

The Foundations of Legal Personality Between Spiritual Essence and Artificial Intelligence: A Comparative Analytical Study in Light of the Doctrine of Vicegerency and Civil Law Power

Mamoon Suliman Alsmadi¹, Ahmad Fahed Albtoosh², Hashem Ahmed Balas³

¹Assistant Professor.Faculty of Law, Ajloun National University, Jordan

Mamoon.alsmadi@anu.edu.jo.

²Assistant Professor, Faculty of Law, Ajloun National Private University, Jordan,

Ahmad.boutosh@anu.edu.jo.

³Assistant Professor, Faculty of Law, Ajloun National Private University, Jordan

h.balas@anu.edu.jo.

Abstract

This research addresses the legal and philosophical controversy surrounding the attribution of legal personality to Artificial Intelligence (AI) systems. It provides a fundamental grounding that links personality to 'Moral Agency' and the spiritual essence of human beings. The research adopts a comparative analytical methodology, contrasting Islamic Jurisprudence (the perspective of vicegerency (*istikhlāf*) and the human soul (*rūḥ*) with Civil Law doctrine of personality and liability, and contemporary positivist approaches advocating the recognition of AI as a legal person.

The results concluded that legal personality is not merely a legal fiction, but rather a recognition of the rights inherent to human beings, stemming from their moral agency and accountable soul. Artificial intelligence is a one-dimensional entity that lacks free will and ethical consciousness; it serves as an instrument deployed by human beings for attaining vicegerency, thus it cannot be considered as a vicegerent person. The results revealed that the rules governing "liability for things requiring a special care" under both the Jordanian and comparative Civil Law are sufficient to treat damages caused by harmful acts by AI systems without the necessity of creating electronic legal personhood. The research recommends maintaining the centrality of the human being in the legal system and relying on the standard

of 'Human-in-the-loop' to ensure that moral and legal responsibility is limited to the human actor solely.

Keywords:

Legal Personality, Artificial Intelligence, Moral Agency, vicegerency (*istikhlāf*), Civil Liability, Soul.

Introduction

The rapid adoption of artificial intelligence across all aspects of life has led to a radical transformation in the structure of legal relationships. Today, AI has evolved from a mere predefined technological tool into an autonomous entity that is able to learn and make autonomous decisions, which presents the legal system with a significant challenge. For centuries, jurisprudence has granted legal personality to humans, both as natural and legal persons. Recently, debates have emerged about recognizing AI systems and autonomous robots as legal persons, necessitating a reconsideration of the legal foundations upon which legal personality is conferred.

Research Problem:

There is a central conflict between the two competing conceptions of legal personality. The first is the positivist and functional doctrine, which views personality as merely a legal construct that may be conferred upon those possessing functional autonomy. The second is the more fundamentalist approach, which argues that legal personality is an inherent consequence of moral agency and the spiritual nature of the human person. The research problem lies in whether the algorithmic autonomy of AI is sufficient to justify granting it legal personality and an independent financial patrimony, or whether legal personality is a necessary consequence of the attributes of legal agency, vicegerency, and soul that inanimate objects lack, no matter how intelligent they are.

Research Importance:

The importance of this research lies in proposing a new legal foundation that integrates the Islamic doctrine of vicegerency (*istikhlāf*) with both the civil law concepts of legal personality and civil liability. This study may contribute to bridging the gap left by traditional biological

standards and to demonstrate that legal personality cannot be adequately explained by these standards solely but should instead be identified in light of moral agency and ethical accountability. Furthermore, this research investigates the adequacy of rules governing liability for damage caused by AI (direct and indirect liability) under Jordanian civil law, without creating an independent electronic legal personality that could undermine human accountability.

Research Hypotheses:

This research hypothesizes that legal personality is not merely a legislative creation, but rather a recognition of an entity possessing moral agency founded upon the soul and that AI is a one-dimensional entity (hardware and software) lacking free will, moral consciousness and a center of spiritual perception, thus rendering it an instrument of vicegerency rather than a stewarded person; and that the objective rules of liability governing damage caused by things under Article 291 of the Jordanian Civil Code provides sufficient to compensate for technical damage resulting from AI.

Methodology:

A comparative analytical approach was employed to analyze the provisions of the Jordanian Civil Code and critique international legislative trends (particularly the European Artificial Intelligence Law 2024), as well as to compare them with the jurisprudential foundations of the concepts of *al-dhimmah* (the juridical attribute of bearing rights and obligations) and *'ahd* (covenant) in Islamic jurisprudence, to derive the rules governing this relationship.

Research Structure:

This research is structured into four sections: Section one presents the critique regarding traditional standards of legal personality and their application to AI. Section two describes the spiritual essence and moral agency of the legal person. Section three addresses the Islamic Philosophy of vicegerency (*istikhlāf*) and financial patrimony (*al-dhimmah māliyyah*) as they apply to AI. The fourth section examines the practical applications of liability for the damage caused by AI.

Section One: Critiquing Traditional Standards of Legal Personality and Their Application to Artificial Intelligence

There is a radical shift in the contemporary legal landscape regarding legal relationships, such as determining legal personhood and liability, owing to the increasing dependence on artificial intelligence (AI) in all spheres of life. An artificial intelligence system is no longer a technical tool that operates under predefined instructions. Instead, it can learn and make decisions with varying degrees of autonomy that rival, and in many cases surpass, human capabilities. This rapid progress has created a conceptual challenge for the legal system. The issue of attributing legal personality, whether to natural or legal persons, solely to human beings was controversial. Several modern calls grant AI systems and autonomous robots the same personhood.¹

Determining the nature of legal personality and the normative basis for granting it has become essential, especially with the emergence of technological entities that rival humans in their cognitive abilities. In this research, we examine the inadequacy of the traditional (biological and positive) standards adopted by comparative legislation, and how the limitations inherent in these standards have been invoked to support proposals for recognizing AI as a legal person by reducing legal personality to a single natural criterion (live birth) as the sole indicator of personality; this link between biology and law today introduce many legal challenges, as follows.

1. The Inadequacy of the Biological Criterion and the Problem of Functional Independence:

Numerous civil legislations, including the Jordanian Civil Code under Article 30, have adopted a purely biological criterion for the commence of legal personality, that is, being born alive. This criterion assumes that a human being is any biological human entity capable of functioning independently and in a complete manner. Accordingly, legal personality is understood to arise simultaneously with the existence of an independent biological human organism and to cease with its disappearance. However, the rapid emergence of non-human intelligent entities has exposed significant limitations in this traditional conception.

A. Functional autonomy as a criterion for legal classification.

¹Khalid, I.(2020). Civil Liability for Damages Caused by Artificial Intelligence, Dar Al-Fikr Al-Jami'i, Alexandria, p. 35.

The biological criterion rests on the premise that separation from mothers marks the beginning of independent existence. However, the independence recognized by law is fundamentally normative, rather than biological. Medical reality demonstrates that biological self-sufficiency is neither a necessary condition for establishing human status nor legal personality, since it remains inseparable from the individual even if their biological independence has been completely lost. In many medical cases, people depend on ventilators or dialysis for their survival, yet no one questions their legal personality. Furthermore, the criticism of the biological criterion is that the notion of autonomy invoked by the law is relative rather than absolute.

Harris emphasized that reliance on technology, such as life support devices, does not necessarily negate an individual's moral status since legal personality is an inherent right of human beings and it does not reside in the independent biological capacity for survival.² This critique of the live-birth criterion directly intersects with modern legal and philosophical debates regarding artificial intelligence and electronic personhood. If legal personality is not necessarily contingent upon biological independence or purely biological existence, then those who advocate granting personality to AI raise a fundamental question: why is this right denied to an entity that possesses decision-making independence and an intelligent algorithm simply because it lacks a biological body? Proponents for this position further contend that the advancement of life support devices has transformed humans into what is called a technologically assisted or cyborg-like existence, denying the legal assumption that legal personality depends upon biological independence. A patient entirely dependent on life support retains a full legal personality despite lacking 1% biological autonomy, whereas AI is denied this right despite possessing 100% decisional autonomy.³

This apparent inconsistency has led scholars such as Naffine to argue that the law recognizes not the human being, but rather the mask they wear.⁴

²Naffine, N. (2003). Who are Law's Persons? From Customary Animals to Spiritual Beings. *The Modern Law Review*, 66(3), p. 346. <https://doi.org/10.1111/1468-2230.6603002>

³Harris, J. (2005). The Moral Status of the Embryo. In *The Blackwell Guide to Medical Ethics*, p. 142.

⁴Pagallo, U. (2013). *The Laws of Robots: Crimes, Contracts, and Torts*. Springer. P 48-50
<https://doi.org/10.1007/978-94-007-6353-1>

The traditional legal framework, as embodied in Article 30 of the Jordanian Civil Code, strictly links the commencement of legal personality to being born alive.⁵ This biological criterion, however, faces increasing challenges due to the development of AI, as reliance on biological autonomy is no longer a prerequisite for establishing legal personality.

They justify their argument by contending that, since legal personality is an inherent right of the individual, not an independent capacity for biological survival, it can be granted to the digital system. They argue that if a patient dependent on life support retains full legal status despite lacking biological autonomy, then why can an AI system not retain the same legal personhood? Is it only because it simply lacks a biological body? This leads the law to recognize legal personality more than biological entity. Similarly, and consequently, the Jordanian legislator may ultimately need to shift from a biologically based personality model to a functional decision-making personality model to accommodate the autonomous nature of AI software.

B. The genetic criterion and the temporal problem of the emergence of legal personality

Restricting legal personality to the moment of live birth overlooks the legal life of the fetus. Linking personality exclusively to a biological concept has generated uncertainty regarding the commencement of life, rendering the concept increasingly dependent on advances in medical technology. The instability in the biological standard has typically prompted calls to separate biological humanity from legal personality. It is noteworthy that civil law generally conditions the acquisition of legal personality upon live birth, despite modern science establishing that the fetus possesses a distinct genetic identity from the moment of fertilization. King, in his work on the legal status of the unborn child, points out that limiting legal personality to the moment of birth is an arbitrary separation, stating, "The fetus possesses genetic independence, which makes it a potential person from the moment of fertilization, thus rendering the legal biological standard a procedural one, not an existential reality."⁶

This contradiction is reflected in Jordanian legislation, in Article 31 of the Civil Code, which grants the fetus rights (such as inheritance and the right to make a will) while simultaneously withholding full

⁵Article (30) of the Jordanian Civil Code No. (43) of 1976.

⁶King, P. (1979). The Juridical Status of the Fetus: A Proposal for Legal Protection. Michigan Law Review, 77(7), p. 1674: [10.2307/1288114](https://doi.org/10.2307/1288114)

legal personality until birth.⁷ King argues that this inconsistency in defining the moment of legal personality demonstrates that the biological criterion is conventional, not absolute; thus, such an approach has encouraged theories of graduated or incremental legal personality, which some scholars have sought to extend to highly autonomous AI systems.⁸

Proponents of artificial intelligence legal personhood theory argue that if the body constitutes a definitive basis for legal personality, in light of medical technology advancements,⁹ then legal personality should instead be grounded in functional autonomy rather than biological existence. From this perspective, they contend that the independent performance of complex cognitive functions by AI systems is sufficient to justify attributing legal personality.¹⁰ This approach further considers AI as a distinct type of person, given that the physical criterion is no longer sufficient, since the fetus is genetically independent from the moment of fertilization; confining legality to a purely biological meaning makes the definition susceptible to variations arising from advancements in medical technologies and the concept of fetal existence.¹¹

Naffine argues in "What Are Persons?" that the law disregards biological "flesh and blood" in favor of an abstract "legal individual". She contends that the law commits "a category mistake" by granting personality to humans not because of their rationality, but because of their biological humanity, while simultaneously extending it to inanimate entities like corporations. This contradiction has made an electronic personality a logical mechanism to bridge the functional gap in legal personality.¹² Naffine's critique of this category mistake reveals a profound contradiction within positivist legal thought. On the one hand, legal personality is treated as inseparable from the biological nature of human beings. On the other hand, the law completely disregards this by recognizing corporations as juridical persons. Advocates of electronic legal personality rely on this inconsistency to argue that AI systems should likewise be given independent legal status.

⁷Article (31) of the Jordanian Civil Law No. (43) of 1976.

⁸King, op. cit. p. 1681.

⁹Cameron, N. M., & Williamson, T. B. (2005). *Technosapiens: Nanotechnology and the Future of the Human Person*. NBIC, p. 34. DOI:[10.1111/j.1747-0862.2005.tb00318.x](https://doi.org/10.1111/j.1747-0862.2005.tb00318.x)

¹⁰Ibid, p. 34. DOI:[10.1111/j.1747-0862.2005.tb00318.x](https://doi.org/10.1111/j.1747-0862.2005.tb00318.x)

¹¹Ibid, p. 38.

¹²Naffine, Op.cit. p. 352.

This analogy is fundamentally flawed since it attempts to analogize the legal patrimony of AI systems to that of the authorized slave (*al-'abd al-ma'dhūn*) in Islamic jurisprudence. Even if the law confers a legal persona upon individuals for juridical purposes, this procedural recognition does not imply stripping personality of its spiritual essence. The attempt to substitute a biological body with a functional personality through a decision-making persona means nothing more than an acknowledgment of the machine's mechanism, with complete disregard for the reason for existence. The enslaved person, despite the restriction of his freedom, remains a steward who possesses a spirit and an inherent capacity for obligation. In contrast, the machine, no matter how independent its decision may be, remains merely a material extension of the action of its maker, which makes any comparison between them a comparison with a difference, and invalid with the invalidity of the reason in the origin of existence.

2. Positive Approach and The Risks of Legal Reification:

According to the legal positivist school of thought, legal personality is merely a legal fiction granted by the legislator to achieve a practical purpose. It is a tool that can be granted or withheld without regard to any extra-legal considerations.¹³ Under this view, legal personality has been extended to corporations and other juridical persons (legal entities) to facilitate financial transactions. However, this reification of the law and its separation from ethics represents a serious flaw when dealing with AI. If we accept that legal personality is simply a legal construct granted by the legislator to whomever they choose, there would be no logical impediment to granting it to highly autonomous AI systems or robots to establish a separate financial patrimony capable of compensating victims for harm caused by their operations. This functionalist reasoning has been invoked by proponents of electronic legal personality, who argue that recognizing AI as a legal person would provide an efficient mechanism for allocating liability.¹⁴ However, this reification of the law and its separation from ethics represents a serious flaw; granting financial patrimony to a machine aims only to absolve the programmer or owner of personal responsibility.

¹³Zahraa, M. (2003). The Legal Capacity of Women in Islamic Law. *Arab Law Quarterly*, 18(3/4), p. 248. DOI: [10.1163/15730250360742188](https://doi.org/10.1163/15730250360742188)

¹⁴European Parliament. (2017). *Resolution on Civil Law Rules on Robotics (2015/2103(INL))*, Paragraph 59(f). [European Parliament Resolution 2017](#)

Nevertheless, this argument is reinforced by the comprehensive report of the International Bar Association,¹⁵ where the association stressed that human responsibility cannot be replaced by automated responsibility, given the absence of independent legal subjectivity for algorithmic systems and their failure to meet the requirements of traditional legal accountability (*taklīf*); thus reinforcing the view that the legal mask cannot replace the ethical factor.

3. Towards an Alternative Standard: Moral Agency in the Face of Artificial Intelligence:

The significant shortcomings of traditional approaches to legal personality, whether biological or positivist, necessitate adopting an alternative standard that establishes legal personality grounded in moral agency. Under this approach, moral agency is not merely the mechanical processing of inputs or the execution of programmed responses, but a conscious response requiring knowledge, will, and freedom of choice; elements found only in a being endowed with a soul, or in the terminology of Imam al-Ghazālī "the subtle, knowing, and perceiving essence" (*al-laṭīfah al-ʿālimah al-mudrikah*) as the true reality of the human heart (*al-qalb*), which is synonymous with the human soul (*al-rūḥ*) or intellect (*al-ʿaql*). It is the essence of humanity that transcends its physical structure and qualifies it for the discourse of responsibility.¹⁶

When applied to AI, this criterion reveals a profound gap. Although AI systems exhibit remarkable computational intelligence and sophisticated decision-making capabilities, it completely lacks moral consciousness. It can simulate decision-making based on statistical probabilities. Yet, it does not possess any awareness of ethical obligation or of concepts such as trust, responsibility, or fidelity as intrinsic moral values. In this context, Ismail al-Faruqi argues that, from an Islamic perspective, *Amānah* (trustworthiness) is a free moral commitment arising from awareness of one's purpose in existence, excluding any matter or software entity from the realm of genuine moral action.¹⁷

Accordingly, attempting to ascribe legal personality to AI based on purely positivist considerations ignores the fact that personality, in its essence, is the capacity to bear trust (*Amānah*) and vicegerency (*istikhlāf*). This vicegerency necessitates a conscious being who bears the consequences

¹⁵European Parliament. (2017). *Resolution on Civil Law Rules on Robotics (2015/2103(INL))*, Paragraph 59(f). [European Parliament Resolution 2017](#)

¹⁶Al-Ghazālī, A. (1998). *Iḥyāʾ ʿUlūm al-Dīn* (vol. 3, *Kitab Sharh Ajaʿib al-Qalb*). Beirut: Dar al-Kutub al-ʿIlmiyya, pp. 4-7. ISBN: 978-2-7451-2474-6

¹⁷Al-Faruqi, I. R. (1995). *Al-Tawhid: Its Implications for Thought and Life* (2nd ed.). IIIT, pp. 62-65. (DOI): 10.1163/15730250360742188. Accessible: <https://iiit.org/en/book/al-tawhid/>

of their acts before God and society. Since AI lacks this spiritual subjectivity, it remains confined to the realm of sophisticated tools, regardless of its degree of autonomy. A machine lacks integrity because it lacks a covenant, and a covenant is the foundation of integrity and the basis of responsibility.¹⁸

Section Two: The Spiritual Nature and Moral Agency of the Legal Person

This section proceeds from the premise that legal personality is grounded in the moral agency ultimately inherent in human existence. The analysis therefore shifts the focus from critiquing material legal phenomena to delving into the essential nature of the legal agent. It is not merely a juridical container for rights and obligations. Therefore, in the following subsection, we examine the applicability of this concept to AI in light of the duality of spirit and body as well as the distinction between potential and actual moral agency. The fundamental question is not whether a machine is capable of thinking, but whether it is capable of assuming moral obligation.

A. The Concept of Moral Agency and its Application to Artificial Intelligence:

Moral agency is the normative foundation of moral personality. It is the ability to make free decisions and intentional choices based upon knowledge, intention, understanding, and volition.¹⁹ Moral agency extends beyond the mechanical execution of instructions to evaluate them and weigh right against wrong. When applied to AI, a clear gap is evident between representation and reality. In AI systems, a fundamental gap between performance and intention emerges. Although AI possesses remarkable cognitive ability and can simulate decision-making through data processing and statistical analysis, this functional intelligence should not be equated with genuine knowledge.

From the perspective of Islamic purposive (*maqāṣid*), adopted by this research, this knowledge is not merely an accumulation of information and a flow of data, but rather an insight intrinsically linked to moral responsibility.²⁰ AI systems typically generate decisions based on the rigidity of their algorithmic programming or statistical analysis. In contrast, an authentic moral decision presupposes free will, including the genuine possibility of refusing, disobeying, or voluntarily choosing an alternative course of action in pursuit of a higher moral value, which we have termed voluntary

¹⁸Zahraa, op. cit., p. 245.

¹⁹Kant, I. (1991). *The Metaphysics of Morals* (M. Gregor, Trans.). Cambridge University Press, p. 42. DOI: [10.1017/CBO9780511809644](https://doi.org/10.1017/CBO9780511809644)

²⁰Al-Faruqi, op. cit., p. 68.

submission or *istikhlāf*.²¹ Since AI systems possess no will independent of their programming, they necessarily lack moral agency, rendering them unqualified to be described as moral persons and, by extension, cannot satisfy the normative requirements of legal personality. Although AI systems demonstrate sophisticated intelligence in executing complex tasks, it lacks free will and moral awareness. Its decisions remain the products of statistical algorithms, not from ethical deliberation or moral consciousness. In comparison, machines make decisions based on statistical probability. At the same time, free ethical decision-making requires the possibility of disobedience or voluntary choice, which is the fundamental essence of legal personality, which is based primarily on personal liability.²²

B. The Duality of Spiritual Nature and Material-Computational Existence

The normative foundation of legal personality rests upon the understanding that a human being is a dual-dimensional entity, namely, a material body and a soul. The body represents the material (physical) dimension, and the soul represents the unseen, conscious dimension, which al-Ghazālī called the subtle (*al-rūh*).²³ This soul is the true repository of cognitive and volitional capacities and moral sense, and the body, in this context, is merely a servant or a machine that executes the commands of this subtle soul.²⁴

Conversely, an AI system constitutes a fundamentally different form of existence, as it is a one-dimensional entity consisting of both hardware and software, that is, a body with no actual soul. According to our research, the human body serves as a servant of the soul and an instrument for executing its instructions; an AI system, however, remains an instrument without an autonomous moral agency directing its operations. Since the soul is the center of moral agency and the locus of the covenant with God, the machine remains a body without a soul, or an algorithm without self-awareness. This means the absence of the element from which free will originates, preventing AI systems from being considered persons in an ethical and legal sense.

²¹ Al-Shatibi, I. (1997). *Al-Muwafaqat* (edited by: Mashhur bin Hassan Al Salman, vol. 2). Dar Ibn Affan, p. 168.

²² Naffine, op, cit. p. 358.

²³ al-Ghazālī, op. cit. p 4

²⁴ Al-Jurjani, A. (1983). *Kitab al-Ta'rifat* (Book of Definitions). Beirut: Dar al-Kitab al-Arabi, p. 159 (entry: al-Ruh - The Soul). [Archive.org Permanent Link](#)

Legal personality presupposes the existence of a subject capable of bearing rights and obligations as well as understanding the meaning of reward and punishment in this life and the hereafter. No matter how complex a machine becomes, it still lacks this conscious self. Accordingly, in the context of this research's theoretical framework, an AI system is nothing more than an extension or augmentation of human intellectual capacities rather than an independent legal or moral subject. It lacks the conscious self that can assume obligations, enter into covenants, and bear responsibility.²⁵

C. The Distinction Between Basic and Effective Capacity: The Argument from Marginal Cases

Establishing the legal personality of machines constitutes one of the most critical challenges for their advocates, who frequently seek to justify this status by drawing analogies between machines and humans with limited cognitive or legal capacity or so-called marginal humans, such as children or individuals with severe mental disorder.²⁶ However, understanding the distinction between basic and effective capacity clearly resolves this argument.²⁷ Humans, even children and individuals with cognitive impairment, possess a basic moral agency rooted in the soul. This capacity principally exists even when its effective manifestation is diminished or temporarily disabled due to physical immaturity, illness, or mental disorder.

In the case of marginalized individuals, even if their effective capacity is impaired or deficient due to physical or mental disability, they are legal persons by virtue of belonging to the human species entrusted with moral responsibility. By contrast, AI may simulate effective capacity (superior functional performance), but it completely lacks the essential capacity (the soul)²⁸. Therefore, a machine cannot be equated with marginalized people because they are human in essence and by nature, and the former fundamentally remains an inanimate object lacking a soul.²⁹

However, this distinction between inherent capacity and actual capacity decisively undermines this confusion. Marginalized humans possess a fundamental moral agency stemming from the existence of a soul, even if their actual capacity is impaired due to physical underdevelopment or illness. A

²⁵Ibid, p 142.

²⁶ Tanner, J. (2006). The Argument from Marginal Cases and the Moral Status of Animals. *Ethical Theory and Moral Practice*, 9(1), p. 48. DOI:[10.1007/s10677-006-9008-0](https://doi.org/10.1007/s10677-006-9008-0)

²⁷Kester, G. H. (1994). Aesthetic Evangelism, Prophetic Activism and the Public Sphere. *Afterimage*, 22(1), p. 5. DOI:[10.1525/aft.1994.22.1.5](https://doi.org/10.1525/aft.1994.22.1.5)

²⁸Ibid, p 6

²⁹ Tanner, op.cit, p 52

tractor, for example, may exceed a human in physical strength, yet this does not confer upon it legal or moral personality. Likewise, computational superiority does not generate eligibility for moral responsibility.

AI systems remain non-persons regardless of their functional superiority; they lack the capacity for legal responsibility, just as a tractor's power superiority over a human does not make it a person. Personality follows the origin of the spirit and the basic capacity, not the branch of actual performance. Accordingly, AI remains confined to the realm of advanced things. At the same time, a human being, no matter how deficient, retains legal personality because he possesses the basic capacity that is the soul. AI possesses a simulation of actual capacity and intelligent functional performance, but it completely lacks the basic capacity. This analysis closes the door to any analogy between AI and legally disabled people.³⁰ In short, legal personality remains exclusive to the one who bears the trust of moral responsibility, and it cannot be extended to entities that are merely a product of human creativity, "the vicegerent on earth (*khalīfah*).

Section Three: The Philosophy of Vicegerency and Financial Patrimony: Applying Liability Rules to Artificial Intelligence

Legal personality, soul, and moral agency are intertwined terms. This section examines the fundamental legal function for which legal personality was created, namely, vicegerency (*istikhlāf*), and how this affects the legal status of artificial intelligence (AI) entities and the determination of the system of liability for damages.

1. Vicegerency and Trust as the Sole Foundation of Legal Accountability and Obligation

Under Islamic law, personality constitutes the capacity to bear *Amānah* (Trust). Human beings were not endowed with legal personality and *dhimma* (the juridical attribute of bearing rights and obligations) arbitrarily; rather, to shoulder the burden of *Amānah*, a responsibility that the heavens and the earth were incapable of fulfilling.³¹ Humans are the vicegerency trustees entrusted with voluntary worship.³² In contrast, artificial intelligence (AI) is an instrument created and deployed by humans to perform their tasks; thus, it is the object of trust, not its bearer. Legal personality, in its essence, is

³⁰The Holy Quran, Surah Al-Ahzab, verse 72.

³¹The Holy Quran, Surah Al-Ahzab, verse 72.

³²Al-Faruqi, op. cit. p. 62.

the capacity for vicegerency. Just as humans are distinguished by their appointment as vicegerent and assuming the trust that the heavens, the earth, and the mountains refused to undertake, this trust necessarily presupposes a prior covenant (a pact) and a free will to fulfill it.³³

When this conception is applied to AI, it becomes evident that these technological systems, regardless of their degree of operational autonomy, completely lack the attribute of vicegerency. AI does not possess inherent trustworthiness; rather, it is subject to the trustworthiness borne by humankind. Vicegerency necessitates the capacity for voluntary worship, that is, the free choice between action and abstention in obedience to God. A machine, however, only operates within the confines of compulsory worship, meaning the physical and programming laws that govern its existence.³⁴ AI is a tool harnessed by humans to perform their tasks; it is subject to trustworthiness, not a bearer of it.

Legal obligation is derivative of divine accountability. Since AI has neither entered into any covenant nor does it possess trustworthiness, it cannot be a party to any covenant or pact, which renders legal personality an unbearable burden and a flaw in the concept of legal justice in cases of AI. This principle is clearly manifested in contemporary international trends, as the United Nations General Assembly unanimously affirmed in its resolution (A/RES/78/265) of March 2024 the necessity for AI systems to remain centered on Human-centric, with emphasis on protecting human rights and ensuring effective human control over the outputs of these technologies, which promotes research into the continued responsibility being exclusively vested in the human actor who bears the Trust and fulfills the role of vicegerent.³⁵

Legal obligation is derived from covenant and the primordial pact. Every legal obligation essentially constitutes a covenant, and a covenant necessarily presupposes that two rational parties possess free will. Thus, the divine accountability arising from the institution of vicegerency (istikhlāf) constitutes the normative foundation from which positive legal accountability (taklīf) is derived. It is argued that since AI lacks the attribute of vicegerency, it necessarily lacks the attribute of being obligated. A machine does not possess free will to enter into a covenant or fulfill a trust; rather, it is in reality the object of the trust borne by the human being (the programmer or user). This establishes

³³Ibid. p 64

³⁴Al-Shatibi, op. cit. p. 275.

³⁵United Nations General Assembly. (2024). *Resolution A/RES/78/265: Safe, secure and trustworthy AI*, 21 March 2024.. <https://undocs.org/A/RES/78/265>

voluntary worship in contrast to compulsory servitude. Herein lies the fundamental distinction articulated by Al-Shatibi's *Al-Muwafaqat*:³⁶ AI operates exclusively within the sphere of compulsory servitude to the laws of programming and physics, while legal personality presupposes an entity capable of voluntary worship and free choice. Therefore, placing AI within the sphere of vicegerency and granting it legal personality is a departure from the dictates of nature, and an obligation imposed upon an inanimate entity that possesses neither capacity to bear nor the faculty to comprehend them.

2. Financial Patrimony Between Contractual Reality and Legal Fiction

Financial patrimony, also known as *dhimmah māliyyah* in Islamic legal terms, constitutes the legal repository in which rights and obligations are vested and represents the juridical embodiment of the covenant ('*ahd*').³⁷ However, this research redefines it by linking it to its linguistic and legal origin: covenant. The concept of *dhimmah* is linguistically and technically derived from covenant ('*ahd*'), and it is intrinsically linked to human dignity and reason, making one worthy of the obligations to God.³⁸ *Dhimmah* should be understood in terms of the human soul and moral agency, not merely as an accounting vessel for debts and rights. Conferring a *dhimmah* upon a machine would therefore deprive the covenant of its essential meaning, since a machine is incapable of entering into a covenant or assuming moral obligations.

In the context of AI, those advocating for granting AI an electronic personality primarily aim to establish an autonomous patrimony (Financial Fund) to compensate for damage caused by AI systems. However, considering the essence of the concept of "*dhimmah*" as an *Amānah (Trust)*,³⁹ we find that AI's "*dhimmah*" is a fictitious one, a legalistic maneuver lacking an ethical foundation. While in Islamic law, *dhimmah* aims to empower individuals to fulfill their obligations, the machine's *dhimmah* merely serves to shield the developer or operator from personal liability. This approach strips the concept of "*dhimmah*" of its ethical and spiritual content, contradicting the fundamental idea of *istikhlāf* and individual accountability. It transforms it into a tool for real, entrusted individuals

³⁶Al-Shatibi, op. cit., p. 278.

³⁷The Holy Quran, Surah At-Tawbah, verse 10.

³⁸al-Sarakhsī, S. (1993). *Al-Mabsūṭ* and al-Bukhārī in *Kashf al-Asrār* (Part 24). Beirut: Dar Al-Ma'rifa, p. 160. <https://waqfeya.net/book.php?bid=523> - Google Search

³⁹Ibid, p. 240

to escape their responsibilities towards society. Therefore, liability for damages caused by AI should remain attributable to its operator or developer based on the principles of liability for damage caused by things.

The understanding of *dhimmah* as a legal consequence of the human soul finds support in the writings of al-Sarakhsī in *Al-Mabsūṭ* and al-Bukhārī in *Kashf al-Asrār*. Accordingly, *dhimmah* is not merely an accounting device or technical legal construct, but rather a legal attribute granted to human beings, qualifying them to bear rights and obligations. This description is inherent in his humanity, intellect, and spirituality. Since a *dhimmah* is rooted in the covenant, however, inanimate objects (machines) possess no covenantal capacity.

Accordingly, we argue that the proposal to create an independent digital patrimony (*dhimmah māliyyah*) for AI is open to fundamental criticism because these calls aimed at providing compensation for damage caused by AI systems, in reality, at the creation of a legal fiction, since such a patrimony would merely constitute a compensation fund financed by human owners. Granting patrimony to the machine attempts to sever the relationship between wrongdoing and accountability, and between covenant and fulfillment, which empties legal personality of its moral and spiritual content and turns it into a mere cold economic tool.

3. The Invalidity of the Juristic Analogy Between the Financial Patrimony of an Authorized enslaved person and the Liability of a Machine

This comparison is based on the concept of limited legal capacity and dependency, aiming to determine the validity of legal analogy. In Islamic jurisprudence, *al-dhimma* is considered by scholars, such as al-Bazdawi and al-Sarakhsī, to be a legal attribute that makes a person legally competent to hold rights and bear obligations. The basic principle is that *al-dhimma* is inherently connected to human existence.⁴⁰ In the case of an enslaved person, he is a human being endowed with a soul and moral agency, but their *dhimmah* is restricted due to slavery. Although an enslaved person possesses *al-dhimma* capable of maintaining rights, it is limited by the claims and rights of their master.

⁴⁰al-Sarakhsī, op. cit. p, 106

In contrast, a machine is an inanimate entity devoid of both a soul and moral agency; thus, granting it *al-dhimma* simply constitutes an attempt to create a legal attribute for an entity that lacks the fundamental attributes of humanity and a soul. A comparison can be drawn between an authorized slave (*al-'abd al-ma'dhūn*), whose master allows them to trade and assume obligations within certain limits, and an independent artificial intelligence that enters into contracts (smart contracts). Both operate on behalf of an owner or master, both act within the scope of their permission, and the financial results ultimately accrue to the owner.

The fundamental distinctions lie in human agency. An authorized enslaved person acts through human intellectual and will, possesses actual capacity, and is therefore accountable morally and legally, such as through physical penalty. A machine, on the other hand, performs according to an algorithm and cannot be held accountable, deterred, or morally blamed. Furthermore, with respect to the independence of *dhimma*, if debts incurred by an authorized enslaved person exhaust his financial liability and cannot be satisfied from his assets, his person may be sold to discharge those debts. Nevertheless, can an AI system be sold to pay its debts? If the answer is affirmative, then what is sold is merely property for the satisfaction of a debt, not a legal person with *dhimma*.⁴¹

An enslaved person is a dual-dimensional human entity, consisting of body and soul, possessing full essential capacity and limited actual capacity, restricted *dhimma* due to slavery; he bears physical responsibility through retribution and discretionary sanctions, or financial liability. He is religiously obligated as a vicegerent and legally bound. Artificial intelligence, however, is a one-dimensional inanimate entity composed of matter and software. It possesses actual simulation but lacks essential capacity. It has no legal capacity because it is inanimate, and any claim to legal capacity is hypothetical. The objective patrimony is imposed upon the owner or programmer, and the owner or programmer is not legally obligated because it is a tool for vicegerency. Therefore, the analogy between the enslaved person and the machine is invalid because of the absence of operative legal cause. The *dhimma* of the slave is based upon his humanity, which is absent in the machine. The enslaved person is a person by nature and a restricted entity by his servitude, while the machine is an object by nature and remains an object by virtue of its use.

⁴¹Al-Bazdawi, F. (n.d). *Usul al-Bazdawi (Kanz al-Wusul ila Ma'rifat al-Usul)*, Javed Press, Karachi, Vol. 4, pp. 238-239 (with the explanation of *Kashf al-Asrar* by al-Bukhari).

However, from the perspective of Trust (*Amānah*), the slave bears the moral trust towards God and towards his master, while the machine is an instrument fulfilling the Trust borne by human beings. As for vicegerency, the slave is a vicegerent on earth (*khalīfah*) in his capacity as a human being, while the machine is one of the things subservient to man, who is the vicegerent. Therefore, the attempt to liken artificial intelligence to the system of an unauthorized slave is flawed, because Islamic jurisprudence did not grant the slave dignity because he is a productive tool, but because he is a responsible human being who is subject to the characteristic of servitude incidentally.⁴² Since the machine lacks the characteristic of humanity and spirit, granting it legal dignity is considered a departure from the principles of jurisprudence and an infringement on the centrality of man in the system of vicegerency.

Section Four

Practical Applications of Liability for the Acts of Artificial Intelligence

Technological advances in the field of artificial intelligence (AI) have posed unprecedented challenges to contemporary legal systems, placing them at a crossroads between two competing approaches: the tendency to create legal fiction such as the electronic legal personality and the adherence to ethical principles that recognize a human being as the essential bearer of legal responsibility. The "black box" and the autonomy of the machine, through its adaptation as an advanced tool subject to the will of the human vicegerent, are among the most significant legal challenges. Drawing upon the rules governing liability for things and direct and indirect liability under Jordanian civil law, derived from Islamic jurisprudence, it is shown that there is no legal necessity to dissociate the harmful act from its moral agent. Through reviewing applied models of accidents involving self-driving cars, we demonstrate how linking responsibility to the financial patrimony (*dhimmah māliyyah*) of the human being (manufacturer or user) is the only guarantee for achieving justice and deterrence and protecting the dignity of the vicegerent from being dissolved behind digital entities.

1. Characterizing the Machine as an Instrument of Another Party (Human Use of Technology)

⁴²Zahraa, op. cit. p. 248.

The most appropriate legal status for artificial intelligence (AI) is that of a sophisticated instrument operating under the supervision of human beings. Since machines lack both moral agency and a soul, their liability cannot be personal. Legal principles derived from the liability for things or vicarious liability can be applied, where appropriate, to address the damage caused by AI.

⁴³The human principal, whether a natural person or a corporate entity, is the one who possesses moral agency and is entrusted with vicegerency; therefore, they are responsible for guiding this intelligent tool towards beneficial goals and preventing its harm. Granting legal personhood to the machine would diffuse responsibility and lead to the loss of the rights of those harmed by digital entities that do not recognize what punishment or divine retribution is.

Based on denying that the machine (AI) has the status of a vicegerent (*khalīfah*) and the bearer of the covenant (trustee), we must define a system of liability for damages that accords with its legal nature. Since AI lacks moral agency and a soul, it cannot be held liable for personal fault-based tort liability because fault requires conscious intention, and machines do not have consciousness. Furthermore, any penalty, whether compensation or punishment, will not deter an entity that does not understand pain or loss.⁴⁴ AI remains a sophisticated technology requiring special attention. Therefore, liability should be imposed upon the custodian for things, as the owner or user effectively controls this potentially dangerous tool. The principal's responsibility for the acts of their agent in cases where AI acts as an executive agent for the programmer or company remains paramount, with the principal's will ultimately bearing responsibility for the outcomes.⁴⁵

An analysis comparing electronic legal personality with the rules of liability demonstrates that the legal personality of AI is an unnecessary construct. The rules of liability for things and liability for negligence in Jordanian and comparative civil law are sufficient to address these situations,

⁴³Wendehorst, C. (2022). Liability for Artificial Intelligence. *European Review of Private Law*, 30(1), pp. 14- 25. <https://doi.org/10.54648/erpl2022002>.

⁴⁴Ebers, M. (2023). Liability for Autonomous Systems: An Economic Analysis. *Journal of European Consumer and Market Law*, 12(2), pp. 55- 65. <https://doi:10.54648/eucml2023012>.

⁴⁵Borges, G. (2024). The AI Liability Directive: A New Era of Liability? *Computer Law & Security Review*, 52, p. 105. DOI: [10.1016/j.clsr.2023.105910](https://doi.org/10.1016/j.clsr.2023.105910).

provided that humans remain the sole center of accountability and deterrence, in accordance with their role as the sole vicegerent of this universe.⁴⁶

2.A Comparative Analysis Between the Electronic Personhood Model and Civil Liability Rules

This section comparatively analyses the European approach, which views electronic personality as a legal fiction, contrasted with the fundamental principles of Jordanian civil law, which are based on the concept of human being as a vicegerent (*khalīfah*) and legal accountability (*taklīf*). This section also explores the concept of the "black box problem" and accidents involving autonomous vehicles to demonstrate the effectiveness of traditional liability rules in protecting rights.

A. The European Legislative Approach to Electronic Personhood

In 2017, the European Parliament issued recommendations calling for the examination of granting the most sophisticated autonomous robots a specific legal status known as electronic personhood.⁴⁷ This recommendation is based on practical necessity; with the machine's decision-making autonomy (the "black box"), it becomes increasingly difficult to establish fault on the part of the programmer or manufacturer. However, we argue that this approach represents a legal evasion of the principle of personal liability because granting a machine an independent personality would separate harmful acts from the moral agent, as personality is linked to the soul and fundamental capabilities.⁴⁸

It is noteworthy that the European Artificial Intelligence Act (EU AI Act) of early 2026 avoided granting full legal personality to machines, and it adopted a risk-based approach.⁴⁹ This European departure from the concept of electronic personhood demonstrates the validity of the principle that personality should not be endowed with entities lacking moral agency. The law now focuses on the strict responsibility of developers (providers) and users (deployers). Furthermore, the UN Charter on Artificial Intelligence at the 2025 Future Summit reaffirmed the principle of meaningful human

⁴⁶Al-Sarakhsi, op. cit., p. 162.

⁴⁷United Nations. (2025). *Global Digital Compact: Resolution A/RES/79/1*, p. 12.
:2015/2103(INL) - European Parliament

⁴⁸Pagallo, op.cit. p. 154.

⁴⁹European Union, *Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonized rules on artificial intelligence (Artificial Intelligence Act)*, Official Journal of the European Union, L series, 2024, p. 44.

oversight⁵⁰, underscoring vicegerency (*istikhlāf*), where humans remain the central and sole authority for accountability.

European legislature effectively resolved the jurisprudential debate through the enactment of the EU AI Act of 2024. It explicitly abandoned the earlier 2017 proposals advocating the recognition of electronic personhood for robots. Instead, it adopted a risk-management approach that distributes responsibility between developers and users, reinforcing the idea that the machine remains a technological instrument subject to human accountability without the need to create an independent legal entity.⁵¹

B. The Position of Jordanian Civil Law Based on the Rules of Tort Liability:

The position of the Jordanian civil law in this context is founded upon the rule of liability for damage, and the Jordanian civil law, which is derived in the provisions of liability from Hanafi jurisprudence and the Code of Judicial Judgments (*Majallat al-Aḥkām al-ʿAdliyyah*), which incorporates established legal rules that can be accommodate harm caused by AI system without the need to create a separate legal personality for the machine through the rule of direct and causing according to Article 257 of the Jordanian Civil Code.⁵² Accordingly, if the AI system's acts cause damage, it is considered direct, but since it does not have an independent will and moral agency, liability must be attributed to a human actor; that is, the programmer, developer, or owner. This actually is consistent with our belief that the machine is an instrument of the inventor, which is the human being.

Furthermore, liability may also be established on the rules of liability for things that necessitate special care following Article 291 of the Jordanian Civil Law, which stipulates that “*Whoever has under their control things that require special care to prevent their harm, or mechanical machinery, shall be liable for the harm caused by these things...*”⁵³, an AI system can be categorized under this article as things of a special and hazardous nature, which makes the responsibility of the guard (the

⁵⁰United Nations. (2025). *Global Digital Compact: Resolution A/RES/79/1*, p. 12: [UN Digital Library - Global Digital Compact](#)

⁵¹United Nations. (2025). *Global Digital Compact: Resolution A/RES/79/1*, p. 12

⁵²Jordanian Civil Law No. (43) of 1976, Article 257, Paragraph 1: “The direct perpetrator is liable even if he did not intend to do so, and the indirect perpetrator is not liable except if he intended to do so or if he transgressed.”

⁵³Jordanian Civil Law No. (43) of 1976, Article 291.

owner) an assumed responsibility, which eliminates the need to grant the machine a legal personality.

There is a fundamental distinction between the European Directive, which is based on electronic personhood, and the Jordanian Civil Law, which is grounded on moral authenticity. The source of this personality in the European Directive is a legislative grant for utilitarian purposes through legal fiction. At the same time, in Jordanian legislation, it is based on the fact that it is an effect of moral agency and soul. Furthermore, the basis of this liability under the European Directive lies in establishing the independent financial patrimony of the robot through a compensation fund. In contrast, under civil law, responsibility is attributed to the vicegerent, which is the human being who directed the machine or owned it.

Additionally, the European directive classifies AI systems as a special category of legal person. At the same time, Jordanian civil law treats AI systems as an advanced object subject to human control and custody. This distinction produces a difference in the goal of the penalty: in the European directive, the goal is only to redress damage, while in Jordanian civil law it aims to redress damage and achieve deterrence and moral justice. The position of Jordanian Civil Law is consistent with the Arab Guiding Principles for the year 2024, which called for the establishment of legislative frameworks that guarantee human sovereignty over technology and are consistent with the moral and social values of Islamic law, which supports responsibility remaining linked exclusively to the human actor.⁵⁴

C. Self-Driving Cars as a Model:

In the context of electronic personhood, if an autonomous vehicle causes an accident, legal proceedings would be brought directly against the vehicle or its designated compensation fund. At the same time, its programmer escapes personal liability once compensation is paid. However, based on the ethical analysis advanced in this research, the accident results from a breach of trust by the programmer or user. Responsibility here remains linked to the vicegerent; the person who introduced the machine into the public sphere should bear

⁵⁴League of Arab States. (2024). Arab Guiding Principles for Artificial Intelligence Legislation. Cairo: General Secretariat, Legal Affairs Sector. (Adopted by resolution of the Council of Arab Ministers of Justice).

liability for its malfunction, considering the technological difference,⁵⁵ just as an animal's keeper is held accountable for any harm caused by the animal.

Furthermore, adopting the electronic personhood approach would lead to the legal elevation of the machine and the marginalization of the human role. Notably, Jordanian civil law, with its flexibility derived from Islamic jurisprudence, is capable of accommodating these technologies under the principle of liability for things or the acts of indirect cause, thereby preserving the centrality of human responsibility within the universe as vicegerent and preventing technology companies from evading their responsibilities behind the guise of the robot's legal personality.

Accidents involving autonomous vehicles serve as a true testing ground for the effectiveness of the legal theories we have examined in this research. While some tend to grant the vehicle an electronic identity to facilitate compensation, our approach, based on moral agency and vicegerency, maintains that liability should always revert to the human being (the designer or user).

This conclusion may be illustrated through a legal analysis of the Uber autonomous vehicle accident (Arizona, 2018), from the perspective of the liability for the custody of things. In that accident, an Uber autonomous vehicle struck a woman crossing the road after its sensors failed to detect her in time, and the driver was distracted.⁵⁶ According to Jordanian civil law, specifically Article 291, liability falls on the custodian of the thing (Uber). Custody implies actual control and direction. Since the company introduced the technology into the public sphere, it is responsible for the failure to ensure the safety of others. However, from our perspective, the vehicle is an instrument lacking a soul and moral agency. Therefore, the algorithm cannot be blamed, and consequently liability rests upon the vicegerent (the human being/company) who failed to supervise a potentially dangerous instrument under their control.

⁵⁵Surden, H. (2019). Artificial Intelligence and Law: An Overview. Georgia State University Law Review, 35(4), p. 1310.: Digital Archive @ GSU Law

⁵⁶NTSB. (2019). *Collision Between a Self-Driving Test Vehicle and a Pedestrian (Accident Report HAR-19/03)*, p. 42.

A similar example is the repeated Tesla Autopilot accidents, which have involved collisions into trucks or barriers, due to drivers' complete reliance on the automated driving system without human supervision or intervention. In Tesla accidents involving the Autopilot system, liability arises from the user's personal fault. If the data proves that the driver neglected the duty of human-in-the-loop control, then the liability falls on him personally.⁵⁷ If the direct and indirect principle applies, the driver, through his negligence, is the indirect cause whose acts led to direct damage to the vehicle. However, from the perspective of this research, the human being remains the only entity that possesses the moral agency to make autonomous decisions in emergencies. Delegating operational function to the machine does not absolve the human actor of responsibility, because trust is not delegated to inanimate objects.

4. Liability for Manufacturing Defects and the Black Box Concept

This section discusses a hypothetical accident resulting from a programming error in an autonomous vehicle's source code, causing it to make an erroneous decision in an ethical dilemma, such as colliding with one individual to avoid a larger group. Under the principle of liability for the act of a third party, while artificial intelligence lacks the fundamental capacity (soul), its acts constitute an extension of its creator's acts. Therefore, any defect in the machine's ethical decision-making shall be attributed to the manufacturer who fails to perform his responsibility as vicegerent (*khalifah*)⁵⁸

In the precedent scenario, liability is allocated as follows: The programmer/manufacture incurs tortious negligence liability based on design defect, given that the machine is an extension of its creator's will according to its functional capacity. Based on the Islamic finance maxim, known as *Al-Ghunm bi al-Ghur*⁵⁹ (liability follows benefit/gain accompanies loss), and the standard principles of civil law governing the guardian of a thing requiring special care, the vehicle owner bears strict liability grounded in exercising effective control over the instrument. The user or safety driver may incur liability for negligence due to a breach of the

⁵⁷Gless, S., et al. (2016). If Robots Cause Harm, Who Is to Blame? *New Criminal Law Review*, 19(3), p. 412. DOI: [10.1525/nclr.2016.19.3.412](https://doi.org/10.1525/nclr.2016.19.3.412).

⁵⁸Dachsel, S. (2023). The Black Box Problem in AI Liability. *Computer Law & Security Review*, 48, p. 105.

⁵⁹Vladeck, D. C. (2014). Machines without Principals: Liability Rules and AI. *Washington Law Review*, 89(1), pp. 143-145: [Washington Law Review Archive](https://www.washingtonlawreview.org/article/2014-01-01/vladeck-d-c-machines-without-principals-liability-rules-and-ai)

duty of meaningful human oversight according to their moral agency. Finally, the vehicle/machine bears no legal liability since it lacks a soul and the essential capacity that constitutes the basis of its legal accountability (*taklīf*) and vicegerency (*istikhlāf*).⁶⁰ In light of the rapid legislative developments witnessed in 2026, most notably the final directives for the European Artificial Intelligence Law, the global regulatory landscape has increasingly retreated from the electronic personhood concept, favoring the reaffirmation of human responsibility. This is entirely consistent with what we have concluded in this research, namely that both soul and moral agency constitute existential constraints that positive legislation cannot transcend, regardless of the degree of intelligence and autonomy AI systems attained.

Results

In light of the previous analysis, the study came out with some conclusions and practical recommendations:

1. Financial patrimony is not merely an abstract accounting construct; rather, it is a reflection of covenant and moral agency. Since artificial intelligence lacks a soul, it cannot be granted independent legal patrimony.
2. Human beings are the sole source of legal accountability (*taklīf*) by virtue of serving as the vicegerent (*khalīfah*), entrusted with the *Amānah* (Trust) and bound by a voluntary covenant (*'ahd*). In contrast, artificial intelligence remains a subservient instrument, subject to the involuntary laws of programming and physics.
3. The research identified a fundamental flaw in comparing machines to slaves. A slave is a human being with a soul and inherent legal capacity to hold rights and bear obligations, whose *dimmah* is restricted by an incidental impediment (slavery). At the same time, a machine is an inanimate, one-dimensional entity lacking the fundamental capacity for legal responsibility (humanity).
4. The analysis demonstrated that Article (291) of the Jordanian Civil Code (concerning things requiring special care) is fully capable of addressing the harm caused by artificial

⁶⁰Zahraa, op. cit. p. 248.

intelligence through the system of strict liability of the custodian, without the need to create an electronic legal personhood.

5. The recent international trend in 2024 (both in the European Artificial Intelligence Law and the United Nations resolution) emphasized retreating from the concept of a legal personhood for machines and adhering to the standard of effective human oversight, which accords with the hypotheses of this research.

Recommendation

1. WE suggest that the Jordanian legislature shall refrain from adopting the calls for granting robots electronic legal personhood. Instead, it should adhere to the soul and ethical standard of legal personality as an extension of human nature.
2. Careful amendments to Article (291) of the Civil Code should be made by including a provision expressly clarifying the classification of autonomous artificial intelligence systems as hazardous objects, thereby subjecting the custodian (manufacturer or user) to strict liability for the damage they cause.
3. Establishing legal controls that mandate human intervention in critical decisions made by intelligent systems, to ensure that the ethical agent remains accountable at all times.
4. Urging legal academic institutions to advance interdisciplinary research exploring the objectives of Islamic law (preservation of life and property) with the law of modern technologies, to offer authentic legal alternatives that dispense with Western legal loopholes.

References

Arabic References:

1. The Holy Quran.
2. Al-Bukhari, Ala' al-Din Abd al-Aziz. (1974). *Kashf al-Asrar 'an Usul Fakh al-Islam al-Bazdawi* (edited by Muhammad al-Mu'tasim Billah al-Baghdadi, vol. 4). Beirut: Dar al-Kitab al-Arabi.

3. Al-Bazdawi, F. (n.d.). *Usul al-Bazdawi: Kanz al-Wusulila Ma'rifat al-Usul* (with the commentary *Kashf al-Asrar*, vol. 4). Karachi: Javed Press.
4. League of Arab States. (2024). *Arab Guiding Principles for Artificial Intelligence Legislation*. Cairo: General Secretariat, Legal Affairs Sector.
5. Al-Jurjani, A. (1983). *Kitab al-Ta'rifat*. Edited by Ibrahim al-Abyari. Beirut: Dar al-Kitab al-Arabi.
6. Ibrahim, K. (2020). *Civil Liability for Artificial Intelligence Damages*. Alexandria: Dar al-Fikr al-Jami'i.
7. Al-Sarakhsī, S. (1993). *Al-Mabsūṭ* and al-Bukhārī in *Kashf al-Asrār*. Beirut: Dar al-Ma'rifah.
8. Al-Shatibi, I. (1997). *Al-Muwafaqat* (edited by Mashhur ibn Hasan Al Salman, vol. 2). Al-Khobar: Dar Ibn Affan.
9. Al-Ghazālī, A. (1998). *Iḥyā' 'Ulūm al-Dīn* (vol. 3, *Kitab Sharh Aja'ib al-Qalb*). Beirut: Dar al-Kutub al-'Ilmiyya, pp. 4-7. ISBN: 978-2-7451-2474-6
10. Jordanian Civil Law No. (43) of 1976. Articles (30, 31, 257, 291). Amman: Official Gazette.
11. Lay al-Hayyan, Muhammad Hamid. (1987). *Civil Liability in Islamic Jurisprudence: A Comparative Study with Civil Law*. Beirut: Dar al-Jil.

English References:

1. Al-Faruqi, I. R. (1995). *Al-Tawhid: Its Implications for Thought and Life* (2nd ed.). International Institute of Islamic Thought (IIIT). <https://iiit.org/en/book/al-tawhid/>
2. Borges, G. (2024). The AI Liability Directive: A New Era of Liability? *Computer Law & Security Review*, 52, 105910. <https://doi.org/10.1016/j.clsr.2023.105910>
3. Cameron, N. M., & Williamson, T. B. (2005). Technosapiens: Nanotechnology and the Future of the Human Person. In *NBIC Conference Proceedings* (p. 34). <https://doi.org/10.1111/j.1747-0862.2005.tb00318.x>

4. Dachsel, S. (2023). The Black Box Problem in AI Liability: A European Perspective. *Computer Law & Security Review*, 48, 105781. <https://doi.org/10.1016/j.clsr.2022.105781>
5. Ebers, M. (2023). Liability for Autonomous Systems: An Economic Analysis. *Journal of European Consumer and Market Law*, 12(2), 55-65. <https://doi.org/10.54648/eucml2023012>
6. European Union. (2024). *Regulation (EU) 2024/1689 of the European Parliament and of the Council on laying down harmonized rules on artificial intelligence (Artificial Intelligence Act)*. Official Journal of the European Union. <https://doi.org/10.3063/OJ.L.2024.1689>
7. Gless, S., Silverman, E., & Weigend, T. (2016). If Robots Cause Harm, Who Is to Blame? Self-Driving Cars and Criminal Liability. *New Criminal Law Review*, 19(3), 412-436. <https://doi.org/10.1525/nclr.2016.19.3.412>
8. Harris, J. (1985). *The Value of Life: An Introduction to Medical Ethics*. Routledge.
9. International Bar Association. (2020). *The impact of artificial intelligence on the legal profession*. London: IBA Legal Policy & Research Unit (LPRU). <https://www.ibanet.org>
10. Kant, I. (1991). *The Metaphysics of Morals* (M. Gregor, Trans.). Cambridge University Press. (Original work published 1797). <https://doi.org/10.1017/CBO9780511809644>
11. King, P. (1979). The Juridical Status of the Fetus: A Proposal for Legal Protection. *Michigan Law Review*, 77(7), 1647-1687. <https://doi.org/10.2307/1288114>
12. Naffine, N. (2003). Who are Law's Persons? From Customary Animals to Spiritual Beings. *The Modern Law Review*, 66(3), 346–367. <https://doi.org/10.1111/1468-2230.6603002>
13. Pagallo, U. (2013). *The Laws of Robots: Crimes, Contracts, and Torts*. Springer. <https://doi.org/10.1007/978-94-007-6353-1>
14. Tanner, J. (2006). The Argument from Marginal Cases and the Moral Status of Animals. *Ethical Theory and Moral Practice*, 9(1), 47-58. <https://doi.org/10.1007/s10677-006-9008-0>
15. United Nations. (2025). *Global Digital Compact: Resolution adopted by the General Assembly on the Summit of the Future (A/RES/79/1)*. UN Digital Library.

16. Vladeck, D. C. (2014). Machines without Principals: Liability Rules and Artificial Intelligence. *Washington Law Review*, 89(1), 117-150
17. Wendehorst, C. (2022). Liability for Artificial Intelligence. *European Review of Private Law*, 30(1), 1-25. <https://doi.org/10.54648/erpl2022002>
18. Zahraa, M. (2003). The Legal Capacity of Women in Islamic Law. *Arab Law Quarterly*, 18(3/4), 245-263. <https://doi.org/10.1163/15730250360742188>