

## MAQASID SYARIAH-BASED ETHICS IN LAW AND SYARIAH PROGRAMMES IN HIGHER EDUCATION: GUARDING EMERGING TECHNOLOGY

<sup>i,\*</sup>Syahirah Abdul Shukor, <sup>i</sup>Noor Dzuhaidah Osman & <sup>ii</sup>Muhammad Iqbal Juliansyahzen

<sup>i</sup>Faculty of Syariah and Law, Universiti Sains Islam Malaysia (USIM), 71800, Nilai, Negeri Sembilan, Malaysia

<sup>ii</sup>Faculty of Sharia, State Islamic University Professor Kiai Haji Saifuddin Zuhri Purwokerto, Central Java, Indonesia

\*(Corresponding Author) e-mail: [syahirah@usim.edu.my](mailto:syahirah@usim.edu.my)

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## ABSTRACT

Modern technology shapes society and vice versa. When determining how to manage future technology, it is necessary to encourage beneficial breakthroughs while keeping in mind the core principles and rights upon which democratic societies are built. In the international discourse on the legal and ethical regulation of Artificial Intelligence (AI) and other emerging technologies, the need for an interdisciplinary approach is widely recognised. Generally speaking, legal, ethical, and computer science or machine learning expertise are considered to be the bare minimum requirements. In addition to examining governance from a holistic and interdisciplinary approach to determine what is required to comply with the law, to define what is ethically correct, and to provide practical technical solutions. This study highlights the law, ethics, and machine learning. Thus, by identifying the legal developments in regulating legal education in public universities and reviewing the Standard Programme Law and Syariah issued by the Malaysian Qualifying Agency (2015), this study is informed by ethical aspects that should be addressed in governing emerging technology. The Maqasid Syariah and ethics serve as the study's core pillars and are utilised to build a model for managing emerging technologies in legal and syariah programmes. Doctrinal research from primary and secondary sources is used in this study. Adopting the Maqasid Syariah framework into higher education courses in law and Syariah can help to ensure that new technology is governed by ethical and moral principles, even though both frameworks share certain common ground or aims. The ideals of Maqasid Syariah improve people's quality of life as well as society. Overall, governing emerging technologies requires a multi-faceted approach that prioritizes benefits and costs, trustworthy characteristics, equitable and inclusive processes, consumer safety, privacy, and security. It also requires knowledge sharing and cross-sector collaboration to adapt to the unpredictable nature of business models that rely on emerging technologies.

## Introduction

Regulating the development of technology in line with the objectives of Islamic law, or Maqasid Syariah, legal ethics, and Shariah curricula at higher education institutions is a challenging but significant task. In order to guide the development and use of new technology in a way that preserves Islamic values and principles, there is a need to integrate contemporary ethical concepts with traditional Islamic law. An interdisciplinary approach is widely acknowledged in the international debate on the legal and ethical regulation of artificial intelligence (AI) and other new technologies. This approach is generally regarded as requiring at least a basic understanding of computer science or machine learning, ethics, and law. The discussions on how to create laws and syariah curricula that make use of AI is that the the curriculum should not ignore the basic requirements of law and syariah subjects.

## Objectives of Research

The objectives of this paper are as follows:

- a) To highlight the law, ethics, and machine learning in teaching and learning law;
- b) To examine the governance from a holistic and multidisciplinary perspective to find out what is necessary to comply with the law, to clarify what is morally right, and to suggest workable technological solutions;
- c) To address ethical aspects that should be addressed in governing emerging technology-based by identifying the legal development in regulating legal education in public universities in Malaysia.

## Literature Review

The quality of law as well as syariah graduates is determined by the curriculum design. Therefore, to ensure graduates are fit to face the new challenges, the curriculum design must take into consideration any new developments in the legal fields. For example, the process of globalisation necessitates the continuous revision of the law curriculum which includes the incorporation of cross-border legal issues into the syllabus. It has revealed several areas that require immediate action not only on the part of the law faculty but the legal fraternity as well. The law lecturers must embrace new teaching and learning methods and enhance the level of professionalism, there should be wider engagement with the legal industry and more research conducted on legal education as well as training for law teachers.

The National Policy on Industrial Revolution 4.0 (IR4.0) and the Internet of Things indicate that the Malaysian government is prepared to provide the framework of policies required for the digital age. It has been suggested that to prepare graduates for the impending technological revolution, colleges should review their curricula and instructional designs (Ida Madieha Azmi, 2020). The debate on artificial intelligence is not new, in a Law School Roundtable with the topic "*Legal Reasoning and Artificial Intelligence: How Computers 'Think' like Lawyers*" was held at the University of Chicago as a group of American law academics discussed the legal ramifications of artificial intelligence in the practise of law in this roundtable (Ashley et al., 2001).

With the development of machine learning, AI has the potential to significantly support human cognitive and reasoning abilities. When it comes to standard legal tasks like drafting and paperwork, AI clearly has an advantage. Richard Susskind (1996), in his book entitled "*The Future of Law: The Challenges of Information Technology*" foresees a significant transformation of traditional legal practise in these recurring, predictable, and ordinary situations. First, a lot of standard legal services would be automated. Secondly, new legal expert systems in the shape of bots could start to appear in the future. Contracts would become smart contracts that can self-execute and be stored on devices, replacing the current static text format. Richard Susskind has spent decades considering and writing about the future of the legal profession. Susskind (2013) encapsulates his most recent outlook for the future of legal services in his book titled "*Tomorrow's Lawyers: An Introduction to Your Future*" in which he foresees drastic changes in the legal fraternity.

According to Madison (2018), law schools need to teach students new critical analytical abilities as well as, most importantly, management and business skills, technology deployment skills, and technology. He suggests that maybe legal education should not be focused only on law schools. Law schools should no longer only concentrate on getting students ready for the bar test. Given that many of these students will either not practise law at all or only for a brief time, the focus should be on preparing law graduates for a variety of abilities that will increase their flexibility rather than just legal practise. AI presents potential as well as difficulties for the legal industry. The saying goes; *"If you feed garbage into a computer, it will produce garbage"* (Ross, 2018). Any competent person must provide input for any professional AI system. This informed human, known as a domain expert in a legal AI system, needs to have enough legal knowledge amassed by his extensive experience from years of study and best practises. AI technology, according to Hall (2018), gives lawyers additional time to counsel clients, present in court, and work out agreements. They can get quite engaged, often spending a great deal of time going over the specifics of the legal paperwork with their clients.

Some legal concerns that may surface from the use of AI in the legal sector have been brought to light. These concerns include those related to data privacy and protection, intellectual property, and the responsibility of AI. Legislators must thus give this careful thought in addition to approving the use of AI in business. This is because, even though AI does make life simpler, the industry would prefer not to risk breaking any rules in the process (Kamaruzzaman, 2021). Any control or regulatory system must include clauses protecting personal data and privacy. Although it is reasonable to be skeptical about long-term forecasts, criticisms of legal technology are frequently exaggerated and irrational. The term *"irrational rejectionism"*, which Susskind defines as *"the dogmatic and visceral dismissal of a technology with which the sceptic has no direct personal experience"* is used to characterize these criticisms.

In the book entitled *"To Save Everything, Evgeny Morozov"* says, [Click Here: Technology, Utopianism, and the Need to Solve Non-Existing Issues](#) highlight two concerning tendencies he terms *"internet-centrism"* and *"solutionism"*. The mistaken belief that the internet represents the pinnacle of human innovation rather than merely another instrument made by humans is known as *"internet-centrism"*. This point of view is problematic because it treats the internet and the openness and efficiency it relates to as unquestionable facts rather than as historical oddities that may be questioned.

Confidentiality in the legal profession is a critical issue. In most cases, a confidentiality agreement is necessary to guarantee that the client and the attorney uphold their respective rights to secrecy (Alarie et al., 2018). It is a typical occurrence for computers to communicate documents across the internet. What safeguard has been put in place to make sure that legal papers are not compromised during transmission? How secure are the papers against being hacked? Are cyberattacks a threat to the legal firm's servers? These are issues that require careful consideration. Thus, it is hoped that in reviewing the standard program for law and syariah, it is crucial to address that ethics in law and Maqasid Syariah must be considered in drafting the guidelines. Mapping the learning outcomes of learning law and syariah needs a concerted effort, not only derives from the Ministry of Higher Education but a continuous public awareness is needed to address the gap that might occur in designing the curriculum for law and syariah students in local universities.

In Malaysia, the goal of the Programme Standards for Law and Shariah law is to encourage the growth of academic courses in these areas, ranging from doctorate to diploma levels. The Standards include detailed instructions on curriculum goals and objectives, learning outcomes, programme design (including suggested programme structure), student admission requirements, student assessment techniques, standards for academic staff, educational resources, and ongoing quality improvement. The group that developed these programme standards includes representatives from a range of sectors, including the public and business sectors as well as higher education institutions. The reviewed standard was discussed in many stakeholder workshops to enhance the wider acceptability of the document (The Malaysian Qualifying Agency, 2015). The duality of law and Shariah law is unique in the sense that Malaysia inherited Civil law and maintained Shariah law after its independence from the British in 1957.

Beneath the advancing discourse of neo-liberalism, capitalism, and postmodernism, the advancement of artificial intelligence has also given rise to a progressively unclear ethical landscape, particularly with privacy and manipulation, among other issues. There have been debates as regards the ethical contemporary challenges posed by the advancement of AI from the perspective of Maqasid Syariah and ethic-based approaches (Mohadi & Tarshany, 2023). The study concludes that the creation and application of artificial intelligence should take ethics into account. With its comprehensive Islamic ethic-based approach, rooted in the maqasid context, the paper paves the way for future attempts to analyse alternative ethical paradigms for artificial intelligence in general. This can contribute positively to the global conversation on the ethics of AI (Mohadi & Tarshany, 2023). In teaching and learning law and syariah, it is essential to highlight the paramount importance of ethics in applying AI.

### **Methodology**

This article was developed based on information and data gathered in the library. Data gathered is the primary data from the relevant policies and statutes, whereas secondary data is derived from books, refereed articles and newspaper articles.

### **Discussions**

In the following points, this article will highlight issues on quality assurance, the challenges in assessment as well as what would be the basis of quality in teaching and learning law.

#### ***Quality Assurance in Higher Education in Malaysia***

The Malaysian Qualifications Act of 2007 established the Malaysian Qualifications Agency (MQA; *Agensi Kelayakan Malaysia* (in Malay), a statutory body that oversees the accreditation of academic programmes offered by post-secondary or higher education institutions as well as the facilitation of qualification articulation and accreditation. As the only national body for quality assurance in higher education, the Malaysian Qualifications Agency (MQA) controls quality by creating documentation for quality assurance. These publications, which serve as guidelines for conducting study programmes in Malaysia, include the Malaysian Qualifications Framework (MQF), Codes of Practise, Guidelines to Good Practises, and Programme Standards.

Implementing the Malaysian Qualifications Framework (MQF) as the foundation for higher education quality assurance and as the point of reference for the requirements and standards for national qualifications is the primary function of the MQA. In particular, the MQA performs the following tasks:

- a) To create, with the assistance of stakeholders, standards, credits, and any other pertinent instruments that serve as national benchmarks for awarding.
- b) To ensure the quality of higher education courses and institutions
- c) to accredit programs that meet the predetermined requirements.
- d) To aid in the identification and expression of qualifications
- e) To keep the Malaysian Qualifications, register up to date.

A team of experts from the fields of civil and Shariah law, as well as practicing solicitors, produced the Standards. This paper, which today serves as the nationally accepted guidelines for law and Shariah law curricula, was presented to the interested parties for discussion and input. There has been the introduction of alternative dispute resolution as a means of resolving disputes. There has been a trend towards globalization and liberalization, which calls for a deeper comprehension of subjects like international corporate finance, commerce, shipping, and commercial law; in addition, it necessitates lifelong learning, technological proficiency, and accepted standards of practise that align with international standards. Besides that, the importance of Bahasa Malaysia is to be used in both civil and Shariah courts without ignoring the increasing use of information communication technology (ICT) to provide legal skills. For instance, online client portals, online mediation, online discussion and negotiation, electronic document submission, and the establishment of e-courts. Thus, from other aspects, the demands lead to the introduction of new legal fields including cyber law, and bio-valley concerns (patent). By venturing into

AI as a method of teaching and learning, it is crucial to address the mechanism of assessment to the program itself.

### ***Assessment of the Program***

An integral part of quality control is student assessment. The accomplishment of the program's learning goals serves as the basis for the granting of credentials. Therefore, methods for assessing pupils ought to be accurate, trustworthy, efficient, consistent, and in line with contemporary norms. They must also clearly support the achievement of learning goals. A good place to start would be to implement deliberate structural reforms in legal education, such as mandating learning objectives related to cultural competency in all law schools and undertaking curriculum mapping initiatives to guarantee a high degree of satisfaction with those results. It will need a great deal more thought and creativity to carry out the cultural mission of legal education reform. It must consider every facet of attending law school as well as how to foster an atmosphere in which every student succeeds. This reinvention will take a lot more work but doing something "*for the culture*" involves acting in the interest of a community, which includes our Gen Z legal students who are social justice activists.

### ***Basis for Quality Assurance in Teaching and Learning Law***

It is submitted that the curriculum design must be developed based on local laws rather than focusing on English law. Maqasid Syariah, ethics in law, and Shariah programs in higher education must be used to manage developing technologies. This calls for a comprehensive strategy that blends traditional Islamic jurisprudence with modern ethical issues. Graduates ought to possess the values, knowledge, and abilities needed to support morally and responsibly developing technology. While acknowledging the challenges faced by students as well as lecturers in adapting to AI.

Teaching and learning aim to create inclusive, high-quality data systems. Our main concern should be data quality if we are moving towards the ratification of education. Developing state skills is crucial for enhancing data gathering and systematisation. Developments in AI should present a chance to emphasise data management in educational systems even more. AI makes it possible to analyse vast volumes of legal data and offers fresh insights into legal dangers and trends. Automating repetitive legal chores and expediting legal research is possible using AI technologies like machine learning algorithms. But AI also raises issues with responsibility, ethics, privacy, and transparency, necessitating new methods for legal practise and instruction. Law students must understand how AI is affecting society and the law and possess the abilities needed to interact with it. In addition, legal experts must comprehend the ramifications of AI to develop suitable legal frameworks that minimise risks without stifling innovation. In summary, this study emphasises the necessity of a new paradigm in legal practise and education that takes AI's changing role into account.

Undeniably, AI-based teaching and assessment tools like computer vision, picture recognition, and prediction systems are convenient. One of the most important aspects of teaching is evaluating students. The procedures associated with assessment, including question preparation, scoring, performance rating, and test paper analysis, are time-consuming for teachers in traditional classroom settings. AI increases the variety of educational assessment techniques, the scientific nature of the evaluation process, and the accuracy of the evaluation findings. (Huang et al., 2021). There have been intelligent tutoring robots to assist in teaching and learning. There should be proof that artificial intelligence is used in the curriculums for teaching and studying law and syariah.

There have been suggestions to amend the Legal Profession Act 1976 to allow the application and regulation of AI in the legal profession (Kamaruzzaman, 2020) The former Chief Justice Richard Malanjum in his speech at the 2019 Legal Year Opening:

To sum up, the legal profession must embrace technology. There is no option. It is coming soon to the legal profession. Adapt or be dropped.

Thus, the issue of readiness and the lingering legal issues on ethics, privacy, and integrity of the AI system to the legal profession cause serious concern among the legal profession. It is unfortunate that conventional methods of managing the risks connected with AI, including product liability, monitoring of research and development, and tort responsibility, are inadequate (Abdul Manap & Abdullah, 2020).

However, there have been suggestions as to what would be the approaches to applying AI in the legal profession, namely, by applying two-tier applications (Abdul Manap & Abdullah, 2020). Such suggestions must gain a concerted effort from the legal profession as well as from the legal education institutions.

Artificial Intelligence (AI) cannot continue to operate in an unregulated environment since nature detests voids. However, creating a workable AI regulatory framework is a more difficult task than supporting the rhetorical elements of legislation. It is determined that the traditional approach of creating laws based only on one legal theory is unsuitable for creating a regulatory framework for artificial intelligence. The rationale is that because AI introduces a new class of possible hazards, proactive regulatory action is necessary. Regulations that are meant to be implemented need to be flexible enough to accommodate the rapid advancement of AI technology while also not impeding its further growth (Abdul Manap & Abdullah, 2020). General Data Protection Regulation (GDPR) mandates that most nations have legislative safeguards in place to protect the data and privacy of their residents considering the widespread use of AI technology. When AI technology is used, privacy and data protection concerns surface. GDPR compliance is required for AI usage. This includes getting consent before processing personal data, guaranteeing data accuracy, and granting people the ability to view, amend, or remove their data.

It has been noted that AI is not well-regulated by law in Malaysia. AI software systems in their early stages will be managed similarly to traditional consumer commodities. The Sales of Goods Act 1957 ('SOGA'), the Consumer Protection Act 1999 ('CPA'), and the Torts legislation, taken collectively, provide a forum for product safety and consumer protection in the event of a failure and will address responsibility. In addition, the creator or provider of AI software shall be held accountable for any error that leads to a breach of these necessary implied agreements. The extent of non-compliance with the manufacturer's and supplier's representations and obligations to the client regarding the AI software programme would determine this duty (Kamaruddin et al., 2022).

## Conclusion

It is reasonable to conclude the explanation that using AI makes legal work more methodical and effective. To stay ahead of the curve, legal companies strive to leverage (AI) technology to optimise advantages and avoid falling behind. The reduced expense of employing AI preserves their current clientele. Naturally, law businesses that are dedicated to cutting less on labour-intensive, manual duties have greater client retention rates. More precise judgements and more affordable job production draw in more clients. Without question, legal companies that implement AI and machine learning systems have a competitive edge. Legal professionals cannot be replaced by artificial intelligence. It serves as an assistant to the lawyer. In governing teaching and learning law, it is crucial to highlight the importance of preserving the Maqasid Syariah as well as ethical aspects. Thus, proactive action must be taken now to prepare not only the curriculum to adapt to AI but also the students and lecturers.

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