

Digital Profiling and Personal Data Surveillance in Islamic Jurisprudence: A Comparative Legal-Ethical Study

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INTRODUCTION

Under what is now known as “Surveillance Capitalism,” personal data has become a new form of capital exploited by corporations, institutions, and governments. The issue is no longer limited to targeted advertising, but extends to shaping behaviors, influencing opinions, and even manipulating free will. This poses unprecedented challenges for Islamic jurisprudence, which places human dignity among its highest objectives (*maqāṣid*). As artificial intelligence becomes central to behavioral analysis and digit...

Recent studies (Mohadi & Tarshany, 2023; Hasan, 2024) highlight how collecting and analyzing user data without explicit consent constitutes not only an ethical breach but also a legal and *Sharīʿah* violation. This necessitates a principled yet realistic jurisprudential framework that balances benefit and harm.

CHAPTER ONE: DIGITAL PROFILING AND TECHNICAL MECHANISMS

Digital profiling refers to the process of analyzing user data to create a behavioral profile. It includes psychological traits, preferences, locations, purchases, and online habits. Tools used include cookies, fingerprinting, geolocation tracking, and browser data collection. Companies and governments use this data to customize services, political messaging, and sometimes for predictive policing.

CHAPTER TWO: PRIVACY IN ISLAMIC JURISPRUDENCE

Islamic law treats personal privacy as an essential right. The Qur'an clearly prohibits spying and intrusion: “Do not spy on one another” (Al-Hujurat: 12). Scholars agree that collecting information about others without consent, particularly for commercial or manipulative purposes, is an infringement of trust (*amānah*). According to Mohadi & Tarshany (2023), surveillance that undermines privacy contradicts the objectives of Islamic law which emphasize dignity and autonomy.

CHAPTER THREE: ISLAMIC LEGAL CLASSIFICATION OF PROFILING

In Islamic jurisprudence, profiling without permission is considered a form of unauthorized usage of others' rights (*taṣarruf fī māʾ al-ghayr*), potentially classified as wrongful appropriation (*ghasb*). Consent (*ridhā*) is a critical condition for any legitimate transaction. Hasan (2024) introduces the concept of “punitive profiling,” where users are preemptively judged by opaque systems. This undermines the Islamic principle of presumption of innocence and violates the *maqāṣid* of justice and protection of h...

CHAPTER FOUR: LEGAL AND REGULATORY COMPARISONS

The GDPR (General Data Protection Regulation) guarantees rights to data access, modification, deletion, and informed consent. Islamic jurisprudence echoes these values through doctrines like liability (*dhamān*), non-harm (*lā ḍarar*), and protection of dignity (*ḥifẓ al-ʿird*). Ali & Druen (2025) compare GDPR with Islamic law, showing overlap in foundational ethics.

Meanwhile, Gulf countries like the UAE, KSA, and Bahrain have adopted regulations to protect personal data, yet challenges remain in digital enf...

CHAPTER FIVE: SURVEILLANCE CAPITALISM IN THE LIGHT OF SHARIAH

Surveillance capitalism transforms user behavior into a product. Every click, movement, or online

transaction becomes part of a behavioral prediction model. Qadir et al. (2022) argue that this contradicts Islamic virtue-based ethics rooted in intention (niyyah), transparency, and justice. These practices often lack consent and awareness, infringing upon the user's autonomy. Such unregulated systems are not only ethically flawed but potentially violate Islamic rulings regarding ghabn (unjust gain) and qah...

CASE STUDIES AND PRACTICAL EXAMPLES

Tech companies like Meta collect more than 50 categories of user data including geolocation, device type, browsing history, and emotional cues (Ali & Druen, 2025). Emotional AI is now used to influence elections, target ads, and steer user decisions—raising grave Islamic concerns about free will and moral agency (Sandiza & Rosadi, 2024). The use of AI for biometric recognition by state agencies also raises questions about proportionality, purpose, and legal safeguards.

CONCLUSION AND RECOMMENDATIONS

This research concludes that Islamic jurisprudence provides powerful ethical tools to address the challenges of digital profiling. The collection and use of personal data must be limited by consent, transparency, and benefit-harm analysis rooted in maqāṣid al-sharī'ah. Governments in Muslim countries should implement AI and data governance policies based on Islamic values, protect digital dignity, and create ethics councils that oversee algorithmic accountability.

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REFERENCES

1. Mohadi, M., & Tarshany, Y. (2023). Maqasid Al-Shari'ah and the Ethics of Artificial Intelligence: Contemporary Challenges. *Journal of Contemporary Maqasid Studies*.
2. Ünver, H. A. (2024). Artificial Intelligence and Human Rights: AI as a Weapon of Repression.
3. Hasan, M. A. (2024). Compromising Privacy: The Role of AI in Smartphone Surveillance.
4. Pfau, D. (2021). The GDPR, Surveillance Capitalism, AI and the Personalisation of Information.
5. Elfeky, A. I. M., & Elbyaly, M. Y. H. (2023). The impact of virtual classrooms on the development of digital application skills among teachers of digital skills in Najran region. *Ann. For. Res*, 66(1), 2044-2056.
6. Elfeky, A. I. M., & Elbyaly, M. Y. H. (2023). Examining the effects of virtual classroom use inside learning management systems on enhancing student satisfaction. *Ann. For. Res*, 66(1), 1980-1990.
7. Elbyaly, M. Y. H., & Elfeky, A. I. M. (2023). The effectiveness of a program based on augmented reality on enhancing the skills of solving complex problems among students of the Optimal Investment Diploma. *Annals of Forest Research*, 66(1), 1569-1583.
8. Elfeky, A. I. M., & Elbyaly, M. Y. H. (2019). Multimedia: different processes. In *Interactive multimedia-multimedia production and digital storytelling*. IntechOpen.
9. Elbyaly, M. Y. H., & Elfeky, A. I. M. (2023). The Efficiency of Online Learning Environments In Fostering Academic Motivation. *European Chemical Bulletin*, 12, 6622-6628.
10. Elbyaly, M. Y. H., & Elfeky, A. I. M. (2023). The efficiency of instructional gaming programs in stimulating creative thinking. *European Chemical Bulletin*, 12, 6613-6621.
11. Ali, B., & Druen, P. (2025). OECD Guidelines vs. Islamic Jurisprudence: A Comparative Study on Privacy and Data Protection.

12. Qadir, J., Raquib, A., Channa, B., & Zubair, T. (2022). Islamic Virtue-Based Ethics for Artificial Intelligence. *Discover Artificial Intelligence*.
13. Sandiza, M. H., & Rosadi, S. D. (2024). Personal Data Protection in Leadership Training: Maqasid-Based Analysis. *Mazahib Journal*.