

Robotic Patents Between Islamic Sharia and Secular Law

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Abstract:

Patents play a crucial role in protecting innovation by granting inventors exclusive rights. However, advances in artificial intelligence (AI) have introduced systems capable of generating inventions without direct human involvement, raising legal and ethical questions about recognizing AI as inventors. While most secular legal systems still require inventors to be natural persons, cases like DABUS have sparked global debate. Some propose granting AI a form of "electronic personality" to hold rights—an idea met with both support and criticism. In contrast, Islamic Sharia emphasizes reason and moral responsibility as conditions for legal capacity, thus opposing the attribution of rights to non-human entities. Instead, Islamic law may allow programmers to hold rights over AI-generated inventions through mechanisms that align with Sharia objectives, such as preserving wealth and innovation. A possible middle ground is the concept of a "nominal inventor," where humans are legally recognized while AI is acknowledged as a technical tool.

Keywords: Robot Personality, Artificial Intelligence, Nominal Inventor, DABUS.

INTRODUCTION

Amid the rapid technological transformations of the digital age, artificial intelligence (AI) has assumed a central role in systems of innovation and knowledge production. Once viewed merely as a tool for enhancing operational efficiency, AI has evolved into an active agent in generating ideas and novel solutions—across fields as intricate as industrial design, engineering, software development, and even pharmaceuticals. This evolution has introduced a new reality in which intelligent systems can produce outputs eligible for patent registration, raising unprecedented legal and philosophical questions.

Patents represent one of the most significant mechanisms for safeguarding the moral and financial rights of inventors. They are founded on three core criteria: novelty, inventive step, and industrial applicability. However, the emergence of AI as an actual "creator" of certain innovations—especially through advanced generative algorithms or self-learning systems—has triggered debates over whether such non-human entities can be legally recognized as inventors, or at least, how the legal relationship between these outputs and their human developers or owners should be defined.

Beyond the legal implications, this issue raises profound ethical and jurisprudential challenges, particularly within the Islamic context, where rationality, discernment, and free will are essential conditions for acquiring rights and responsibilities. Thus, there is a pressing need to examine this dilemma through the lens of Maqāṣid al-Sharīʿa (the objectives of Islamic law) and its foundational principles, alongside legal analysis, in order to craft a balanced framework that respects technological progress without compromising the core values of justice and accountability.

1 .Importance of the Topic:

The issue of robotic patents is among the most pressing emerging legal challenges brought about by digital transformation—especially with the rapid development of artificial intelligence technologies and generative systems capable of autonomous innovation. These systems

now produce technical outputs eligible for protection under intellectual property laws, raising fundamental legal questions regarding the characterization of the term “inventor” and whether it can be attributed to a non-human entity such as an intelligent system, especially since most legal systems—including Algerian law—stipulate that the inventor must be a natural person with legal capacity.

The importance of this topic lies not only in its legal dimension but also in its intersection with the Islamic jurisprudential framework, which requires intellect, discernment, and intention for legal capacity and ownership—traits exclusive to human beings. Thus, recognizing a robot’s legal personality as an inventor departs from the foundational principles of Islamic transactional jurisprudence, warranting scholarly examination through the lens of *ijtihād* and the higher objectives of Sharia (*maqāṣid al-sharī‘a*).

On a practical level, addressing this issue constitutes a legislative priority, given the need to recalibrate the relationship between legislators and technological innovation. Neglecting to regulate this phenomenon exposes lawmakers to two risks: first, denying legal protection for high-value inventions merely because they originate from AI systems; and second, potentially granting AI independent legal status, which could undermine the traditional structure of legal liability.

Further underscoring its importance is the growing overlap between legal and Islamic thought, making it imperative to craft legal-*ijtihādī* models that can accommodate the outcomes of advanced technology within frameworks that safeguard the public interest while preserving the fundamental principles of justice—whether through positive law or Islamic jurisprudence.

2 .Objectives of the Topic:

This study aims to explore the legal and jurisprudential challenges posed by recognizing artificial intelligence as an active player in innovation—specifically, the possibility of granting it the status of

"inventor" and the legal implications of doing so. Given the evolution of AI technologies and the emergence of systems capable of producing inventions without direct human involvement, it has become essential to reassess traditional legal concepts that link creativity exclusively to natural persons. The study seeks to evaluate whether current legal systems, including Algerian patent law, are adequate for this new reality, and whether there is a need for legal reform or the creation of novel frameworks such as the "nominal inventor" or "electronic personality".

It also investigates the stance of Islamic jurisprudence on this issue, considering that Islamic law bases legal capacity and liability on intellectual and moral attributes found only in humans. The study thus examines the feasibility of assigning innovation to non-sentient entities and the extent to which such attribution aligns or conflicts with the objectives of Sharia, which emphasize reason, discernment, and intention as core conditions for acquiring rights and bearing obligations.

Additionally, the study aims to provide a comparative assessment between Western legal systems—some of which are moving toward recognizing AI's role in innovation—and legislative attitudes in Arab and Islamic jurisdictions, with a particular focus on Algeria. It analyzes landmark cases and contemporary legal debates, such as the DABUS case, which serve as critical touchstones for developing a deeper understanding of the issue.

Finally, the study seeks to propose practical legal solutions that align with technological progress while upholding both legal and Sharia-based principles—such as implementing dual responsibility between human developers and owners or imposing strict legal obligations when using AI-generated outputs, in order to maintain a balance between human rights protection and digital advancement.

3 .Literature Review:

The first prior study is "AI as an Inventor: What We Can Learn from the Australian DABUS Case" by Eva Janečková, a doctoral

thesis in law published on 30 September 2021 at the University of Oxford. The study analyzed the DABUS case before the Federal Court of Australia, which for the first time accepted that an AI system could be recognized as an inventor under patent law. The author critiqued this approach, arguing it lacks a solid legal basis and contradicts traditional principles that tie invention to human agency. She highlighted the legal challenges this raises regarding patent ownership and transfer of rights. This study is considered a key critical contribution to the debate on AI inventorship.

The second set of studies includes Ryan Abbott's *The Reasonable Robot: Artificial Intelligence and the Law* (2020), Calvert's article "Patents and Artificial Intelligence: What is an Inventor?" (2021), and the joint paper by Ebers & Navas "Artificial Intelligence and Legal Personality: Is It Time for AI to Have Rights?" (2021). These works collectively examine the eligibility of AI as an inventor. Abbott focuses on granting legal inventorship status to robots through the DABUS model in comparative law, while Calvert analyzes the conceptual difficulties in defining "inventor" in light of technological evolution. Ebers and Navas explore the feasibility of granting legal personality to AI systems as a precondition for legal recognition.

The final reviewed study is an article entitled *Artificial Intelligence and the Patent Law System (A Change in Concepts)* by Dr. Najat Djedi and Dr. Rabah Ben Maamar, which discusses the legal reform required to accommodate AI as a potential substitute for human inventors.

4 .Problem Statement:

How have robotics been theorized from both Islamic jurisprudential and legal perspectives—particularly in relation to Algerian patent law?

5 .Methodology:

This study adopts a dual methodological approach, combining the descriptive and analytical methods to examine the topic of robotic

patents between Sharia and law in both conceptual and practical dimensions.

The descriptive method is employed to trace the conceptual evolution of the "inventor" within intellectual property law, analyzing national and international legal texts that define the criteria for patent eligibility—focusing especially on the requirement of human inventorship. It also outlines Islamic jurisprudence positions on capacity, intention, and liability, which are essential conditions for acquiring rights. This method further encompasses the study of legal and doctrinal opinions regarding human-machine interaction in the modern technological context.

The analytical method is applied to interpret relevant comparative legal texts, such as Algerian Law No. 03-07, the TRIPS Agreement, and the proposed European AI Regulation. It also delves into judicial precedents like the DABUS case, which represents a significant legal test for AI inventorship. Moreover, it analyzes the jurisprudential dimensions of attributing innovation to non-sentient entities using *maqāṣid al-sharīʿa* and moral responsibility principles, evaluating whether modern proposals align or conflict with foundational legal and Sharia norms.

The combination of these methods allows for a comprehensive understanding of the issue and highlights gaps in current legislation, offering a critical and forward-looking analysis of how patent law can adapt to AI in both secular and Islamic frameworks.

6 .Structure of the Topic:

The study is divided into two main sections:

- Chapter One: Legality of Invention and Exclusions.
- Chapter Two: The Legal and Shariah System Regarding the Robot as an Inventor.

1. Legality of Invention and Exclusions

A patent is considered one of the economic sources through which an inventor seeks to generate financial profit and increase the income of their institution—particularly if it operates in a corporate form. Major economic companies often allocate substantial financial resources exclusively for scientific research aimed at developing and improving existing technologies, thereby maintaining their leading positions in financial, technological, and innovative domains.

Reaching a patentable invention is no simple matter, as this field is governed by both legal and ethical regulations. Many exclusions are established by law due to potential harms or anticipated risks associated with certain inventions. Algerian legislation, in particular, stands as one of the pioneering legal systems in this regard, as it aims to achieve public interest.

1.1 Violation of Public Order and Morality as a Constraint on Patentability.

The legality requirement refers to the alignment of the invention with fundamental societal interests—meaning that the subject matter of the invention must be legally and ethically permissible. It must not conflict with the public order or morals of the state, which in turn represent the fundamental principles that justify legal protection.¹ This requirement is linked to the broader public policy and ethical values of society, where communal and societal interests are often prioritized over narrow individual gains. These standards vary from one country to another, giving the requirement a relative character.

Although this requirement is not purely technical like the other standard patent criteria (novelty, inventive step, and industrial applicability), it serves as a normative barrier to ensure that legal protection does not become a tool for promoting what is harmful or illicit.

As previously mentioned, legality is a core condition for granting a patent. This means that it is not sufficient for an invention to be new, industrially applicable, and inventive; it must also comply with the

public order and morality requirements set out in national and international laws—foremost among them the Algerian Patent Law (Law 03-07 on Patents). This raises an important question about the relativity of this requirement: can an invention that was once considered illegal become legal over time?

To answer this, it is clear that when prevailing customs and societal values evolve, laws may change accordingly. Consequently, previously excluded inventions may become eligible for patent protection once the associated harm is removed. This is particularly relevant when considering inventions that may have once posed risks to human or animal health, the environment, or that conflicted with core ethical values.

Each state retains discretionary power to assess whether an invention meets the legality requirement, in light of its prevailing beliefs, culture, and religious foundations. Although this requirement is mentioned briefly and generally in most national legislations and international agreements, its interpretation and application differ depending on the granting jurisdiction. For instance, a patent may be granted in China for an invention that would be rejected in another country.

A critical point remains: robots, unlike humans, are incapable of comprehending the legality or ethical implications of an invention. Unlike human inventors who are capable of instilling values and ethics in their work and communities, robots lack moral awareness—underscoring the need for human oversight in evaluating the ethical and legal acceptability of AI-generated inventions.

I. Inventions That Threaten Public Safety or Health

Inventions that threaten public safety or health refer to any innovation or new technology whose use or exploitation could harm individuals' security, public order, physical or mental health of humans or animals, or the surrounding environment. These include devices, methods, or compounds used—directly or indirectly—to

cause physical harm, promote dangerous behavior, or produce substances that are legally prohibited².

Public safety and human health are central elements in assessing the legality of an invention. Although a patent grants an exclusive right to encourage innovation, this right is not absolute; it must be exercised within limits that protect the security of society and the safety of its individuals. For this reason, national and international laws exclude from legal protection any invention that disrupts public order or endangers public health, even if it possesses novelty and inventiveness.³

Examples of unlawful inventions include devices used for fraud, prohibited weapons, tools used for counterfeiting currency, or technologies employed in human genetic modification beyond ethically accepted boundaries. In such cases—among others—granting a patent is prohibited. This requirement grants the competent authorities discretionary power to refuse patent protection if the invention's subject matter is deemed to conflict with public interest, even if all technical conditions are met.

In Islamic jurisprudence, the concept of maintaining the Earth and avoiding corruption is essential. Islam forbids bloodshed, corruption, and environmental pollution, which can diminish the value of life or threaten the existence of living beings. As the Qur'anic verse states: "Indeed, all things We created with predestination"⁴ —a clear indication of the balance that exists in the universe to preserve life, including humans, plants, and animals.

A question may arise regarding the patentability of inventions with dual effects—those with both beneficial and harmful outcomes. Some juristic opinions support allowing the registration of such inventions, provided there is a commitment not to exploit the harmful aspect. Adhering to specific conditions and safeguards can help preserve the value and legality of the patent⁵.

II. Methods for Diagnosing and Treating Humans and Animals.

Methods of diagnosis, surgical intervention, or therapeutic treatment for humans or animals are generally excluded from patent protection in most legal systems, despite their innovative nature. This exclusion is based on ethical and health considerations aimed at preserving everyone's right to treatment and preventing monopolization of basic medical practices. Granting patents in this area could result in the monopolization of new therapeutic techniques, limiting access to healthcare and increasing treatment costs.

This prohibition serves the public interest by ensuring a careful balance between encouraging medical innovation and protecting the constitutional right to life and health, which cannot be violated or waived. Legal scholarship suggests that while diagnostic methods are excluded from patentability, the tools used for treatment—as well as the medicines themselves—may still be eligible for legal protection, in the absence of any explicit legal prohibition.⁶

On the other hand, non-biological or precisely engineered biological methods involving microorganisms may be granted patents. This is due to their reliance on DNA engineering and precise application, as microorganisms can have legitimate industrial uses that do not conflict with legal conditions.

From the perspective of Islamic law, seeking medical treatment is highly encouraged. The Prophet Muhammad (peace be upon him) said: “Seek treatment, for Allah has not made a disease without appointing a remedy for it, except for old age.” This affirms the legitimacy and permissibility of using appropriate means for diagnosis and treatment to preserve human life, or at the very least, to reduce the spread of diseases or relieve suffering.

In fact, seeking treatment can be seen as an obligation, as the human body is not owned by the individual, but rather a trust from the Creator, thus it must be preserved and protected. This aligns with

the Islamic legal maxim “There should be neither harm nor reciprocating harm” (la darar wa la dirar),⁷ which implies that harm should be avoided as much as possible. In situations involving two harmful outcomes, the lesser harm must be chosen.

1.2 : Assessing the Public Interest as a Mechanism for Denying Robotic Inventions.

In recent years, the world has witnessed remarkable advancements in artificial intelligence capabilities. AI is no longer merely a tool for executing pre-programmed commands; it has evolved, in certain contexts, to the point where it can produce new technological inventions. These inventions vary in nature depending on the degree of human involvement in the creative process.

In some cases, AI operates with a high level of autonomy, modifying its algorithms or changing its behavior during operation in response to new data or unforeseen circumstances—without direct human guidance. This phenomenon is known as autonomous generative innovation, and it raises complex legal questions regarding who holds intellectual property rights over the resulting output.

This development poses significant risks and justifies the concerns of legal scholars who oppose recognizing robots as legal persons. They argue that such entities do not respect public order, do not serve the public interest, and lack the human sensitivity necessary to distinguish between risk⁸ and safety—qualities that inherently distinguish humans from machines.

Furthermore, self-generating inventions whose developmental steps cannot be traced and whose societal risks cannot be reliably assessed lack the formal requirements and examination standards typically mandated by patent law. This strengthens the position of those who oppose granting patents for such types of inventions.

In other cases, innovation results from close collaboration between a human and an intelligent system. Here, the human may define the problem,⁹ input complex scientific or artistic data, or set the required

parameters. In this context, AI's exceptional ability to process vast datasets and analyze complex patterns is utilized to reach new technical solutions—more quickly and accurately than human capabilities alone.

Such cases are considered less problematic, especially given the involvement of human effort, which serves as a safeguard. Humans possess ethical judgment and can be held legally accountable in cases of misconduct. Human oversight ensures that the machine remains subordinate, bound by written and regularly updated instructions, which form the basis of human control over the robot.

The assessment of public interest is one of the core principles underpinning legal systems—not only for regulating legal practices and ensuring justice but also for guiding legislation toward the service of humanity in its physical and moral dimensions. From both philosophical and legal perspectives, the authority to assess the public interest cannot be entrusted to a non-conscious entity such as a robot or AI system. Such judgment requires a complex understanding of human reality and a level of social and ethical awareness that artificial entities—regardless of their programming sophistication—do not possess.

The ultimate aim of the public interest is to serve, protect, and enhance human well-being—not to safeguard machines or allow them to compete with humans in legal status. This principle is reflected in Article 27 of the TRIPS Agreement, which grants states the right to exclude inventions that violate public order or morality. These standards are measured by human ethical and societal interests, not the interests of non-sentient entities.

Many legal scholars have warned against the potential consequences of granting robots rights comparable to those afforded to living beings. This is particularly relevant in frameworks that equate AI with animals or the environment. Experts such as Noel Sharkey and Ryan Calo caution that conferring independent legal status on robots may lead to a redefinition of concepts like responsibility and public interest, potentially marginalizing the

human dimension and even violating basic human rights by empowering artificial systems to make impactful decisions without genuine accountability.¹⁰

Assuming that a robot is capable of determining what is "beneficial" would effectively eliminate the philosophical foundation of human dignity. Robots would assess utility and efficiency based solely on mathematical and technical criteria, disregarding the emotional, social, and cultural dimensions that define human experience. As such, granting evaluative authority to a robot—or equating it with a human in matters of invention—constitutes a dangerous overstep and a fundamental alteration of traditional legal concepts.

Islamic jurisprudence likewise enshrines the principle of public interest (maslahah) as a legitimate basis for legal reasoning (ijtihad), restricting it to what benefits humans in both their religious and worldly affairs. As noted by Imam Al-Shatibi in *Al-Muwafaqat*, public interest must align with the higher objectives of Sharia: the preservation of life, intellect, lineage, property, and religion—all of which are rights that cannot be meaningfully attributed to machines.

Therefore, granting robots discretionary authority or advanced legal standing—such as recognizing them as inventors—not only infringes upon human rights but also threatens the legal and social value systems that have evolved over centuries to place the human being at the center as a conscious and responsible actor.

2. The Legal and Shariah System Regarding the Robot as an Inventor.

Many legal scholars have engaged in debate—both supporting and opposing—regarding the concept of robot legal personality, a notion considered quite novel. Some advocate for recognizing robots as legal persons, which would consequently assign liability for the actions performed by them. Meanwhile, other scholars reject the existence of such legal personality, placing responsibility instead on

the programmer or the controller of the machine, whether the manufacturer or the individual owning the device.

2.1 The Legal Capacity of the Robot between Law and Sharia.

According to Dr. Hisham Al-Arabi, the robot cannot transcend its status as a mere “object,” no matter how advanced it becomes, because legal capacity (ahlīyah) in Sharia is linked to the human attribute that enables bearing duties and responsibilities¹¹.

Evidence for this view lies in the fact that the robot—even if it invents something—is ultimately a tool dedicated to serving humans and cannot be considered an “inventor” in the Shariah sense. True innovation requires conscious intention and will, attributes that cannot be ascribed to a machine.

I. The Condition of Maturity or Legal Capacity.

Legal capacity (ahlīyah) in Islamic Sharia is a central concept that determines a person's eligibility to acquire rights and bear obligations. It is closely linked to their accountability before God and people. Jurists have divided legal capacity into two main types: Ahlīyat al-Wujūb (capacity of entitlement) and Ahlīyat al-Adā' (capacity of performance), each with its own nature and legal and religious effects.

Ahlīyat al-Wujūb refers to a person's eligibility to have rights established for them and obligations imposed upon them. It accompanies a human being simply by virtue of being a human, a created and honored being. This capacity is inherent and fixed for every human from birth, and sometimes even before birth (in the case of the fetus) for certain rights such as inheritance, wills, and lineage, provided the fetus is born alive. Ibn Qudamah stated in *Al-Mughni*: “If the fetus is born alive, ownership, lineage, and inheritance are established for it”.¹²

Ahlīyat al-Wujūb represents the minimum level of legal capacity that every human enjoys, and it does not require intellect or discernment; human life alone suffices as its sole condition.

On the other hand, Ahlīyat al-Adā' refers to the capacity of a person to personally perform legal acts in a manner that is legally valid, such as contracts, acknowledgments, and acts of worship that require intent and legal responsibility. This capacity is only granted to a person upon fulfilling specific conditions, the most important of which are intellect, maturity, and discernment, which make the individual accountable for their actions before God and society.

II. The Condition of Discernment and Perception.

It is a settled principle in Islamic jurisprudence that intellect, discernment, and perception are essential conditions for legal accountability (taklīf) and performance, because legal acts must be based on sound will and correct intention.

The intellect ('aql) is the basis for legal accountability and an essential condition for establishing the capacity to perform (ahlīyat al-adā'). The Prophet Muhammad (peace be upon him) said:

"The pen is lifted from three: from the sleeper until he wakes up, from the child until he reaches puberty, and from the insane until he regains reason." (Narrated by Abu Dawood)

Thus, the insane—meaning one who has lost their intellect—are not held legally accountable, and their statements and actions are not legally valid because of the absence of conscious will. Therefore, they do not have the capacity to perform, although they may retain some aspects of entitlement capacity (such as maintenance and inheritance).

Discernment (tamayyuz) is the ability to understand matters in a general sense and to distinguish between benefit and harm. It is a condition for limited capacity to perform, as in the case of a discerning minor (usually estimated at around seven years old). Such a minor may perform some legal acts with the guardian's permission, especially those that are purely beneficial.

Jurists say: "The acts of a discerning minor that are permitted to him are valid if beneficial, suspended pending permission if they involve both benefit and harm, and void if harmful".

From this, it is understood that legal capacity in Islamic law is based on a solid rational and ethical foundation aimed at protecting humans and their actions from folly or ignorance. Rights and obligations are established according to human nature, not based on mere mechanical or computational ability as is the case with artificial entities.

This raises various questions:

- Who bears responsibility for the consequences of harm or benefit? The programmer? The system owner? Or no one?
- Can a robot be considered merely a tool, or does it play a creative role in invention?

2.2 Weighing Law and Reality Regarding Robot Personality.

In 2017, the European Commission recommended considering the possibility of granting "electronic legal personality" to autonomous intelligent robots, especially those capable of making independent decisions and learning from their environment. This legal personality would be similar to that of commercial corporations and would enable:

- Legal accountability of robots.
- Imposing obligations on robots, particularly in case of causing harm.

Although this recommendation is not legally binding, it opened a global debate on how to legally regulate interactions with intelligent systems and has become a significant reference in legal and technological literature. To date, no robot has been granted actual legal personality under any national or international legal system. Responsibility continues to lie with natural or legal persons associated with them (owners, programmers, manufacturers, etc.).

The DABUS case is a contemporary issue in intellectual property law calling for recognition of robot inventorship. The robotic system DABUS demonstrated the ability to generate new ideas through learning processes without direct human intervention, thus theoretically capable of "invention" independently. Stephen Thaler filed patent applications attributing inventorship to DABUS in several countries in 2021. The UK, EU, and US rejected the claim on the basis that "only a natural person can be an inventor," whereas South Africa accepted it, citing flexible intellectual property laws. Australia initially accepted the registration but later reversed the decision on appeal¹³.

The DABUS case represents a unique legal precedent revealing tensions between traditional legal rules and the evolving technological reality. While most legal systems insist that inventors must be human, future trends may introduce legislative changes redefining creativity, ownership, and accountability in the AI era.

From a Sharia perspective, if emerging issues do not conflict with Islamic law and teachings, they are acceptable and manageable. This is because the objectives of Sharia include preserving fundamental essentials such as life, wealth, family, and country. Protection cannot be extended to unlawful or illegal acts.

2.3 Measuring Inventive Activity and Its Presence in Robots.

All countries require inventions to involve an inventive step—meaning the invention must be novel and represent a technical advance over the existing state of the art. This should result in industrial progress within the relevant field. Anglo-Saxon countries interpret this as causing a significant leap or breakthrough in industrial progress¹⁴.

The inventive step also implies surpassing the level of a skilled professional in the relevant field. If the invention is obvious to such a professional, it loses its inventive character.

The Algerian legislator emphasized this in Article 5 of the Patents Law, stating that an invention is considered inventive if it does not merely result from a known technical situation.

Measuring the inventive step of a robot is a new legal and technical challenge requiring a complex approach. AI does not "think" or "create" in a human sense but relies on mathematical processing and algorithms. Nevertheless, technical and legal criteria can be proposed to detect and evaluate the contribution of an artificial system to the inventive process.

If legal rights for robot inventions are to be recognized, the robotic invention should be subjected to AI systems capable of precise evaluation of the invention's seriousness and related concerns. Additionally, legislation should require measuring the inventive activity of the robot via advanced digital systems exceeding human capacity to ensure safety and mitigate future risks.

3. CONCLUSION

The issue of robotic patents represents one of the most prominent contemporary legal and intellectual challenges amid the artificial intelligence revolution. Generative systems capable of "self-creation" have reshaped traditional concepts of the "inventor," which have been historically linked to human consciousness and will. While models like the DABUS system test the limits of legislation by demanding the recognition of AI as an "inventor," these demands conflict with the philosophical foundations of legal systems that tie legal capacity to human personality, revealing a stark contradiction between technological advancement and the theoretical framework of current laws.

In contrast, Islamic jurisprudence offers a strict normative perspective on this matter, based on the principles of the "higher objectives of Sharia" (Maqasid al-Sharia) and the linkage of legal capacity to reason and discernment. This leads to the rejection of recognizing an "automated inventor" due to the absence of explicit texts and the fundamental difference in the nature of responsibility

and intent. As for positive law, it differentiates between the strict requirement of a “natural person” (as in Europe and the United States) and the experimental recognition of AI as an inventor (as in South Africa), reflecting a division that highlights the difficulty of keeping legislation in pace with rapid technological innovation without compromising ethical and legal constants.

From the above, the following conclusions can be drawn:

1. The fundamental difference in legal capacity between natural persons and robots complicates the extent to which inventions can be cleared and robots recognized with legal personality.
2. Patent law and intellectual property in general require updating to keep pace with legal developments, especially concerning artificial intelligence.
3. The absence of moral responsibility in actions linked to AI makes these matters fraught with practical and theoretical risks.
4. The DABUS case is a global precedent that highlighted the fragility of traditional legal frameworks in the face of creative AI and has stimulated both jurisprudential and legal debate.
5. Islamic law and positive law converge on a key point: the necessity of a human responsible party to guarantee any outputs generated by AI, even if the advanced technical role of intelligent systems is acknowledged.

Based on the above, the following proposals are suggested:

1. Developing clear legal frameworks that distinguish between human contribution and AI contribution in the innovation process, allowing AI to participate technically without granting it the independent status of “inventor.”
2. Establishing a dual liability system linking the programmer or system owner with the AI-generated outputs, preserving the principle of legal accountability and preventing impunity under the guise of AI.

3. Introducing technical documentation methods (such as algorithmic logs and system operation verification) to assess the degree of AI's independence in producing inventions.

4. Considering the creation of a new legal category within intellectual property law called “inventions resulting from intelligent systems,” with rights assigned to the system owner without claiming the robot as the inventor.

5. From the Sharia perspective, adopting the principle of “liability by cause,” attributing innovation to the human who caused it, even if carried out through a machine, while respecting Sharia objectives in preserving wealth, intellect, and rights.

6. Calling for the establishment of a joint legal and jurisprudential committee to monitor AI developments and provide reference fatwas and recommendations that help align Islamic legislation with the requirements of the technological revolution without compromising core principles.

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