Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

Implementation of Artificial Intelligence as a Subject of Civil Law in Indonesia: Prospects and Challenges Review

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Abstract. *The implementation of artificial intelligence (AI) as a subject of civil law in Indonesia is a captivating topic for discussion. To my understanding, there are currently no specific regulations governing AI as a subject of civil law in Indonesia. In terms of prospects, implementing AI as a subject of civil law could offer numerous benefits, such as enhanced efficiency in legal processes, improved accuracy in dispute resolution, and much more. AI could also facilitate easier access to legal services for those in need. However, several challenges need to be addressed when implementing AI as a subject of civil law. These include concerns about data security, privacy, fairness, and transparency in the usage of AI. Moreover, ethical and moral aspects need careful consideration when regulating AI as a subject of civil law. As a country actively developing technology and regulations in the field of AI, Indonesia needs to undertake in-depth studies and engage in diverse discussions involving legal and technological experts, stakeholders, and other relevant parties. This will allow for the formulation of appropriate and sustainable regulations governing AI as a subject of civil law.*

Keywords: Artificial Intelligence (AI); Civil Law; Technology.

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1. Introduction

The development of artificial intelligence (AI) technology has created a significant impact on various aspects of human life, including the realm of civil law. In Indonesia, the existence of AI as a subject of civil law remains a fascinating debate that warrants further research. With its ability to perform automatic actions without human intervention, AI poses new challenges in determining its status as a subject of civil law.

Through a civil law approach, this research aims to explore the prospects of implementing artificial intelligence as a subject of civil law in Indonesia. By considering technological advancements and existing legal regulations, this study will investigate the potential role of AI in civil transactions, legal liability, and legal protection for parties involved in interactions with AI.

In the context of globalization and digital transformation, a profound understanding of the status of artificial intelligence in civil law becomes increasingly important. Through a comprehensive analysis, this research is expected to contribute positively to developing an adequate regulatory framework to accommodate the existence of AI as a subject of civil law in Indonesia.

Therefore, this study is expected to provide a clearer perspective on the prospects of artificial intelligence as a subject of civil law in Indonesia and contribute significantly to advancing legal development in this digital era.

2. Research Methods

The problem raised in this research uses a normative legal research method, which uses secondary data types where the data is obtained indirectly, including primary legal materials. The obtained data is then collected through a documentary study or literature study data collection technique by collecting data based on legal materials that have been used in this research and analyzed using qualitative data analysis techniques. As the purpose of the research is one of them as a prediction, to provide a description of the findings that are then obtained in this research and also to find conclusions that are correct and can be scientifically accounted for.[1]

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[1] Tan, D. (2021). Research Methods in Law: Exploring and Discussing Methodologies in Conducting Legal Research. NUSANTARA: Journal of Social Sciences, 8(8), 2463-2478.

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3. Results and Discussion

3.1. The Concept of Artificial Intelligence (AI) from the Perspective of Civil Law in Indonesia

Artificial intelligence (AI) continues to evolve. This is evident from the policies and plans for AI development by companies and countries around the world. In this regard, Indonesia is also involved in its development. The development and improvement of AI capabilities and advancements provide an indication that AI will become a crucial part of human life in the future. The capabilities possessed by AI are interconnected with human life and will therefore always be connected to the law. he autonomous nature of AI suggests that it is a matter that needs attention. This is based on the risks that AI will cause. As a preventive measure, to mitigate risks, the law needs to be at the forefront before something undesirable happens or as a means of resolving problems when they arise.

The development of AI as a technology that duplicates intelligence has given rise to new ideas from legal scholars, where there is an idea that AI can be considered and equated to humans legally. This idea is certainly controversial and would be seen as highly unethical if a tool that is used to help humans is legally positioned as a "human" as well. Fundamentally, AI and humans are very different. The fundamental difference lies in the process of their creation and the lack of natural elements in AI, so that in this case, positioning AI is not based on its biological meaning. Because basically, AI is not created naturally like humans and does not have organic elements, so it can be said to be very different from humans in terms of its naturalness. AI, although not an organism like humans, has historically been the subject of similar debate in the context of corporations as legal subjects. The debate that arose at that time was that corporations are not organisms but are filled with human beings, while on the other hand there is a need for human activity towards corporations as legal subjects. This is evident in the theory of the legal entity. The theory of the legal entity was initially created by the founders of the theory of the legal entity only to answer the challenge of how a legal entity can act in economic legal traffic.[2]

Then several theories emerged that attempted to explain the arguments of the debate. One of them is the fiction theory put forward by Friedrich Carl von Savigny, who argues that the legal entity is merely an artificial creation of the state. In fact, according to nature, only humans are subjects of law, the legal entity is just a fiction, something that does not really exist, but people create in their imagination a legal actor (legal entity) as a subject of law, considered the same as humans. A similar theory to explain the legal entity was also put forward by Otto von

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[2] Widiyono. (2013). The Development of Legal Theory and the Doctrine of Piercing the Corporate Veil in the UUPT and its Reality and Future Prospects. Lex Jurnalica, 10(1), 27.

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Gierke with the theory of "organ."[3] According to this theory, the legal entity is a real reality, just like the nature of human personality exists in legal society. Here, not only is it a real person, but the legal entity also has its own will or intention, which is formed through its governing bodies (managers, members). Therefore, what they decide is the will or intention of the legal entity.[4]

In terms of its position, artificial intelligence has great potential to be personified as a subject of civil law. This is based on the progressiveness that occurs and the history of the concept of legal subjects. In addition, several countries also apply the concept of non-legal entity artificial legal subjects to other entities. For example, New Zealand, which recognizes the existence of entities such as rivers and forests as legal subjects, India, which recognizes the Ganga and Yamuna as legal subjects, and Ecuador, which recognizes the existence of the environment as an entity.

When discussing the concept of artificial intelligence (AI) from the perspective of civil law in Indonesia, there are several things that need to be considered:

a. Definition of Artificial Intelligence: It is crucial to define and understand the scope of artificial intelligence within the context of civil law. This includes understanding what AI is, how it operates, and its capabilities and limitations in the context of civil law.

b. Subjectivity of AI in Civil Law: Can AI be considered a subject of civil law, or is it merely a tool or non-human entity? How does the law treat AI in civil transactions, including the possibility of AI as a party to a contract?

c. Legal Responsibility of AI: A crucial question from a civil law perspective is the extent to which AI can be held responsible for its actions or decisions. Does AI have the legal capacity to bear the legal consequences of its actions?

d. Legal Protection for Involved Parties: How are individuals or entities involved in interactions with AI legally protected? Are there legal provisions that can protect their interests in the context of transactions involving AI? In the context of Indonesia, it is important to examine existing regulations related to artificial intelligence and how they are implemented in the realm of civil law.

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[3] Munir Fuady. (2013). Grand Theories in Law: Grand Theory. Kencana, Jakarta, 164.
[4] R. Ali Rido. (2011). Legal Entities and the Legal Status of Corporations, Associations, Cooperatives, Foundations, and Wakaf Alumni. Bandung, 10.

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By addressing these questions, the discussion of the concept of artificial intelligence from the perspective of Indonesian civil law will provide a deeper understanding of the challenges and opportunities faced in accommodating the presence of AI within the country's civil legal system.

3.2. The potential role of artificial intelligence in civil transactions and its implementation in the civil law realm in Indonesia

The historical development of the concept of legal subjects, as explained in the previous sub-chapter, proves that the personification of artificial intelligence is not impossible. However, of course, this is not enough as a basis for personifying artificial intelligence as a legal subject. The personification of artificial intelligence requires a strong and relevant factual and data foundation. Referring again to the view of the organ theory, something that is personified like a human must fulfill the requirements of "such as the nature of a human personality exists in legal relations". Personifying the nature of human personality, if we refer to the philosophy of humanity itself, is actually very different. In its entirety, humans have both spiritual and physical aspects. Within the entirety of this human being, there is conscience and reason. Conscience is the bearer of the function of human morality, so that humans can distinguish between right and wrong, good and bad, just and unjust, and so on, so that the direction of human life continues to be on the straight path. Meanwhile, reason is the bearer of the function of creativity and progressiveness so that human life continues to progress.

In discussing the potential role of artificial intelligence in civil transactions and its implementation in the Indonesian civil law realm, several things need to be considered, including:[5]

a. Increased Transaction Efficiency: Artificial intelligence can expedite the process of civil transactions, reduce human error, and improve operational efficiency. This can be beneficial in various aspects of transactions, such as sales agreements, leases, and others.

b. Transaction Process Automation: AI can be used to automate the process of civil transactions, from document selection to automated contract generation. This can reduce bureaucracy and expedite agreements between parties.

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[5] Kusumawardani, Qur'ani Dewi. (2019). Progressive Law and the Development of Artificial Intelligence Technology. Veritas et Justitia, 5(1), 166–90. https://doi.org/10.25123/vej.3270..

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c. More Accurate Decision-Making: Artificial intelligence can assist in data and information analysis to support decision-making in civil transactions. This can reduce the risk of errors and improve the accuracy of decisions.

d. Legal Protection in AI Transactions: In the implementation of artificial intelligence in civil transactions, it is necessary to consider legal protection for the parties involved. This relates to legal liability, data privacy, and the validity of contracts involving AI.

In the context of civil law in Indonesia, it is important to investigate existing regulations regarding consumer protection, the validity of electronic contracts, and other legal aspects relevant to the implementation of artificial intelligence in civil transactions. This will provide a more comprehensive overview of the impact and challenges of adopting AI technology in civil transactions in this country.

3.3. Legal accountability mechanism for actions taken by artificial intelligence in the context of Indonesian civil law

The emergence of artificial intelligence (AI) with its inherent intelligence and capacity to perform actions relevant to legal matters, as exemplified earlier, raises significant questions, particularly concerning accountability, protection, and the regulatory framework governing this technology. The increasing sophistication of AI begs the question of what constitutes artificial intelligence from a legal perspective. In Indonesia, there is currently no clear legal framework governing AI. However, the principle of analogous interpretation can be applied in this regard. The image of AI as being akin to humans is also indirectly shaped by the actions of governments in several countries, such as Japan and Saudi Arabia, which have granted legal status to robots. These actions implicitly suggest that "artificial intelligence is a human being." This is likely based on the similarities between AI and humans in terms of cognitive abilities and the capacity to act like humans.[6]

However, if we look at the analogy of artificial intelligence as a worker, then indirectly we consider artificial intelligence as a human being. According to the Great Indonesian Dictionary (KBBI), a worker is a person who works and/or a person who receives wages for the results of his/her work. The word "worker" itself can mean someone who does a job for an employer. In this sense, the worker here is a person. Person is another word for "human", so if we consider artificial intelligence as a worker, then indirectly we consider it as a person/human. People is another word for the word "human", "Therefore, considering artificial intelligence as a worker indirectly equates it to a person/human. In addition, it is also important to remember that if

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[6] *Op. Cit.* Hal. 22.

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artificial intelligence is analogized as a worker, it has a legal relationship with its employer. Surely, it is also responsible to its employer if it commits an unlawful act. Artificial intelligence that is considered a worker can certainly also be held accountable independently, in addition to the accountability in the employer-employee relationship as referred to abov.[7] When looking at the explanation regarding the existence of artificial legal subjects, it will be realized that personification can be carried out by looking at the history of law and several legal theories mentioned above. However, it is different if we look at the practical side. If artificial intelligence is positioned as a subject of civil law like workers above, then all legal acts of artificial intelligence will be the full responsibility of artificial intelligence. This is very difficult in practice and requires careful planning and arrangement, and if not, the loss will remain with the human party.

In discussing the mechanism of legal accountability for actions taken by artificial intelligence (AI) in the context of Indonesian civil law, several aspects that need to be considered include:[8]

a. Clarification of Legal Responsibility: It is crucial to clarify who is responsible for the actions taken by artificial intelligence. Should the AI developer, owner, operator, or the AI itself be held accountable for actions that harm another party in a civil transaction?

b. Criteria for Liability: It is necessary to determine the criteria or standards used to establish the legal liability of AI in civil transactions. Should liability be based on programming errors, negligence in development, or other factors that influence the actions of AI?

c. Consumer Protection: In the context of artificial intelligence, consumer protection becomes paramount. Legal liability mechanisms must be able to protect consumers from harm caused by the actions of AI.

d. Clear Regulation: Clear and unambiguous regulation is needed regarding the legal liability of AI in civil transactions. This regulation should provide legal certainty for all parties involved and regulate the dispute resolution mechanism involving AI.

In the context of Indonesian civil law, it is necessary to conduct an in-depth study of the applicable laws and relevant regulations in determining the legal liability mechanism for actions taken by artificial intelligence. Thus, the discussion on the legal liability mechanism for AI actions in the context of Indonesian civil law will provide a clear picture of legal responsibility in transactions involving artificial intelligence.

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[7] Maryanto, Budi. (2017). Big Data and its Utilization in Various Sectors. Media Informatika, 16(2), 14.
[8] *Op.Cit.* Hal. 25.

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4. Conclusion

The discussion on Artificial Intelligence (AI) within the context of civil law in Indonesia leads to the following conclusions: Increased Efficiency and Accuracy: The development of AI technology holds significant potential to enhance the efficiency, accuracy, and ease of civil transactions in Indonesia. Evaluating AI as a Legal Subject: It is crucial to assess the concept of AI as a subject of civil law, including legal accountability, consumer protection, and dispute resolution mechanisms. Adaptable Regulation: Existing regulations must adapt to accommodate AI as a subject of civil law by establishing clear standards, robust protection, transparency, and adaptive mechanisms. Collaboration for Regulation: Collaborative efforts among the government, industry players, academics, and the public are necessary to formulate regulations that foster AI development while protecting the interests of all involved parties. Cautious Integration: Integration of AI into the civil law domain in Indonesia should be undertaken cautiously, transparently, and sustainably to create a legal environment that supports AI innovation while providing sufficient protection for the public.

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