

Islamic Law and Artificial Intelligence Regulation in Indonesia: A Critical Analysis of Maqāṣid al-Sharī'ah and Positive Law

Ending Solehudin¹. Tetti Chairani Harahap²

¹ UIN Sunan Gunung Djati Bandung, Indonesia

² UIN Sumatera Utara Medan, Indonesia

Email: endingsolehudin@uinsgd.ac.id¹ Tettichairaniharahap22@gmail.com²

Info Articles	Abstract
Article History Received : 20-09-2026 Revised : 28-09-2026 Published: 09-10-2026 Keywords: <i>Artificial Intelligence; Maqasid al-Shari'ah; Indonesian Positive Law; Risk-Based Regulation; Legal Liability; Fatwa; Personal Data Protection</i>	<i>Indonesia has no dedicated statute on artificial intelligence. Its governance rests on a circular letter of ministerial ethics, on the Electronic Information and Transactions Law and the Personal Data Protection Law, and on two draft presidential regulations that have completed inter-ministerial deliberation. Islamic legal scholarship has responded with ethical commentary rather than with analysis of the binding framework. This study maps the Indonesian regulatory landscape for artificial intelligence, assesses its principal risks through maqasid al-shari'ah, and formulates criteria for a risk-based regime consistent with both Islamic legal reasoning and Indonesian constitutional law. The research is normative juridical and doctrinal, combining statutory, conceptual, and comparative approaches with Islamic legal methodology, and using the European Union's risk-based regulation and the UNESCO recommendation as comparative reference points. The framework is characterised by soft-law leadership and hard-law dispersion: the instruments that bind were not designed for automated systems, while the instrument designed for them does not bind. Artificial intelligence cannot be a subject of obligation in Islamic legal terms because responsibility presupposes reason and choice; liability must therefore be allocated among developers, deployers, and users through causation-based reasoning. Maqasid analysis identifies distinct risk profiles for each essential interest and shows that the current instruments protect property and privacy more effectively than intellect and religion. A statutory basis is required because limitations of constitutional rights must be imposed by law, and risk tiers should be calibrated to the classical gradation of necessities, needs, and improvements.</i>

I. INTRODUCTION

Artificial intelligence has entered Indonesian public and commercial life more quickly than the law that governs it. Automated systems allocate consumer credit, screen job applicants, moderate content, translate and summarise legal documents, assist medical diagnosis, and answer religious questions posed in ordinary language. Each of these applications distributes benefit and risk in ways that engage established legal interests, and several of them engage interests that Islamic legal reasoning has long treated as essential: the integrity of religion, the protection of life, the preservation of intellect, the protection of lineage and honour, and the security of property.

The Indonesian legal response has been cautious and, so far, indirect. The Ministry of Communication issued a circular letter on artificial intelligence ethics in

2023, an instrument of guidance rather than of obligation.¹ The Electronic Information and Transactions Law, amended for a third time in 2024, governs electronic systems, prohibited content, and the evidentiary status of electronic material, but addresses automated decision-making only incidentally.² The Personal Data Protection Law is the most directly relevant binding instrument, since it regulates the processing on which machine learning depends, confers a right to object to decisions based solely on automated processing, and requires impact assessment for high-risk processing.³ Two draft presidential regulations one on artificial intelligence ethics, the other on a national artificial intelligence roadmap completed inter-ministerial deliberation and were awaiting promulgation at the time of writing, with the government having chosen the presidential regulation as the vehicle on the express ground that it can be adapted more quickly than a statute.⁴

That choice of instrument is the first problem this article examines. A presidential regulation may organise government, allocate responsibilities among ministries, and elaborate a statute, but the Constitution provides that the limitation of rights must be established by law, and Indonesian legislative doctrine confines the creation of obligations and sanctions binding on citizens to instruments with a statutory basis.⁵ A regulatory architecture whose central instrument is a presidential regulation will therefore be able to state principles and to direct state bodies, but will have difficulty imposing enforceable duties on private developers and deployers of high-risk systems. The consequence is a framework in which the instrument designed for artificial intelligence does not bind, while the instruments that bind were not designed for it.

The second problem is that Islamic legal engagement with artificial intelligence in Indonesia has remained largely at the level of ethical commentary. There is a growing literature on the permissibility of particular applications and on the compatibility of machine ethics with Islamic values, but comparatively little that examines the binding Indonesian framework and asks what Islamic legal reasoning contributes to its design.⁶ This is a missed opportunity, because *maqāṣid al-sharīʿa* is, in substance, a risk-oriented framework: it identifies the interests whose protection is essential, grades them by urgency, and evaluates measures by their

¹ Circular Letter of the Minister of Communication and Informatics of the Republic of Indonesia No. 9 of 2023 concerning Artificial Intelligence Ethics.

² Republic of Indonesia, Law No. 11 of 2008 concerning Electronic Information and Transactions, as amended by Law No. 19 of 2016 and Law No. 1 of 2024, Articles 5, 15, and 27–29.

³ Republic of Indonesia, Law No. 27 of 2022 concerning Personal Data Protection, Articles 10, 20, and 34.

⁴ Kementerian Komunikasi dan Digital, “Pemerintah Bahas Peta Jalan Kecerdasan Artifisial Indonesia 2026–2029 dalam Rapat Lintas Kementerian,” 11 February 2026, <https://jdih.komdigi.go.id/berita/view/113>.

⁵ The 1945 Constitution of the Republic of Indonesia, Article 28J(2); Law No. 12 of 2011 concerning the Formation of Legislation, as amended by Law No. 15 of 2019 and Law No. 13 of 2022, Articles 7–8 and 15.

⁶ A. Malthuf Siroj, Ismail Marzuki, and Elkhairati, “Transformation and Future Challenges of Islamic Law in Indonesia,” *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 (2023): 104–9, <https://doi.org/10.29240/jhi.v8i1.6618>.

contribution to protecting those interests. That structure maps unusually well onto the risk-based approach that has become the international regulatory standard.

The third problem is internal to Islamic law. Artificial intelligence now produces religious legal opinion. Applications answer questions of ritual and family law; generative systems compose reasoned arguments with apparent citations; platforms rank and distribute the results. The classical apparatus for evaluating an opinion the competence of its author, the transparency of its reasoning, the possibility of holding someone answerable for error does not apply to output that has no author. Neither Indonesian law nor Indonesian religious institutions have addressed this, and the gap will widen.

This article accordingly asks four questions. First, what is the present Indonesian legal framework for artificial intelligence, and what are its structural characteristics? Second, can an artificial system be a bearer of obligation or liability in Islamic legal terms, and how should responsibility be allocated if it cannot? Third, what does a *maqāṣid* analysis reveal about the distribution of risk across the essential interests, and how well do existing Indonesian instruments protect each of them? Fourth, what criteria should govern a risk-based Indonesian regime informed by Islamic legal reasoning?

II. LITERATURE REVIEW AND THEORETICAL FRAMEWORK

The theory of the purposes of the law supplies the study's principal analytical instrument. Al-Ghazālī's identification of the five essential interests and al-Shāṭibī's systematisation of purposes as inductively ascertainable objectives established that legal measures are evaluated by their contribution to protecting identified interests, and that those interests are graded: necessities, needs, and improvements are protected with different degrees of urgency and justify different degrees of intervention.⁷ Ibn 'Āshūr argued that the purposes must be reconstructed for contemporary legislation, and Auda's systems reading adds criteria of openness, multidimensionality, and purposefulness that are directly applicable to the evaluation of technological governance.⁸ The gradation of interests is, functionally, a risk hierarchy, and the classical prohibition of measures that cause greater harm than they prevent is, functionally, a proportionality test.

The second body of theory concerns the conditions of legal responsibility. Islamic legal doctrine conditions obligation on capacity, and capacity presupposes reason and voluntary choice; a being that possesses neither is not a bearer of obligation, and the consequences of its acts are attributed to those responsible for it.⁹ Classical liability doctrine developed the distinction between direct causation

⁷ Abū Ḥāmid al-Ghazālī, *al-Mustaṣfā min 'Ilm al-Uṣūl* (Beirut: Dār al-Kutub al-'Ilmiyya, 1993), 1:174–75; Abū Ishāq al-Shāṭibī, *al-Muwāfaqāt fī Uṣūl al-Sharī'a* (Cairo: Dār Ibn 'Affān, 1997), 2:17–25.

⁸ Muhammad al-Ṭāhir Ibn 'Āshūr, *Treatise on Maqāṣid al-Sharī'ah*, trans. Mohamed El-Tahir El-Mesawi (London: International Institute of Islamic Thought, 2006), 87–92; Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: International Institute of Islamic Thought, 2008), 45–55.

⁹ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, 3rd ed. (Cambridge: Islamic Texts Society, 2003), 442–50.

and indirect causation, allocating responsibility to the person whose act produced the harm directly and, where the chain is mediated, to the person whose conduct set the causal sequence in motion. That apparatus is directly usable for automated systems, which occupy precisely the position of an instrument whose operation is mediated.

The third body is modern legal theory on technological governance. Lessig's argument that architecture regulates conduct alongside law explains why an ethical principle that is not embedded in system design has limited effect.¹⁰ Fuller's requirements of promulgation, clarity, and congruence between declared rule and official action are strained by systems whose operative logic is neither published nor explicable.¹¹ Hallaq's structural critique is relevant in a specific way: the risk he identifies, that instrumental rationality displaces moral reasoning, describes precisely what happens when religious legal judgment is delegated to a system optimised for plausibility.¹²

The fourth body is comparative and international. The European Union's artificial intelligence regulation adopted a risk-based structure that prohibits a narrow class of practices, imposes substantial obligations on high-risk systems, applies transparency duties to systems that interact with people or generate content, and leaves the remainder largely unregulated.¹³ The UNESCO recommendation on the ethics of artificial intelligence, adopted by member states in 2021, articulates principles of proportionality, safety, fairness, human oversight, and accountability that have shaped national frameworks including Indonesia's circular letter.¹⁴ These instruments supply comparative benchmarks, not models for transplantation; their value for the present study is that they demonstrate the practicability of a graded approach and expose the conditions under which such an approach becomes enforceable.

The gap this article addresses lies between these bodies of work. Islamic legal scholarship on artificial intelligence has largely assessed applications; Indonesian legal scholarship has largely described instruments; comparative scholarship has largely analysed the European regime. No study has mapped the Indonesian instruments against the essential interests in order to identify which interests are protected by binding norms and which are protected only by aspiration, nor has any study asked whether the classical gradation of interests can supply the criteria for risk tiers in an Indonesian regime.

III. RESEARCH METHOD

This study is normative juridical research and doctrinal in technique, treating norms, regulations, and authoritative doctrine as its primary material and

¹⁰ Lawrence Lessig, *Code: Version 2.0* (New York: Basic Books, 2006), 121–37.

¹¹ Lon L. Fuller, *The Morality of Law*, rev. ed. (New Haven: Yale University Press, 1969), 39–62.

¹² Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* (New York: Columbia University Press, 2013), 98–110.

¹³ Regulation (EU) 2024/1689 of the European Parliament and of the Council laying down harmonised rules on artificial intelligence, Articles 5, 6, 50, and Annex III.

¹⁴ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (Paris: UNESCO, 2021), paras. 25–33.

reconstructing their content and relations.¹⁵ Its orientation is prescriptive, since it evaluates the existing framework against stated criteria and proposes criteria for reform.

Four approaches are combined. The statutory approach examines the constitutional provisions on the limitation of rights, the legislation on electronic systems and personal data, the legislation on the formation of laws and regulations, and the ministerial circular on artificial intelligence ethics. The conceptual approach clarifies the relations among risk, proportionality, accountability, and the gradation of protected interests. The comparative approach is functional: the European risk-based regulation and the UNESCO recommendation are examined not as models but as solutions to the same regulatory problem, with the comparison organised around the question how a graded standard is made enforceable.¹⁶ Islamic legal methodology is applied internally, using *maqāṣid al-sharīʿa* as the substantive criterion of evaluation and the classical doctrine of capacity and causation as the framework for allocating responsibility.

Primary legal materials comprise the 1945 Constitution, particularly Articles 28G, 28I, and 28J; Law No. 11 of 2008 concerning Electronic Information and Transactions as amended by Law No. 19 of 2016 and Law No. 1 of 2024; Law No. 27 of 2022 concerning Personal Data Protection; Law No. 12 of 2011 concerning the Formation of Legislation as amended; Law No. 8 of 1999 concerning Consumer Protection; Article 1367 of the Civil Code; Government Regulation No. 71 of 2019 concerning the Implementation of Electronic Systems and Transactions; Circular Letter of the Minister of Communication and Informatics No. 9 of 2023 concerning Artificial Intelligence Ethics; and, comparatively, Regulation (EU) 2024/1689 and the UNESCO Recommendation on the Ethics of Artificial Intelligence. Secondary materials are peer-reviewed articles, monographs, and works of *uṣūl al-fiqh*.

The analysis proceeds in four stages: mapping the instruments and classifying them by binding force; testing the attribution of responsibility against Islamic legal doctrine and Indonesian civil liability; mapping risks against the essential interests and identifying protection gaps; and formulating criteria for a risk-based regime. The study is doctrinal and does not generate empirical data on the performance of particular systems; its claims about effects are framed as grounds for regulatory precaution rather than as findings of fact.

IV. RESULTS AND DISCUSSION

A. The Indonesian Framework: Soft-Law Leadership and Hard-Law Dispersion

The first finding concerns the shape of the existing framework. Indonesia governs artificial intelligence through instruments that fall into three groups, distinguished by their binding force rather than by their subject matter.

The first group consists of binding instruments of general application that were not designed for automated systems. The Electronic Information and Transactions

¹⁵ Peter Mahmud Marzuki, *Penelitian Hukum*, rev. ed. (Jakarta: Kencana, 2017), 55–60.

¹⁶ Konrad Zweigert and Hein Kötz, *An Introduction to Comparative Law*, 3rd ed., trans. Tony Weir (Oxford: Clarendon Press, 1998), 34–47.

Law governs electronic systems and their operators, prohibits defined categories of content, and establishes the admissibility of electronic evidence; its recent amendment strengthened provisions on harmful content and on the responsibilities of system operators.¹⁷ The Personal Data Protection Law regulates the processing of personal data, requires a lawful basis, confers rights of access, correction, and objection, provides a right to object to decisions based solely on automated processing, and requires impact assessment for processing with high potential risk.¹⁸ Civil liability doctrine attaches responsibility for harm caused by things under a person's control, and consumer protection legislation imposes duties on producers regarding the safety and suitability of goods and services.¹⁹

The second group consists of instruments designed for artificial intelligence that do not bind. The ministerial circular on artificial intelligence ethics articulates principles of inclusiveness, humanity, security, accessibility, transparency, credibility, and accountability, and addresses itself to business actors and public bodies as guidance.²⁰ A circular letter is an administrative instrument; it does not appear in the hierarchy of legislation and cannot of itself create obligations enforceable against private parties.²¹

The third group consists of instruments in preparation. The draft presidential regulations on artificial intelligence ethics and on the national roadmap were reported to have completed inter-ministerial deliberation, with a risk-based approach and sectoral implementing regulation envisaged.²² Their constitutional ceiling is nevertheless fixed: a presidential regulation may elaborate a statute or implement governmental authority, but the limitation of constitutional rights must be established by statute, and criminal sanction may not be created by regulation.²³

Instrument	Binding force	Designed for AI	Principal function
Electronic Information and Transactions Law	Statute	No	Systems, content, evidence
Personal Data Protection Law	Statute	No	Processing, automated decisions
Civil Code and consumer protection legislation	Statute	No	Liability and product duties
Ministerial circular on AI ethics	Administrative guidance	Yes	Principles
Draft presidential regulations	Pending	Yes	Ethics and roadmap

¹⁷ Law No. 11 of 2008 as amended by Law No. 1 of 2024, Articles 5, 15, and 27–29.

¹⁸ Law No. 27 of 2022, Articles 4, 10, 16, 20–26, and 34.

¹⁹ Civil Code of Indonesia, Article 1367; Law No. 8 of 1999 concerning Consumer Protection, Articles 7 and 19.

²⁰ Circular Letter of the Minister of Communication and Informatics No. 9 of 2023, section on the values of artificial intelligence ethics.

²¹ Law No. 12 of 2011 as amended, Articles 7–8.

²² Kementerian Komunikasi dan Digital, “Pemerintah Bahas Peta Jalan Kecerdasan Artifisial Indonesia 2026–2029.”

²³ The 1945 Constitution, Article 28J(2); Law No. 12 of 2011 as amended, Article 15.

Table 1. Indonesian instruments relevant to artificial intelligence

The structural characteristic disclosed by the table is an inversion: specificity and bindingness vary inversely. The more precisely an instrument addresses artificial intelligence, the less capable it is of imposing obligations; the more capable it is of imposing obligations, the less it was designed for the technology. This inversion, rather than any absence of regulation, is the central defect of the Indonesian framework.

B. Artificial Intelligence as Object of Law: Capacity, Causation, and the Allocation of Liability

The second finding concerns the status of the system itself. Islamic legal doctrine makes obligation dependent on capacity, and capacity on reason and voluntary choice; an entity that neither reasons in the relevant sense nor chooses is not a bearer of duty, and its acts are attributed to those who made, deployed, or directed it.²⁴ Proposals to confer legal personality on artificial systems therefore find no support in Islamic legal reasoning, and they find little support in Indonesian law either, where legal personality is conferred by statute for defined purposes and is accompanied by an apparatus of representation and asset segregation that automated systems lack.

The productive question is not personality but allocation. Classical liability doctrine distinguishes the person who causes harm directly from the person who occasions it indirectly, and assigns responsibility along that chain according to the proximity and the foreseeability of the contribution.²⁵ Indonesian civil law contains a structurally similar apparatus in the responsibility of a person for damage caused by things under that person's control, and consumer protection legislation adds duties owed by producers to those who use their goods and services.²⁶

Applying these frameworks together yields a workable allocation. The developer is responsible for defects arising from design and training that were foreseeable at the time of release, including the selection of data and the failure to implement feasible safeguards. The deployer, who chooses to apply the system to a particular decision affecting particular people, is responsible for the suitability of that application, for the adequacy of human oversight, and for compliance with data protection duties. The user who supplies input in bad faith, or who relies on output in circumstances where reliance is unreasonable, bears a corresponding share. The question the present framework leaves unanswered is not whom to blame in principle but what standard of care applies, and that is a question only regulation can settle, since the courts cannot generate technical standards case by case.

C. Mapping Risk Against the Essential Interests

The third finding emerges from mapping the principal categories of risk against the interests that Islamic legal theory treats as essential. The exercise is analytically productive because it exposes an uneven distribution of protection.

²⁴ Kamali, *Principles of Islamic Jurisprudence*, 442–50.

²⁵ Kamali, *Principles of Islamic Jurisprudence*, 451–58.

²⁶ Civil Code of Indonesia, Article 1367(1) and (3); Law No. 8 of 1999, Articles 19–21.

Protection of religion is engaged by the automated production of religious legal opinion, by synthetic media attributing statements to religious authorities, and by the algorithmic curation of religious content. Indonesian binding law addresses only the defamation and harmful-content dimension, through general provisions that were not designed for this purpose.²⁷

Protection of life is engaged by systems used in health care, transport, and industrial safety. Here sectoral regulation and consumer protection legislation operate, but no instrument requires the pre-deployment evaluation of safety-critical automated systems as such.

Protection of intellect is engaged by large-scale disinformation, by synthetic content that is indistinguishable from authentic material, and by the erosion of independent judgment that follows from habitual reliance on automated answers. This interest is the least protected in the Indonesian framework: content provisions address defined harms, not epistemic degradation, and no labelling obligation for machine-generated content is yet in force, although such an obligation has been identified as a priority for implementing regulation.²⁸

Protection of lineage and honour is engaged by synthetic intimate imagery, by identity impersonation, and by the profiling of individuals and families. Here the Personal Data Protection Law and the content provisions of the Electronic Information and Transactions Law provide real protection, though enforcement capacity remains the limiting factor.

Protection of property is engaged by algorithmic credit allocation, automated trading, fraud, and the appropriation of creative work for training. The data protection regime and consumer protection legislation apply; the intellectual property dimension remains contested.

Essential interest	Principal AI risk	Binding protection	Assessment
Religion	Automated fatwa; synthetic religious media	General content provisions	Weak
Life	Safety-critical systems	Sectoral and consumer law	Partial
Intellect	Disinformation; epistemic dependence	Content provisions only	Weakest
Lineage and honour	Synthetic imagery; profiling	Data protection; content law	Moderate
Property	Algorithmic finance; appropriation	Data protection; consumer law	Moderate

Table 2. Maqasid mapping of artificial intelligence risks in Indonesian law

Two conclusions follow. First, the Indonesian framework protects the interests for which pre-existing legal categories were available, and leaves unprotected those for which they were not. Second, the interests least protected religion and intellect are precisely those that Islamic legal theory ranks highest, which gives Islamic legal reasoning a distinctive and critical contribution to make to Indonesian regulatory design rather than a merely confirmatory one.

²⁷ Law No. 11 of 2008 as amended by Law No. 1 of 2024, Articles 27–29.

²⁸ Kementerian Komunikasi dan Digital, “Pemerintah Bahas Peta Jalan Kecerdasan Artifisial Indonesia 2026–2029”; compare Regulation (EU) 2024/1689, Article 50.

D. Artificial Intelligence and the Authority to State Islamic Law

The fourth finding concerns religious legal authority. The competence to issue a legal opinion has always rested on identifiable qualifications and on answerability; the opinion could be evaluated because its author, method, and sources were known. Machine-generated opinion removes all three. It has no author who can be questioned, no method that can be inspected, and citations whose accuracy the recipient cannot assess.

Three positions should be distinguished. The first, that automated systems may not be used at all in matters of Islamic law, is neither realistic nor required by any principle: retrieval, translation, and summarisation are instruments, and instruments have always been permitted where they serve accuracy. The second, that machine output may stand as a fatwa, cannot be sustained, since the conditions of the activity are personal and the responsibility attaching to it cannot be borne by a system. The third, which this article adopts, treats automated systems as assistive: they may organise material and propose reasoning, but authorisation must come from a qualified person or body that takes responsibility for the result.

The same analysis applies to adjudication. Electronic litigation in Indonesian courts, including the religious courts, is a procedural innovation: the platform administers the process, while the judgment remains an act of the judge.²⁹ That distinction should be maintained explicitly as automated decision-support enters judicial practice, and it is reinforced by the data protection right to object to decisions based solely on automated processing, which expresses in statutory form the principle that consequential determinations about persons require human responsibility.³⁰

Two regulatory measures follow. Machine-generated religious legal content should be disclosed as such, which is a transparency obligation of the kind already contemplated for automated content generally. And recognised fatwa bodies should publish their determinations in structured, accessible form, since the practical remedy for unreliable automated opinion is the availability of reliable material that automated systems can draw upon.

E. Criteria for a Risk-Based Regime Grounded in Maqāṣid

The normative contribution of this study is a set of four criteria for an Indonesian regime.

Statutory foundation for binding obligations. Principles may be stated in a presidential regulation, but obligations, sanctions, and any limitation of rights require a statutory basis. The appropriate design is a framework statute establishing definitions, risk categories, duties of developers and deployers, supervisory competence, and sanctions, with presidential and sectoral regulation elaborating technical detail. Without this step, a risk-based regime will remain aspirational.

²⁹ Supreme Court Regulation No. 1 of 2019 concerning the Electronic Administration of Cases and Hearings, Articles 19–26, as amended by Supreme Court Regulation No. 7 of 2022; Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts* (Amsterdam: Amsterdam University Press, 2010), 175–90.

³⁰ Law No. 27 of 2022, Article 10(1).

Risk tiers calibrated to the gradation of interests. The classical distinction among necessities, needs, and improvements supplies a principled basis for tiering. Applications whose foreseeable effect is to destroy an essential interest belong in the prohibited tier. Applications that operate on an essential interest without destroying it credit, employment, health, education, justice, and religious guidance belong in the high-risk tier, subject to assessment, documentation, human oversight, and auditability. Applications touching improvements may be governed by transparency alone.

Proportionality and evidence. Because *maṣlaḥa* is a claim about consequences, restrictions must be justified by evidence and reviewed as evidence accumulates. Regulation that imposes costs without demonstrable protective effect fails the test it invokes.

Accountability that follows causation. Duties should attach to the party in a position to prevent the harm, and the standard of care should be specified by regulation rather than left to litigation. Documentation and auditability are the practical conditions of this criterion; without them, the allocation of liability cannot be applied.

V. CONCLUSION

The Indonesian framework for artificial intelligence is characterised by an inversion between specificity and bindingness. The instruments that bind the Electronic Information and Transactions Law, the Personal Data Protection Law, civil liability doctrine, and consumer protection legislation were not designed for automated systems, while the instrument designed for them is administrative guidance. The two presidential regulations in preparation will improve coordination and articulate principles, but a presidential regulation cannot carry the obligations and sanctions a genuine risk-based regime requires, because the limitation of constitutional rights must be established by statute.

In Islamic legal terms an artificial system cannot bear obligation, since responsibility presupposes reason and voluntary choice. The correct question is therefore allocation, and classical causation doctrine, read together with Indonesian civil and consumer law, supports a distribution of responsibility among developer, deployer, and user according to the proximity and foreseeability of each contribution. What remains missing is the standard of care, which only regulation can supply.

Mapping risks against the essential interests shows that Indonesian law protects most effectively those interests for which pre-existing categories were available property, honour, and personal data and least effectively the protection of intellect and of religion, which Islamic legal theory ranks highest. This asymmetry gives *maqāṣid* reasoning a critical function in Indonesian regulatory design: it identifies harms that the existing categories do not name, notably epistemic degradation and the unaccountable production of religious legal opinion.

Four criteria should accordingly govern reform: a statutory foundation for binding obligations; risk tiers calibrated to the gradation of necessities, needs, and improvements; proportionality tested against evidence of effect; and accountability that follows causation, supported by documentation and auditability. Applied concretely, these criteria call for a framework statute on artificial intelligence, a

labelling obligation for machine-generated content, the classification of religious guidance systems as high-risk with a disclosure requirement, and the structured publication of authoritative fatwas so that reliable material is available to the systems people actually consult.

Further research should proceed in three directions: empirical study of how Indonesian Muslims obtain religious guidance through automated systems; doctrinal work translating the standard of care into technical requirements suitable for Indonesian sectoral regulators; and comparative analysis of how other jurisdictions with established religious legal institutions are responding to the automation of religious legal opinion.

REFERENCES

- Auda, Jasser. *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*. London: International Institute of Islamic Thought, 2008.
- Fuller, Lon L. *The Morality of Law*. Rev. ed. New Haven: Yale University Press, 1969.
- al-Ghazālī, Abū Ḥāmid Muḥammad. *al-Mustasfā min ‘Ilm al-Uṣūl*. Beirut: Dār al-Kutub al-‘Ilmiyya, 1993.
- Hallaq, Wael B. *The Impossible State: Islam, Politics, and Modernity’s Moral Predicament*. New York: Columbia University Press, 2013.
- Ibn ‘Āshūr, Muhammad al-Ṭāhir. *Treatise on Maqāṣid al-Sharī‘ah*. Translated by Mohamed El-Tahir El-Mesawi. London: International Institute of Islamic Thought, 2006.
- Kamali, Mohammad Hashim. *Principles of Islamic Jurisprudence*. 3rd ed. Cambridge: Islamic Texts Society, 2003.
- Lessig, Lawrence. *Code: Version 2.0*. New York: Basic Books, 2006.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Rev. ed. Jakarta: Kencana, 2017.
- Nurlaelawati, Euis. *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*. Amsterdam: Amsterdam University Press, 2010.
- al-Shātibī, Abū Ishāq. *al-Muwāfaqāt fī Uṣūl al-Sharī‘a*. Cairo: Dār Ibn ‘Affān, 1997.
- Siroj, A. Malthuf, Ismail Marzuki, and Elkhairati. “Transformation and Future Challenges of Islamic Law in Indonesia.” *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 (2023): 95–116. <https://doi.org/10.29240/jhi.v8i1.6618>.
- Yasardin, and S. B. Kooria. “Revisiting the Compilation of Islamic Economic Law in Indonesia: Legal Challenges and Pathways to Harmonization.” *JURIS: Jurnal Ilmiah Syariah* 24, no. 1 (2025): 127–36. <https://doi.org/10.31958/juris.v24i1.13736>.
- Zweigert, Konrad, and Hein Kötz. *An Introduction to Comparative Law*. 3rd ed. Translated by Tony Weir. Oxford: Clarendon Press, 1998.

Legislation, Regulations, and International Instruments

European Union. Regulation (EU) 2024/1689 of the European Parliament and of the Council laying down harmonised rules on artificial intelligence.

Indonesia. The 1945 Constitution of the Republic of Indonesia, Articles 28G, 28I, and 28J.

———. Civil Code, Article 1367.

———. Law No. 8 of 1999 concerning Consumer Protection.

———. Law No. 11 of 2008 concerning Electronic Information and Transactions, as amended by Law No. 19 of 2016 and Law No. 1 of 2024.

———. Law No. 12 of 2011 concerning the Formation of Legislation, as amended by Law No. 15 of 2019 and Law No. 13 of 2022.

———. Law No. 27 of 2022 concerning Personal Data Protection.

———. Government Regulation No. 71 of 2019 concerning the Implementation of Electronic Systems and Transactions.

———. Circular Letter of the Minister of Communication and Informatics No. 9 of 2023 concerning Artificial Intelligence Ethics.

———. Supreme Court Regulation No. 1 of 2019 concerning the Electronic Administration of Cases and Hearings, as amended by Supreme Court Regulation No. 7 of 2022.

UNESCO. Recommendation on the Ethics of Artificial Intelligence. Paris: UNESCO, 2021.