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A COMPARATIVE FIQH ANALYSIS OF THE NORMATIVE FEASIBILITY OF ARTIFICIAL INTELLIGENCE AS A JUDGE FROM SHI‘I AND SUNNI PERSPECTIVES

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ABSTRACT

Advancements in artificial intelligence (AI) and its entry into traditional institutions such as the judiciary have raised novel legal and Islamic jurisprudential questions. This study aims to examine the normative feasibility and limitations of employing AI as an independent judge, using a descriptive-analytical method with a comparative approach, analyzing the jurisprudential foundations of both the Twelver Shi‘i and Sunni schools. The central research question is whether AI, considering the conditions and criteria of judicial authority in Islam, can qualify for the role of a judge. Findings indicate that in Twelver Shi‘i jurisprudence, criteria such as justice, ijtihād, Islam, and intellect render AI inherently unfit for judicial office, and its appointment as an independent judge is impermissible; however, its use as an assistant or tool under human judicial supervision is allowed. Similarly, in Sunni jurisprudence, considering conditions such as Islam, justice, ijtihād, and key principles like dar’ al-mafāsīd muqaddam ‘ala jalb al-maṣāliḥ, the prevailing view also rejects granting autonomous judicial authority to AI systems. The study concludes by emphasizing a cautious and prudent approach to the adoption of this emerging technology, prioritizing the protection of human rights and the integrity of the judicial system.

KEYWORDS: Artificial Intelligence, Judge, Comparative Fiqh, Twelver Shi‘i, Sunni, Normative Ruling, Justice.

1. INTRODUCTION

The contemporary world is witnessing an unprecedented transformation in digital technologies, particularly in artificial intelligence (AI). Once a marginal field within computer science, AI has now become a central driver of change across all aspects of human life, including economy, medicine, education, and governance. One of the most challenging yet intriguing areas of AI application is the judicial system. High processing speed, the ability to analyze vast amounts of data, apparent impartiality, and immunity to fatigue or momentary emotions have prompted the emergence of concepts such as “robotic judges” and “algorithmic adjudication.” Practical examples of these developments can be observed in Estonia’s “Digital Judge” project, predictive algorithms in certain U.S. courts for parole decisions, and intelligent judicial systems in China (Park, 2020; ISNA, 2019).

These emerging technologies pose unprecedented questions for Islamic societies, whose legal and judicial systems are founded on Sharia law. The central issue concerns the normative ruling on employing AI as a judge: Can a software system be entrusted with authority over human life, property, and reputation? Can an algorithmic decision carry religious legitimacy? These questions are not merely technical or legal; they fundamentally challenge the theological, jurisprudential, and legal-philosophical foundations of Islam.

Previous studies have primarily focused on the technical, ethical, and administrative aspects of AI in judiciary systems, yet comparative jurisprudential analyses between the two major Islamic schools (Twelver Shi'i and Sunni) remain limited.

This study aims to examine the normative feasibility of employing AI as a judge from the perspectives of Twelver Shi'i and Sunni jurisprudence. The main research question is whether AI can legitimately function as an independent judge within an Islamic judicial system, and if not, what role it may play in judicial processes.

1.1. Literature Review

In recent years, various studies have explored the philosophical, legal, and ethical dimensions of artificial intelligence (AI). Works such as Hossein Matlabi Karbekandi's dissertation, *“Analysis of Artificial Intelligence and Its Functions Compared to Human Thinking”* (2013), and the article *“Re-examining the Concept of Criminal Liability of Artificial Intelligence...”* by Saeed Atazadeh and Jalal Ansari,

have each examined different aspects of this phenomenon. Moreover, among contemporary jurists, scattered fatwas and legal opinions indicate ongoing concerns regarding AI. Nevertheless, there remains a clear gap for a systematic, comprehensive, and comparative study that specifically and thoroughly examines the jurisprudential ruling on the use of AI as an independent judge from the perspectives of both Shi'i and Sunni schools. This article aims to address that gap.

1.2. Research Questions

1. What is artificial intelligence, and how do its different functional levels (narrow, general, superintelligent) affect the normative ruling in Islamic law?
2. Considering the qualifications of a judge in Twelver Shi'i jurisprudence (such as justice, ijtihād, Islam, intellect), can narrow or general AI be appointed as an independent judge?
3. Considering the qualifications of a judge in Sunni jurisprudence (such as Islam, justice, ijtihād, freedom), is it permissible to entrust independent judicial authority to AI systems?
4. What is the prevailing jurisprudential view on this issue, and what intermediate solutions (e.g., use as a judicial assistant) can be considered?

1.3. Research Methodology

This study employs a descriptive-analytical methodology. First, the basic concepts and functional levels of artificial intelligence (AI) are clarified through a literature review of contemporary sources. Next, primary jurisprudential sources of the two major Islamic schools (including hadith collections, normative jurisprudence texts, and Qur'anic exegeses), as well as the opinions of contemporary jurists, are examined to extract and analyze the evidence regarding the qualifications of judges and the nature of adjudication. Finally, a comparative approach is applied to evaluate the similarities and differences between the two perspectives, culminating in a comprehensive synthesis. The structure of the article is designed to meet the standards of scholarly journals in the fields of Islamic jurisprudence, law, and Islamic studies.

2. CONCEPTUALIZATION AND TYPES OF ARTIFICIAL INTELLIGENCE

2.1. Definition And Evolution

Artificial intelligence (AI) refers to a branch of computer science aimed at creating machines and

systems capable of performing tasks that typically require human intelligence, such as perceiving the environment, logical reasoning, learning from experience, decision-making, and problem-solving (Aghajani, 2021, p. 10). Although the foundations of AI trace back to the ideas of classical philosophers and mathematicians, it emerged as a distinct academic discipline in the mid-20th century. A significant milestone was the development of machine learning and, more recently, deep learning, which enabled computers to learn from data without explicit step-by-step programming (Razavi Salestani, 2015, p. 2).

2.2. Scope Of Applications Across Fields

Today, AI is no longer an abstract concept but an integral part of daily life. Its applications span medicine (diagnosing diseases through radiological images, developing personalized drugs) (Sodoughi & Sheikh Taheri, 2011, p. 240), transportation (autonomous vehicles) (Bozorgi, 2019, p. 201), economy (algorithmic trading, risk management) (Sadeghi, 2019, p. 1), and security (network intrusion detection, facial recognition) (Ghiamatun, 2015, p. 3). However, its entry into the legal and judicial domain has raised particular concerns due to the sensitive nature of the field. Applications include analyzing judicial precedents, predicting case outcomes, screening cases, and even drafting preliminary judgments (Farajollahi, 2015, p. 320).

2.3. Types Of Artificial Intelligence

To examine the normative ruling of AI with greater precision, it is essential to distinguish between its different levels.

The most common classification includes three tiers:

A) Narrow Or Weak AI

This is the only level that has been realized to date. In this type, an intelligent system is specialized in a very specific and limited domain, outperforming humans within that scope, but possessing no abilities beyond it. Prominent examples include the AlphaGo system for the game of Go, voice assistants such as Siri and Alexa, advanced search engines, facial recognition systems, and predictive algorithms for judicial decisions. A key characteristic of this level is the absence of understanding, consciousness, or self-awareness. These systems operate solely based on pre-learned patterns or programmed rules, without any general comprehension of the world or themselves (Matlabi Karbekandi, 2013, p. 20; Sazmand, 2018, pp. 9–10).

B) Artificial General Intelligence (AGI)

This level is theoretical and forward-looking. AGI refers to a system with cognitive capabilities equivalent to a human being. Such a system can learn, reason, solve problems in diverse and unpredictable contexts, and may even possess emotions and self-awareness. Projects like "Noomente" aim to develop AGI (Pavlacka, 2013, pp. 1–3). The realization of AGI would fundamentally alter many of the assumptions underlying this research.

C) Artificial Superintelligence (ASI)

This level goes beyond AGI and refers to a system that significantly surpasses human intelligence in all areas, including creativity, wisdom, and social insight (Sazmand, 2018, p. 10). ASI is mainly a subject of future studies and the philosophy of technology.

Since Narrow AI represents the current reality and AGI is a plausible near-future scenario (Sourdin, 2018, pp. 1131–1132), the primary focus of this study is on the jurisprudential analysis of these two levels.

3. THE NATURE OF JUDGING AND THE QUALIFICATIONS OF A JUDGE

3.1. Judging As A "Divine Authority"

From the perspective of Islamic jurisprudence, judging is not merely an administrative task or a technical process for dispute resolution. Rather, it constitutes a form of *wilayah* (authority) and sovereign power delegated by God to the Prophet (PBUH), the infallible Imams (peace be upon them), and, during the Occultation, to qualified jurists (*fuqahā' jāmi' al-sharā'it*). This authority derives its legitimacy from representation of the infallible Imam. Consequently, a judge not only resolves disputes but also enacts divine law, upholding both *Haq Allah* (rights of God) and *Haq al-Nās* (rights of people).

This perspective is emphasized in numerous traditions. Imam al-Sadiq (peace be upon him) states: "Indeed, judging belongs only to the Commander of the Faithful and the Imams after him, or to one whom the Imam appoints" (Al-Hurr al-ʿĀmilī, *Wasā'il al-Shī'a*, Vol. 27, p. 13). This hadith clearly indicates that judging is a divinely sanctioned office requiring appointment.

In Sunni jurisprudence, although the basis is not representation of the infallible Imam, judging is nevertheless regarded as a highly responsible position (*amānah khatīrah*) and an office of general leadership (*imāmah ʿāmmah*) requiring specific qualifications. Ibn Farhūn refers to judging as a

riyāṣah shar‘īyah tāmah (“complete religious authority”) (Ibn Farhūn, n.d., Vol. 1, p. 11). This places the judge in the position of the Imam’s deputy in resolving disputes among the faithful.

3.2. Objectives And Purposes of Islamic Judging

Islamic law assigns high and multifaceted objectives to the institution of judging, which go beyond mere procedural dispute resolution:

1. Establishing Justice: The foremost goal of judging is the establishment of justice. The Qur’an states: “*Indeed, Allah commands justice and doing good*” (An-Nahl: 90). The judge serves as the executor of this divine command in society.
2. Preventing Oppression and Upholding Rights: Restoring rights to their rightful owners and preventing the violation of individuals’ rights.
3. Reconciliation Between Parties (*Islāh al-Bāyn*): Judging can facilitate peace and reconciliation between disputing parties.
4. Enforcement of Hudud and Ta‘zīr: Preserving the sanctity of Sharia and implementing prescribed punishments.
5. Ensuring Judicial Security: Establishing societal confidence that every right will ultimately be delivered to its owner.

These objectives illustrate that judging is a divinely sanctioned act performed by qualified humans. The nature of these objectives inherently shapes the qualifications and conditions required of the judge

3.3. General Qualifications of a Judge

Before proceeding to the comparative analysis, it is useful to outline the general qualifications that Shi‘i and Sunni jurists consider essential for a judge, with minor differences in details.

These include:

1. Maturity (Bulugh)
2. Intellect (‘Aql)
3. Islamic faith (Islam)
4. Justice (‘Adālah)
5. Ijtihād (or knowledge of jurisprudential rulings)
6. Sound senses (vision, hearing, speech)
7. Freedom (not being enslaved)
8. Male gender (according to the Sunni consensus and some Shi‘i jurists)

Each of these qualifications has a rationale that will be discussed in detail when applied to artificial intelligence

4. NORMATIVE RULING ON THE USE OF

AI IN THE JUDICIAL OFFICE FROM THE SHI‘I JURISPRUDENTIAL PERSPECTIVE

4.1. Examining Narrow AI As an Independent Judge

The prevailing view among Shi‘i jurists, based on well-established evidence, is that it is impermissible to appoint narrow AI as an independent judge.

This position can be substantiated with references to various jurisprudential sources:

4.1.1. Qur’anic Evidence

Several Qur’anic verses assert that ultimate authority and judgment belong to God and that the legitimacy of any judgment depends on adherence to divine law:

- “*Judgment belongs only to Allah; He narrates the truth, and He is the best of those who judge*” (Al-An‘ām: 57).

Allameh Tabataba‘i comments: “Judgment signifies the definitive command and final decision... and this is a prerogative of divine sovereignty” (Al-Mizān, Vol. 7, p. 342). This indicates that the legitimacy of judgment is inherently divine.

- “*And whatever you differ in, its judgment is [referred] to Allah*” (Ash-Shūrā: 10). According to Makarem Shirazi, humans, due to their limitations, cannot exercise absolute judgment, which ultimately belongs to God (Tafsir-e Noman, Vol. 20, p. 364).
- “*Judge between them by what Allah has revealed*” (Al-Mā‘idah: 48). Although this verse addresses the Prophet (PBUH), it establishes the general principle that adjudication must be based on divine revelation.

From these verses, it follows that legitimate judging requires a connection to the divine source and authorization from God. Narrow AI, although it may operate according to rules designed by humans (including jurists), lacks intrinsic divine authority. It is not a deputy (*nā‘ib*) of anyone; rather, it is a tool employed by humans, who themselves may or may not be authorized.

4.1.2. Hadith Evidence

Numerous Shi‘i hadiths emphasize the high rank and stringent conditions of judges, restricting the office to qualified individuals:

- Imam al-Sadiq (peace be upon him) states: “*Beware that some of you judge over others according to the people of oppression; indeed, judging belongs to the Commander of the Faithful and the Imams after him, or to one whom the Imam appoints*” (Al-Kāfī, Vol. 7, p. 206).

This hadith clearly limits judicial authority to an infallible Imam or a person appointed by him. Even if AI were to be appointed by the Imam or his general deputy (e.g., the *Wali al-Faqih*), such a possibility requires proof. More importantly, the term “man” in the hadith refers to a real person, not an object or machine.

- Imam Ali (peace be upon him) said to Shurayh, his judge: “O Shurayh! You have sat in a position that only a Prophet, the Prophet’s deputy, or a wretched person would sit in” (Al-Kāfi).

This symbolic statement underscores the sacred trust and divine responsibility of the judicial office.

Additional hadiths also emphasize the necessity of justice, knowledge, and discernment for judges. For example, in the *Tawqī‘ Sharīf* to Ishāq ibn Ya‘qūb: “As for the events that occur, refer them to the narrators of our hadith, for they are My proof over you, and I am the proof of Allah” (Tūsī, *Al-Ghaybah*, p. 290). This tradition establishes the authority of qualified and knowledgeable jurists (*ruwāt al-ḥadīth*) as the reference for adjudicating real-world cases, of which judicial decisions are a prime example.

4.1.3. Rational Evidence

Reason also supports the view that narrow AI is inadequate for independent judicial office:

1. Judging as a Cognitive-Volitional Act: A judge must be able to discern the intentions of the parties, perceive situational cues (such as anxiety or certainty), and weigh competing interests and harms. Narrow AI lacks this comprehensive and deep understanding of human and social realities. While it can process structured data, it cannot grasp meaning or context in a human-like manner.
2. Responsibility and Accountability: A judge is morally and legally accountable for the rulings issued. Errors can entail liability (*damān*). Narrow AI cannot be considered genuinely responsible or accountable. This lack of accountability conflicts with the principles of judicial justice.
3. Need for Discretion and Choice: Sometimes a judge must choose the most appropriate option among multiple permissible legal alternatives (e.g., between types of *qisās* or *diyya*). Such choices require practical wisdom (*ḥikmah ‘amaliyya*) and the discernment of public interest, which cannot be generated by a fixed algorithm.

4.1.4. Applying Shi‘i Judicial Conditions to Narrow AI

A review of the Shi‘i jurisprudential qualifications for judges indicates that narrow AI fails to meet many of them:

- Maturity (Bulugh): Legal maturity pertains to morally responsible beings. AI is not legally accountable.
- Intellect (‘Aql): Intellect refers to human cognitive and discerning faculties. Narrow AI possesses computational pseudo-intelligence, not genuine human-like understanding or intuition.
- Islamic Faith (Islam) and Belief (Imān): In Shi‘i fiqh, this includes adherence to Islam and allegiance to the Imams (peace be upon them). A software system cannot be religiously committed or a believer. The maxim “No authority for a disbeliever over a believer” (*Lā Wilāyah lil-Kāfir ‘alā al-Mu‘min*, Najafi, *Jawāhir al-Kalām*, Vol. 21, p. 397) is therefore applicable here as well.
- Justice (Adālah): Justice in Shi‘i jurisprudence is considered a deeply ingrained moral virtue that prevents major sins and encourages adherence to minor obligations (Naraqī, *Mi‘rāj al-Sa‘ādah*, p. 523). AI lacks a soul and moral virtues; hence, it cannot be classified as just or sinful. It exists outside this moral dichotomy.
- Ijtihād: Ijtihād refers to the ability to deduce legal rulings from foundational sources (Qur’an, Sunnah, reason, consensus). Narrow AI can only retrieve and apply pre-deduced rulings; it cannot perform genuine ijtihād or derive new rulings. Mere database retrieval is not considered ijtihād.
- Purity of Birth (Tahārat al-Mawlud): This requirement, agreed upon by jurists (Muhāqqiq Ḥillī, *Sharā‘i‘ al-Islām*, Vol. 4, p. 69), is irrelevant to AI, which is not a biological being.
- Senses (Memory, Vision, Hearing): Narrow AI may outperform humans functionally (e.g., perfect audio recording), but such performance does not equate to biological or human perception.

Based on textual evidence (Qur’an and Hadith), rational arguments, and the inability of AI to meet the fundamental qualifications of a judge, appointing narrow AI as an independent judge is neither legitimate nor permissible in Shi‘i jurisprudence.

4.2. Examining General AI (AGI) As an Independent Judge

This hypothetical case is more complex because we are dealing with a potential entity that claims a

level of cognition and self-awareness comparable to humans.

Two main viewpoints can be considered:

4.2.1. The Impermissibility Perspective

Proponents of this view argue that even if AGI becomes a reality, it still lacks the inherent qualifications for judicial office:

1. Non-obligated Status: The most critical issue is that such an entity is not a morally accountable being (*mukallaf*). Divine commands addressed to humans, such as "O you who believe" or "O people", do not apply to it. How can judicial authority over humans be entrusted to a being that is not itself bound by legal or moral obligations? This would entail privileging the non-obligated over the obligated.
2. Absence of True Faith and Justice: Even if the system can simulate pious speech or act according to ostensibly just rules, the internal virtues of faith and justice, realized in the human soul, cannot exist in a machine. These qualities are existential and derive from the divine spirit in humans.
3. Lack of Deputization from the Imam (Niābat): In the Shi'i framework during the Occultation, judicial authority is exercised through the general deputyship of the jurist (*Wali al-Faqih*) on behalf of the Imam. How can AGI serve as a deputy? Such deputization requires juridical knowledge (*ijtihad*) and justice, which, as discussed, AGI cannot possess.
4. Prioritizing Harm Prevention: Jurists emphasize the principle "Prevention of harms takes precedence over realization of benefits" (*Dar' al-Mafāsīd muqaddam 'alā jalb al-Maṣāliḥ*). Even if AGI may offer potential benefits, it carries enormous and uncontrollable potential harms (e.g., development of autonomous goals in conflict with human interests). Preventing such potential harms outweighs any prospective benefits.

4.2.2. Conditional Permissibility Perspective

Some jurists or researchers may consider the conditional permissibility of AGI as a judge, provided extremely stringent conditions are met:

1. Full realization of all essential qualities: The system must demonstrably possess genuine perception, free will, independent reasoning (*ijtihad*), and voluntary commitment to Sharia rulings (faith and justice). Philosophically and jurisprudentially, this is highly unlikely and requires robust evidence.

2. Specific appointment by the Wali al-Faqih: In this highly hypothetical scenario, it may be argued that if the Wali al-Faqih, as the general deputy of the Imam, formally appoints AGI as a judge, such appointment might hold validity. However, this itself depends on the verification of all essential conditions by the Wali al-Faqih.
3. Use in highly limited scope under strict supervision: AGI could potentially assist in very simple, rule-based disputes (e.g., certain traffic violations), not as an independent judge but as a tool for factual determination under the oversight of a human judge.

4.2.3. Final Analysis in Shi'i Jurisprudence

Considering the necessary caution in critical matters and based on the predominant evidence, the impermissibility of appointing AGI as an independent judge appears the stronger and more prudent position. The default principle in Islamic jurisprudence is that judicial authority is reserved for humans who are morally accountable, just, and capable of *ijtihad*. Demonstrating a valid exception to this principle requires definitive proof, which is currently unavailable even in the hypothetical scenario of AGI. Therefore, the ruling of impermissibility remains in effect until proven otherwise.

4.3. Permissible Use of AI As a Judicial Assistant

A crucial distinction must be maintained between being a judge and acting as a judicial assistant. The critical objection pertains to appointing AI as an independent, authoritative judge. However, using AI as a supportive tool in the hands of a qualified human judge is permissible, provided it does not introduce harm. In fact, it may be recommended or, in some cases, obligatory if it is the only means to ascertain the truth. Applications include:

- Database search: Locating analogous cases and related rulings to support judicial reasoning.
- Analysis of digital evidence: Detecting forgery, verifying signatures, and analyzing documents.
- Drafting preliminary judgments: Preparing drafts based on input data, which the human judge thoroughly reviews, amends, and finalizes.
- Time management and administrative efficiency: Streamlining court processes.

In all cases, the final responsibility and legal validity of the ruling rests entirely with the human

judge. AI functions solely as a tool, analogous to using a computer for typing judgments or searching digital libraries.

5. THE JURIDICAL RULING ON THE USE OF AI IN JUDICIAL OFFICE FROM THE SUNNI PERSPECTIVE

In Sunni jurisprudence, after consulting the classical fiqh sources of the four major schools (Hanafi, Maliki, Shafi'i, Hanbali), similar conditions are prescribed for judges, though sometimes with differing emphases. Examining these conditions and their applicability to AI helps clarify the Sunni perspective.

5.1. Conditions Of a Judge in Sunni Jurisprudence

1. Islam: All Sunni schools agree that a judge must be a Muslim (Ibn Najim, *al-Bahr al-Ra'iq*, vol. 6, p. 283; Bahuti, *Kashaf al-Qina'*, vol. 6, p. 295). The basis is Qur'an 4:141: "And Allah will never grant the disbelievers power over the believers." A non-Muslim, due to lack of adherence to Sharia, is considered unfit to hold authority over Muslims and implement divine rulings. AI clearly lacks Islam, since Islam requires a sincere internal and verbal commitment, which a non-biological entity cannot possess.
2. Justice ('Adalah): The Maliki, Shafi'i, and Hanbali schools consider justice a necessary condition for a judge (Sa'di al-Maliki, *al-Sharh al-Kabir*, vol. 3, p. 1002; 'Umarani, *al-Bayan*, vol. 13, p. 201; Bahuti, *ibid.*, vol. 6, p. 295). The reasoning is that the testimony of a corrupt person requires verification (Qur'an 49:6), so how can one accept the judgment of someone – whose rulings are more significant than mere testimony – without investigation? Judges are entrusted with critical matters such as orphaned property and human lives, which are incompatible with moral corruption. The Hanafi school allows a corrupt judge to adjudicate if not convicted of serious transgression (qazf), though it is highly disliked (Ibn Najim, *ibid.*, p. 283). AI, however, is neither just nor corrupt; it cannot bear moral qualities. Since public trust in a judge depends on perceiving justice, using a system to which justice cannot be attributed may erode confidence and functionally resemble a corrupt judge in the social context.
3. Ijtihad (Legal Competence): The Maliki, Shafi'i, and Hanbali majority hold that judges must be competent jurists (Sa'di al-Maliki, *ibid.*, p. 1002; 'Umarani, *ibid.*, vol. 13, p. 19). The basis includes Qur'an 5:48: "Judge between them according to what Allah has revealed" and the hadith: "Judges are of three types..." (Ibn Majah, *Sunan*, 2315), which condemns ignorant adjudication. While following precedent in issuing fatwas may be permissible, blind imitation in judgment, which carries binding authority, is unacceptable. Hanafi jurisprudence allows a non-expert judge to refer to qualified jurists (Kasani, *Bada'i' al-Sana'i'*, vol. 3, p. 37). AI, even at its most advanced, functions as an extremely fast imitator, generating output solely based on human-entered data. True ijthād – the ability to derive new rulings from texts in complex contexts – is beyond its capacity. Hence, according to the Sunni majority, AI is unqualified; even for Hanafis, intrinsic limitations in comprehension and judgment present significant obstacles.
4. Reason and Maturity: There is consensus on these conditions (Ibn Najim, *ibid.*, p. 283). AI is not mature biologically or religiously, and while it possesses computational reasoning, it lacks human intellect.
5. Freedom (Hurriyyah): Scholars agree on this condition ('Umarani, *ibid.*, p. 20). A slave is under the control of a master and cannot act independently. AI is inherently a human-created entity, lacking autonomous will beyond the programmer's design.
6. Male Gender (Dhukuriyyah): The Sunni majority (Maliki, Shafi'i, Hanbali) generally do not permit women to serve as judges in all cases (Ibn Qudamah, *al-Mughni*, vol. 10, p. 36), citing the hadith "A people whose affairs are entrusted to a woman will never prosper" (Bukhari 4425) and analogy with leading congregational prayer. Hanafis permit female judges in non-hudud and non-qisas cases (Ibn Najim, *ibid.*, p. 283). This condition is not applicable to AI.
7. Intact Senses (Vision, Hearing, Speech): These are required to observe parties, hear disputes, and announce judgments (Ibn Najim, *ibid.*, pp. 282-283; 'Umarani, *ibid.*, p. 21). AI may functionally exceed humans in some aspects, such as precise audio recording and visual recognition, and can even detect micro-audio cues indicative of stress (Chadwick, 2020, p.1). However, technical capability differs from human sensory perception, which is integrated with contextual understanding and social

interpretation. Furthermore, AI systems remain vulnerable to sophisticated deception techniques, such as deepfake audio and video.

5.2. Jurisprudential Analysis of Independent AI Adjudication in Sunni Thought

Considering the above conditions, two general perspectives can be identified among contemporary Sunni scholars

5.2.1. The View of Non-Permissibility

This perspective, which appears rooted in caution and textual adherence, provides strong arguments against permitting AI as an independent judge:

1. Deficiency in Fulfilling Essential Conditions: AI lacks Islam, justice ('adl), ijtihād, freedom (hurriyyah), and maturity. These conditions are not merely formalities; they are intended to ensure the realization of actual justice and the reliability of judicial rulings. Their absence implies a fundamental deficiency in achieving the purpose of adjudication.
2. Principle of "Preventing Harm Takes Precedence Over Securing Benefits" (*Dar' al-Mafasid Muqaddam 'ala Jalb al-Masalih*): This principle is widely accepted in Sunni jurisprudence (Suyuti, *al-Ashbah wa al-Nazair*, p. 87). While AI may offer benefits such as speed and cost reduction, it carries significant potential harms:
 - Unknown Systematic Errors: In machine learning, decisions may reflect hidden biases in training data, which the programmer cannot easily identify (Ibrahim Muslim, n.d., pp. 21-23).
 - Security and Privacy Threats: The system may be hacked or leak sensitive information.
 - Erosion of Public Trust: People may not trust the ruling of an impersonal machine as they trust a just human judge.
 - Liability and Responsibility Issues: If errors occur, who is legally and religiously accountable—the programmer, operator, or the AI itself? Such ambiguity contradicts justice.

Preventing these potential harms takes precedence over the certain benefits of speed and efficiency.

3. Adjudication Requires "Understanding" Not Just "Knowledge": Sunni jurists emphasize that judgment involves skills beyond mere knowledge of laws. Ibn al-Qayyim notes: "*The essence of the matter lies here...*", referring to the story of David and Solomon, where God

granted Solomon special understanding (Ibn Kathir, *Tafsir al-Qur'an al-'Azim*, vol. 5, p. 442). Umar ibn al-Khattab also instructed Abu Musa al-Ash'ari: "*Understanding is understanding what is perplexing your heart...*" (Ibn Kathir, *al-Bidaya wa al-Nihaya*, vol. 7, p. 110). This judicial insight results from experience, wisdom, direct human interaction, and comprehension of complex social conditions—qualities AI cannot acquire.

4. Judicial Office as a Trust and Responsibility: The judge serves as the deputy of the Imam in resolving disputes (Ibn Farhun, vol. 1, p. 11). Entrusting this responsibility to a machine would violate the principle of caution regarding *huquq al-nas* (people's rights). Al-Shatibi, a Maliki scholar, notes: "*The legislator aims in legislation to preserve the objectives of creation...*" (Al-Shatibi, vol. 2, p. 177). One of these objectives is maintaining social order. Endangering the judicial system with experimental technologies contravenes the Sharia's purpose.

5.2.2. The View of Conditional Permissibility

Some scholars may consider the limited use of AI, irrespective of personal conditions like Islam or justice, under very restricted circumstances:

1. Minor Financial Disputes with Clear Rules: For example, traffic offenses or disciplinary violations where the law is explicit and requires no interpretation.
2. As a Fact-Finding Tool (Not a Decision-Maker): Such as calculating damages based on fixed mathematical formulas.
3. Under Full Supervision of a Human Judge with Mandatory Appeal Rights: Ensuring that the AI's preliminary judgment does not possess final authority or legal validity.

Even in this context, the AI is not exercising independent judicial authority; rather, it is mechanizing certain procedural elements under human supervision.

6. SUMMARY, CONCLUSION, AND RECOMMENDATIONS

6.1. Comparative Summary

The conducted analysis demonstrates that the prevailing and strong view in both Ja'fari (Shia) and Sunni jurisprudence is the prohibition of appointing artificial intelligence (AI), whether narrow or general, as an independent judge with judicial authority.

This consensus arises from shared foundational principles regarding the nature of adjudication:

1. The Wilayat (Authority) and Trust Nature of Adjudication: In both traditions, judicial authority is a sacred trust (*wilaya*) that either originates directly from the infallible Imam (Ja'fari perspective) or from the functions of the general leadership (*Imamah 'amma*, Sunni perspective). Such authority cannot be delegated to an entity that is not itself subject to religious obligations (i.e., a non-mukallaf being).
2. Intrinsic Conditions of a Judge: Conditions such as justice ('adl), *ijtihad* (or detailed knowledge of the law), Islam, and intellect are emphasized in both schools—though details vary. These conditions are not merely formal; they ensure the attainment of the ultimate purpose of adjudication, namely, the establishment of justice according to Sharia. AI inherently lacks these essential qualities.
3. Priority of Caution and Preventing Harm: The principle of "*Dar' al-Mafasid Muqaddam 'ala Jalb al-Masalih*" (preventing harm takes precedence over securing benefits) is accepted in both schools. The potential risks of employing AI in judicial roles—systematic errors, erosion of public trust, and ambiguity of responsibility—are significant enough to outweigh potential benefits such as increased speed.

Potential differences may exist in the emphasis on certain conditions. For instance, in the Ja'fari tradition, the condition of *ne'bat* (*deputyship*) from the Imam is more pronounced, whereas in Sunni jurisprudence, emphasis on *ijtihad* and justice might be highlighted more explicitly. Nonetheless, these differences do not affect the overall conclusion.

6.2. Final Conclusion

Comparative analysis of Ja'fari and Sunni jurisprudence indicates that assigning independent judicial authority to AI—whether narrow AI (ANI) or hypothetical general AI (AGI)—lacks religious legitimacy and is impermissible.

This ruling is based on three main axes:

1. Deficiency in Intrinsic Judicial Conditions: AI lacks essential judicial attributes such as Islam, justice, *ijtihad*, freedom, maturity, and human understanding. These conditions are not merely formal; they are necessary for the realization of actual justice and the correctness of Sharia rulings.
2. Jurisprudential Principles and Precautionary Rules: The principle of "*preventing harm takes*

precedence over securing benefits" is valid in both Ja'fari and Sunni schools. Even if AI demonstrates potential efficiency, it carries significant risks: unknown systematic errors, privacy violations, erosion of public trust, and ambiguity in legal and religious responsibility. Mitigating these potential harms takes precedence over any potential benefits such as speed or precision.

3. The Wilayat and Trust Nature of Adjudication: Judicial authority is a sacred and divinely-sanctioned office whose legitimacy depends on a competent, responsible human. Entrusting it to an entity lacking religious duty and moral capability contradicts the foundational principles of jurisprudence and people's rights (*huquq al-nas*).

However, using AI as an assistive tool for a human judge is permissible and can be beneficial in tasks such as data analysis, drafting preliminary judgments, detecting patterns, and accelerating judicial processes, provided that the final responsibility and legal validity of the ruling remain with the human judge.

In conclusion, the Sharia-compliant and practical approach is to enhance human wisdom, justice, and judgment with the aid of technology, rather than replace human adjudication with AI. This cautious approach aligns with religious texts and ensures justice, public trust, and legal security.

6.3. Recommendations

1. Recommendation to Jurists and Religious Institutions:

Establish specialized working groups at the intersection of jurisprudence and technology to examine the various dimensions of artificial intelligence (AI). Such groups should produce well-refined and practical jurisprudential rulings applicable to diverse fields, including economics, medicine, and the judiciary.

2. Recommendation to Legislators and the Judiciary:

When drafting laws and regulations regarding the use of AI in the judicial system, it is essential to explicitly ensure compliance with Sharia principles and to preserve the central role and ultimate responsibility of the human judge. The deployment of AI should never remove accountability from the judge or undermine the procedural rights of the litigants.

3. Recommendations for Future Research:

- Conduct in-depth studies on the jurisprudential rulings regarding civil and

criminal liability for errors caused by AI employed in judicial processes.

- Perform comparative studies on mechanisms to safeguard privacy and ensure fairness in AI-based judicial systems.
- Explore the potential for developing AI systems “bound by Islamic ethics and jurisprudence” for use in less critical legal

domains.

In any case, a **wise and cautious engagement** with emerging technologies – neither through denial and fear nor through uncritical enthusiasm – based on rationality, foundational principles, and adherence to Sharia’s core tenets, will guide Islamic societies in navigating the age of technology.

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