humans because all their reasoning, decision-making, and choices are based on human programming in the artificial memory of the AI robot (Fleming, 2019). The issue of the legal capacity of AI robots to be responsible for the law of tort is significant in Islamic law. As much as there is no substantial evidence to explicate the natural persons of AI, its position in the legal capacity of tort is limited and requires juristic conditioning. Liability (*damān*) in Islamic jurisprudence permits the presence of a third party standing for the minor, physically, or mentally challenged person at the law court (Royakkers et al., 2018).

It seems to the researcher that interpolation of limited personality or interdiction can be applied to AI robots in their socio-economic applications. It is permitted under the parlance of Hanafi school of law to interdict some people for the public interest. Although the Hanafi jurist posits the permissibility of interdiction on the mentally challenged scholar (*muftī mājin*) the ignorant medical practitioner (*mutaṭabib jāhil*) and the bankrupt hirer (*mukāri muflis*), however, the underlying principle for interdicting these categories of people was for the public interest (Al-Kasānī, 1986).

According to Al-Jaziriy, (2003), the four schools of law are unanimous that the protection of public interest is the core higher objective of Shariah in proclaiming interdiction on certain sets of people. Shariah aims to protect the interdicted person on the one hand and the public on the other hand (Al-Dirdir, n.d.; al-Sharbīnī, 1997; Al-Bahūtiy, 1983).

The question remains whether this could be interpolated to AI in the contemporary time for the need to interdict AI humanoids to protect public needs and interests. Moreover, in the commercial application of AI, where it is used to replace human labor, especially in medical and social welfare such as house care and elderly care, the vicarious liability of tort can apply whereby the AI is an employed instrument acting on the interest and instructions of the owner in the capacity of the employee. In vicarious liability, the owner should be responsible and liable for damages caused by the AI (Maliha et al., 2021).

On the other hand, the culture of the nation could influence the principle of liability, just as seen in the Islamic legal maxims of "Judgment is compliant with its causal effects, the establishment of justice depends on the existence of the causal effect" (Zāmilī, 2001). There is a hadith about "A camel of Al-Bara bin 'Āzib entered a man's wall and spoiled the garden, so the Messenger of God – (p.b.u.h.) - decided that the people of the walls must protect the garden during the day and that whatever is spoiled by the livestock at night shall be guaranteed owner of the camel" (al-Bayhaqi, 1994) . The scholars said that the Prophet, (p.b.u.h.) decided this way to relieve the parties to disputes from embarrassment and hardship, because considering the custom of the society in question, the people of the garden usually work during the day and should be responsible for protecting the farm in the day while the owner of the livestock is accustomed to caging the animals at night and should be responsible for any damage at night.

However, the rule from the legal maxim "Judgment is compliant with causal effects, and the establishment of a rule depends on the existence of the causal effect" is that rulings on the subject depend on the accustoms of that profession. When the generally accepted principle changes the custom, the rules also change for the public interest (Zāmilī, 2001). The nature of the self-dependency of the AI and the attached liability will change based on changes in the custom of the AI spaces and practices.

Ahliyah (legal capacity) of a person is the ability to have legitimate imposed rights and obligations. Ahliyah is an inherent right and obligation in a person from the moment been alive. The first stage of human legal capacity in Shariah is infancy which begins with childbirth. The second stage is the discrimination stage from age seven till puberty. The third stage is the puberty stage till maturity. The final stage is the continuous development of human maturity. The *ahliyyah* of human beings from these stages is impaired by legal impediments like forgetfulness, sanity and sleep (Wahbah Zuhaili, 1998). However, AI robots, despite the artificial legal capacity offered cannot fit into these situations.

## Conclusion

The legal capacity of artificial intelligence is a crucial issue that has received the attention of policymakers in recent times because of its application in socio-economic sectors of society. Despite the recognition of an AI robot as an artificial person responsible for acting on a task, the status of legal capacity to the contractual agreement and tortious liability is yet unknown. The study concludes that artificial intelligent robot is the reality of the contemporary but there is not enough evidence of traits to grant it full capacity of a natural person. On the other hand, there has been the basis of artificial personality in Islamic law, and that could be a good adoption of AI robots based on the maxims: *al-aslu fi ashya'u al-ibaha illa ma warada nass sharīh li tahrīmihi* (the original ruling for everything is permissibility except what is expressly declared unlawful). Moreover, the legal capacity of AI as an artificial person can be considered as a vicarious liability to act on behalf of a subject to perform some task. In the situation of vicarious liability, the nature of the task and injury caused to the third party will determine the compensation of liability borne by the owner or operator of the AI robot. The study relies on the scope of interpolation in Islamic jurisprudence to derive evidence and justification for interpolating the status of the interdicted person for the public interest of AI robots to protect the individual and public interest from the violation. This study finally suggests further the need for further exploration of the existing conventional law on AI. The future should establish a definite status for the AI robot and the role of the owner and operator in the parlance of tortious liability.

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