

GOVERNING EMERGING TECHNOLOGY BASED ON THE *MAQASID SYARIAH* AND ETHICS IN LAW AND SYARIAH PROGRAMS IN HIGHER EDUCATION

MENTADBIR TEKNOLOGI YANG BAIK BERASASKAN MAQASID SYARIAH DAN ETIKA UNDANG-UNDANG DAN PROGRAM SYARIAH DI PENDIDIKAN TINGGI

^{i,*} Syahirah Abdul Shukor & ⁱⁱ Noor Dzuhaidah Osman

ⁱⁱⁱ Faculty of Syariah and Law, Universiti Sains Islam Malaysia (USIM), 71800, Nilai, Negeri Sembilan, Malaysia

*(Corresponding author) e-mail: syahirah@usim.edu.my

ABSTRACT

Both society and new technology shape one another. There is a need to promote positive advancements while keeping in mind the fundamental rights and values that democratic societies are based on while deciding how to regulate future technology. The necessity for an interdisciplinary approach is widely acknowledged in the international discussion on the legal and ethical regulation of Artificial intelligence (AI) and other new technologies, which is typically regarded to require skills in law, ethics, and computer science or machine learning at a minimum. This paper highlights the law, ethics, and machine learning, it further examines 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. Thus, this study is informed based on ethical aspects that should be addressed in governing emerging technology based by identifying the legal development in regulating legal education in public universities by reviewing the Standard Program Law and Syariah issued by the Malaysian Qualifying Agency (2015). The fundamental foundations for this study are the *maqasid syariah* and ethics, which are used to construct a model for managing developing technologies in law and syariah programmes. This study uses doctrinal research from primary and secondary sources to identify the essential concepts, difficulties, and obstacles to develop the model. While both frameworks have certain common grounds or goals, adopting the *Maqasid Syariah* framework into higher education programmes in law and Syariah can assist guarantee that developing technology is guided by ethical and moral norms. *Maqasid Syariah* principles enhance the well-being of individuals and society. Overall, governing emerging technologies requires a multi-faceted approach that prioritizes benefits and costs, trustworthy characteristics, equitable and inclusive processes, and 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.

Keywords: *legal education, artificial intelligence, maqasid syariah and ethics*

Introduction

It is a complex and important task to regulate developing technology in accordance with Maqasid Shariah (the goals of Islamic law), ethics in law and Shariah programs in higher education institutions. It entails applying modern ethical ideas to conventional Islamic law to steer the creation and application of new technology in a way that upholds Islamic values and principles. The international debate on the legal and ethical regulation of artificial intelligence (AI) and other new technologies has widely recognized the need for an interdisciplinary approach, which is generally regarded as requiring at least a basic understanding of computer science or machine learning, ethics, and law. The debates on what would be the approach in designing law and syariah curriculum which use AI and other new technologies in teaching and learning law and syariah in universities in Malaysia?

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 graduates is determined by the curriculum design. Therefore, to ensure law graduates are fit to face the new challenges, the curriculum design must take into considerations any new development 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 method 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 indicates 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 Madiha 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 group of American law academics discussed the legal ramifications of artificial intelligence in the practise of law in this roundtable (Ashley, Bretting, Margolis, and Sunstein, 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, artificial intelligence clearly has an advantage. Richard Susskind, in his 1996 book "The Future of Law: The Challenges of Information Technology, foresees a significant transformation of traditional legal practise in these recurring, banal, 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 on the future of the legal profession. Susskind encapsulates his most recent outlook for the future of legal services in his 2013 book *Tomorrow's Lawyers: An Introduction to Your Future* in which he foresees drastic

changes in 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 maybe legal education shouldn't 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 the 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 responsibility of the 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 really make life simpler, the industry would prefer not to risk breaking any rules in the process. (Kamaruzzaman, 2021) It is essential that any control or regulatory system 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 book entitled "To Save Everything, Evgeny Morosov" says, [Click Here: Technology, Utopianism, and the Need to Solve Non-Existing Issues](#) highlights 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 aren't 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 need a concerted effort, not only derives from the Ministry of Higher Education only, 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.

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 regard to the ethical contemporary challenges posed by the advancement of AI from the perspective of Maqasid-al-Shari'ah and ethic-based approaches (Mohadi, and 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, and 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 develops based on information and data gathered in the library. Data gathered is basically the primary data from the relevant policies and statutes, whereas secondary data 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 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. the introduction of alternative dispute resolution as a means of resolving disputes. There has been the 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 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, bio-valley concerns (patent).

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 earning 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 to English law. Maqasid Shariah, 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 on the challenges faced by students as well as lecturers in adapting to AI.

The aim in teaching and learning is to create inclusive, high-quality data systems. Our main concern should be data quality if we are moving towards the datafication 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 are 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, Saleh, Liu, 2021). There have been intelligent tutoring robot to assist in teaching and learning.

There have been suggestions to amend the Legal Profession Act 1976 to allow the application and regulation of AI in 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 AI system to legal profession cause serious concern among the legal profession. It is unfortunate that conventional methods of managing the risks connected with AI, including as product liability, monitoring of research and development, and tort responsibility, are inadequate. (Abdul Manap & Abdullah, 2020). However, there have been suggestions as what would be the approaches in applying AI in legal profession, namely, by applying two-tier application (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 cannot continue to operate in an unregulated environment since nature detests voids. But 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 concern 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 artificial intelligence (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 about the AI software programme would determine this duty. (Kamaruddin, et, al, 2022).

Conclusion

It is reasonable to draw the conclusion from the explanation that using AI makes the 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 a 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 shariah* as well as ethical aspects.

Conflict of Interest

Authors declares no conflict of interest in publishing this article.

References

- Abdul Ghani, A., I. M. (2020) Challenges for legal education in the era of I.R.4.0. UUM Journal of Legal Studies, 11(2), 27-51.<https://doi.org/10.32890/uumjls.11.2.2020.7731>
- Abdul Manap, N., & Abdullah, A. (2020). Regulating artificial intelligence in Malaysia: The two-tier approach. UUM Journal of Legal Studies, 11(2), 183-201
- Abdul Shukor, S, et, al (2023) *Direction of Legal Education in Malaysia*, Putrajaya: Jabatan Pendidikan Tinggi.
- Huang, J, Saleh, S and Hiu, Y. (2021) A Review on Artificial Intelligence in Education, *Academic Journal of Interdisciplinary Studies*, 10, No.3,206-217.
- Pedro, S, et, al (2019) Artificial intelligence in education: challenges and opportunities for sustainable development, Ministry of Education.
- Kamaruddin, S, et, al. (2021) Emerging Issues on the Rights of Privacy in Artificial Intelligence (AI) Technology Adoption, *Seybold Report*, 17(10), 2293-2302.
- Kamaruzzaman, E, Norzaidi Mohd Daud, N and Jayabalan, S (2021) Evolution of Artificial Intelligence in Law and Its Effect on Lawyers, *Empirical Economics Letters*, 20(1): (January), 111-118.

- Kamaruzzaman, S.S. (2020) An Overview on The Usage of Artificial Intelligence (AI) In The Malaysian Legal Industry: Challenges And The Way Forward, *Law Majalla*, Vol,7, 112-134
- McKamey, M. (2017). Legal Technology: Artificial Intelligence and the Future of Law Practice. *Appeal: Review of Current Law and Law Reform*, 22, 45-58.
- Mohadi, M., & Tarshany, Y. (2023). Maqasid Al-Shari'ah and the Ethics of Artificial Intelligence: Contemporary Challenges. *Journal of Contemporary Maqasid Studies*, 2(2), 79–102. <https://doi.org/10.52100/jcms.v2i2.107>
- Rajendra, J.B. and S.T, Ambikai (2022) *Artificial intelligence and its impact on the legal fraternity*. UUM Journal of Legal Studies (UUMJLS), 13 (1). pp. 129-161
- Surden, H. (2019) Artificial Intelligence and Law: An Overview (June 28) Georgia State University Law Review, Vol. 35, 2019, U of Colorado Law Legal Studies Research Paper No. 19-22, Available at SSRN: <https://ssrn.com/abstract=3411869>