

Article

# Artificial Intelligence Accountability in Positive Law

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**Abstract:** Artificial intelligence (AI) has developed rapidly in recent years, making judgments and executing tasks in ways comparable to decisions made by the human brain. These technological advances allow AI to replace or complement human work in various fields, but they also raise complex legal questions regarding accountability for the actions it performs. This study employs a normative juridical research methodology, which emphasizes the analysis of laws and regulations, concepts, principles, and legal theories, using literature as the primary data source. The findings show that AI, despite its advanced capabilities, remains a legal object rather than a legal subject. In accordance with Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions in Indonesia, AI cannot be considered a legal entity with independent rights and obligations. Consequently, AI cannot be held legally accountable for its actions, as it operates under human creation, programming, and direction. Responsibility for any consequences arising from the use of AI lies with the individuals or institutions that develop, operate, and control it. This study highlights the importance of establishing a clear legal framework to regulate AI applications, ensuring that technological innovation aligns with legal certainty and accountability. It concludes that while AI may imitate human decision-making, it lacks autonomy in the legal sense and therefore cannot bear responsibility under positive law.

**Keywords:** Accountability; Artificial Intelligence; Information Technology; Knowledge; Positive Law.

## 1. Introduction

Many countries are pursuing technological advancements such as artificial intelligence or AI. The lives of the Indonesian people are greatly affected by these developments and changes. These advances are often believed to change society in terms of behavior, public relations, and personal work. With technological advancements, artificial intelligence can perform human tasks in the economic field, such as speeding up the production process in factories, using robots equipped with artificial intelligence to speed up the production process, and using computer media with artificial intelligence to simulate social situations to improve learning efficiency (Kusumasari et al., 2024). In addition, artificial intelligence can cause legal problems related to its actions and deeds.

Artificial intelligence need to be regarded as a legal being with the same rights and responsibilities as people, according to a number of experts (Rodrigues, 2020). The same rights and obligations that apply to humans must also apply to artificial intelligence. Artificial intelligence can no longer be regarded as a legal object due to its increasing sophistication. In contrast, the topic of artificial intelligence may be seen as legal. It is possible that special laws dealing with artificial intelligence will treat artificial intelligence as a legal subject, just like legal entities (Kurniawan & Kristiyadi, 2022). The foundation of this concept is the notion that artificial intelligence is capable of acting independently and significantly influencing both the environment and society.

Some experts argue that AI should be treated as a legal object for which its creators or users are accountable due to the fact that AI does not need to have the same legal status as humans. AI cannot take legal action on its own (Putriyanti et al., 2023). Until now, artificial

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intelligence has not been given a legal foundation in Indonesia. Due to the fact that artificial intelligence is not a topic of law that is subject to accountability, Article 1365 of the Civil Code cannot use artificial intelligence to cause harm. Most experts agree that the person who develops or uses AI should be held legally responsible (Puspita Sari & Harwika, 2022).

In Indonesian laws and regulations, information processing automation is comparable to "Electronic Agents" because to its characteristics that resemble artificial intelligence (Putri et al., 2024). The definition of "Electronic Agent" under Article 1 of the ITE Law is "a device of an electronic system that is made to perform an action on a certain Electronic Information automatically organized by a person" (Ratih Mulia Fazriati et al., 2025). However, the current law in Indonesia does not regulate artificial intelligence specifically and clearly, which is certainly a legal issue, if artificial intelligence technology does things that are contrary to Indonesian law. However, if artificial intelligence has the ability to act, it can be considered a legal entity and in some cases can be legally liable (Purnomo, 2023).

Positive law, which has grown and developed in society, provides the concept of accountability which means that a person is responsible if he commits a prohibited act and abandons a mandatory act; The act is done of his own volition, which means that the perpetrator has the choice to do or not to do the act, and the perpetrator knows the consequences of the act. In this sense, responsibility seems to be the result of the freedom of the individual to carry out his activities, which is related to morality or ethics in carrying out an activity. Accountability in positive law means the obligation to provide an answer, which includes consideration of all things that happened, and to provide redress for any harm it may cause.

## 2. Method

The research methodology employed in this work is normative juridical law. The study of legal principles is another aspect of normative legal research, systematics, levels of synchronization, and legal comparison. Other names for normative legal study include documentation studies, library research, and doctrinal legal research. This research employs both the legislative (statue) and conceptual approaches. A technique that looks at every law and regulation that is pertinent to the legal issue under investigation is known as a legislation and regulation strategy. This research looks at two laws that contain legal systematics (legal subjects, legal events, legal relationships, legal objects, and rights and obligations): The ITE Law is amended by Law Number 19 of 2016 and Law Number 28 of 2014, which deal with copyright. Developing doctrinal conceptions is referred to as the conceptual method in legal research. This research focuses on the legal responsibility of AI.

## 3. Results and Discussion

### Legal Concept of Accountability

The theory of legal responsibility analyzes the responsibility of a legal subject or perpetrator who commits an unlawful or criminal act to bear costs or losses or commit criminal acts for his or her own fault or due to his own negligence. In the legal dictionary, there are two terms for responsibility: liability and responsibility. Liability refers to legal liability, specifically, responsibility pertains to political accountability, whereas liability is for the errors committed by legal subjects.

In general, there are three types of responsibilities: responsibility, responsibility, and responsibility; (Rotarigma & Mangesti, 2022): (1) Liability is a responsibility to oneself with all the abilities possessed: intellect, physical, emotional, and scientific. (2) Responsibility is responsibility for your ability to act or not act, including being silent or neutral in human life. (3) Accountability is the ability to assess, measure, and decide what is charged to individuals, both as members of society and individuals individually.

The idea of legal responsibility is linked to the idea of legal duty; it implies that an individual is legally accountable for a certain conduct or that accepting legal responsibility entails facing consequences if his acts violate the law. Individual and group culpability are two categories of legal liability (Jocelyn Cherieshta, Audrey Bilbina Putri, 2024). A person has individual responsibility for offenses committed by himself, whereas a person has collective responsibility for offenses committed by others.

However, legal obligations are not the same as legal liability. A person is legally required to behave in a certain way if his or her otherwise coercive behavior is a condition for coercive action. These coercive actions are not always directed at the obligatory "offenders"; On the

contrary, it can be addressed to other individuals related to the first individual, in accordance with the provisions established by the legal order. If someone is punished, they are deemed "responsible" or legally responsible for their offense.

The term "legal association" (*rechtsverkeer*) is used in everyday life to indicate the existence of legal actions (*rechtshandeling*) and legal relations (*rechtsbetrekking*) between legal subjects (Sudarno, 2023). A law is made to make sure that the person covered by it carries out his responsibilities and receives his rights in a reasonable manner. The law is also a weapon for protecting the legislation's target. Therefore, laws are made to ensure the application of justice in legal practice. If a person, legal entity, or government violates the law, each legal subject is obligated to restore or restore the rights that were violated.

The concept of rights and obligations is closely related to the concept of legal responsibility. The comprehension of rights and responsibilities is given priority in the idea of rights. It is often emphasized that one's rights are always the same as the obligations of others. In his theory of legal responsibility, Hans Kelsen stated that if a person violates the applicable laws and regulations, then he is subject to consequences. He also held a person legally accountable for certain actions.

### **The Position of Artificial Intelligence in Positive Law**

According to the definition of a legal subject, humans are legal subjects because they are biological beings with feelings, feelings, and desires. However, since they are beings formed by law with rights and responsibilities bestowed upon them, legal entities are legal subjects in the juridical sense. The ability to support the subject of law provided by objective law is known as the authority of the law. Legal subjects are usually defined as supporters of the rights and obligations of human beings and legal entities (Yanto, 2024). Therefore, the subject of law is everything that has legal authority, the holder of rights and obligations in legal acts. Legal proficiency and authority are closely related to the subject of law.

Persons and legal entities are legal subjects that support these rights and obligations. Human beings are considered legal subjects in the legal sense because they are living beings who have feelings, intellect, and desires, while legal entities are considered legal subjects because they are human creations that have legal rights and obligations (Staszkievicz et al., 2024). Legal subjects are recognized in Indonesian law, both people and organizations. The first paragraph of Article 1 of the Civil Code affirms this, stating that the enjoyment of citizenship rights is independent of the citizenship right itself. The article's suggested meaning is that a person's standing as a subject of law is independent of the condition established by the state.

All people, from birth to death, are considered subjects of law. In addition, a legal entity is defined as a legal group or private individual under Article 1654 of the Civil Code. If the power has been altered, it can carry out civil activities without affecting the law, restricted, or subjugated. Limited liability companies (PTs), state-owned companies (PN), foundations, government bodies, and others are some examples of legal entities (Hariru et al., 2022).

The two theories of legal subjects are the theory of natural subjects and the theory of positive subjects. The basic principle of the natural law subject theory, also known as natural law, is that current laws and human rights must be grounded on the essence of humanity (Ahmad Arif Fadilah et al., 2025). According to this theory, all people have equal rights and cannot be deprived by any particular power or interest. This theory considers humans to be the main subject of law, and their rights must be acknowledged and safeguarded by the law. On the other hand, the subject theory of positive law, also known as "positive law", is founded on the notion that laws are the result of the state or government. This idea states that a person or thing that is acknowledged as a legal topic by relevant law or positive law is a legal subject. In other words, legal subjects are people or entities that are acknowledged by the law and are endowed with rights and obligations that are associated with their legal standing (Dyah Tirtawati, 2021).

In some cases, AI can be considered a legal entity and have legal responsibilities. First and foremost, the law can be applied to artificial intelligence. This means that AI can have the same rights and responsibilities as companies or individuals (Kristanti et al., 2025). Artificial intelligence can be a subject of law and can be legally responsible for the actions it takes. Second, laws that regulate technology can regulate artificial intelligence. Two laws and regulations that could be pertinent to AI are Law Number 19 of 2016 about Copyright and Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE). The legal basis for the use of technology and intellectual property rights is provided by these two

laws. Third, there is a possibility that AI will be legally liable (Disemadi & Sudirman, 2025). Artificial intelligence can be prosecuted legally if it commits an act that harms others, such as violating copyright or privacy (Rizzo, 2025).

Considering the above theory of legal subjects, artificial intelligence may be considered a legal topic. However, artificial intelligence laws in Indonesia still need clearer and more detailed regulations. Legal subjects in civil law include every person and legal entity. The rights and obligations of a person or individual begin at birth and end at the time of death, according to the subject discussion in the Principles of Civil Law. The subject also explained that the characteristics of legal entities are similar to human characteristics in the context of legal entities. It is possible for legal entities to be accused of have ownership, and have the ability to apply for legal remedies through their administration.

Given that artificial intelligence technology is capable of performing behaviors and deeds that resemble humans, a nation must enact laws pertaining to artificial intelligence. According to Indonesian legal sources on technology, Amendments to Law No. 11 of 2008 on Information and Electronic Transactions (also known as "UU ITE"), Law No. 19 of 2016 was created in response to the country's rapid technological development. Artificial intelligence is not explicitly defined in the ITE Law rules, giving rise to different viewpoints from different groups attempting to comprehend AI and relate it to the ITE Law (RI, 2016).

Artificial intelligence should be treated with the same rights and responsibilities as humans as legal subjects. According to the book written by Yahya Harahap, Article 1365 only applies to losses caused by the fault of the subject of law. Artificial intelligence does not have to have the same legal status as humans, it is recommended that the creator or user of artificial intelligence be responsible for its legal actions.

The absence of a law in Indonesia regulating who is responsible for actions taken by AI raises doubts about law enforcement. The laws that govern life must change over time. Artificial intelligence is one example of a breakthrough that, if there is no law regulating it, will certainly make people uneasy about what may happen due to the legal vacuum (Ardina Khoirun Nisa, 2024). This corresponds to the adagium *het recht hinkt achter de faiten aan*, which says that laws are like walking slowly that lag behind human progress.

Overall, Indonesia does not have enough regulations controlling the use of AI. However, overall, The ITE Law, also known as Law Number 19 of 2016 regarding Amendments to Law Number 11 of 2008 about Information and Electronic Transactions, Article 21 paragraph 3, is relevant to this artificial intelligence. which states: (Afisa et al., 2024)

"If the direct acts of a third party against the Electronic System result in the failure of the Electronic Agent operation, the Electronic Agent Operator has the responsibility for any resulting legal repercussions."

In Indonesia's positive law, artificial intelligence is not a legal concept; it is only a tool. Here, "subject of law" means a person who has the ability to perform an act that is justified by law, that is, an act done intentionally that results in rights and obligations. According to the ITE Law, this artificial intelligence may fall into the category of electronic agents. The reason for this is because PP 71/2019 and the ITE Law, which are derivatives, having established boundaries for the obligations and liabilities of operators of electronic agents, among which is to provide a feature that allows users to change information that is still in the process of transactions (Adzhar Anugerah Trunapasha, Pan Lindawaty Suherman Sewu, Dian Narwastuty, 2023).

The ITE Law states that one of the electronic components entrusted with acting upon automatically received electronic information by every individual is an electronic agent. Consequently, PP 71 of 2019, also known as Government Regulation Number 71 of 2019, was created on the Implementation of Electronic Transaction Systems. The regulation specifically regulates relationships with electronic agents, including artificial intelligence. The regulation also further regulates the responsibilities of electronic agents, with special emphasis on electronic agent operators. This is explicitly regulated in Article 31 of PP 71 of 2019, which states:(Rahayu, Nathania Salsabila Marikar Ssahib., Soesi Idayanti. dan, 2023)

"The operator of the electronic system is responsible for protecting users and the wider community from damage caused by the electronic system that he creates or organizes."

Taking into account the elaboration of the article, we can conclude that the law cannot fully regulate this AI. Artificial intelligence must be created first or prioritized by humans by inputting data that correlates with each other, although in its implementation it can help and work like human intelligence. Departing from this explanation, if the AI created does something unwanted and is created by its creator. The person who developed AI will be solely

responsible for all of its acts. Thus, the failure of an electronic system is not caused by the negligence of its maker.

AI is a "machine" with intelligence and abilities like ordinary humans, but previously controlled by humans. Tasks similar to human jobs can be assisted by this artificial intelligence. One of the negative impacts of artificial intelligence in the Indonesian banking industry is that artificial intelligence can be easily hacked and that artificial intelligence is constantly evolving so that it is difficult for humans to control (Hermansyah et al., 2023). Suppose an AI Chatbot is used. If they do not meet the customer's request or want, violations can be seen. Even when the AI answers customer orders, the customer's wishes are not met. In addition, it is possible that the personal data of bank consumers will be affected by the application of artificial intelligence in the banking industry. In other words, it allows the banks involved to use artificial intelligence to make mistakes, which can lead to data leaking to the public without the bank's customers' knowledge.

Artificial intelligence (AI) has the potential to infringe on copyright because it will use algorithms to alter previously created works. Therefore, the art generated by artificial intelligence is a collection of previous works, not a new creative process. This raises concerns about copyright infringement because artificial intelligence can infringe on copyright unknowingly because they do not understand the applicable intellectual property laws.

In fact, artificial intelligence cannot be responsible for the actions it has taken because they are not human. In addition, the soul requirement is also not necessary for artificial intelligence to assess errors in the judicial process. In terms of artificial intelligence liability, from a legal point of view, if the artificial intelligence performs an unlawful act or deed, it can return to the concept of legal liability that the creators and users of artificial intelligence are responsible. The offender in this situation has to be conscious, knowledgeable, and capable of deciding what he wants to do. In contrast to individuals who are aware of the action, artificial intelligence is dependent on commands and is not conscious of its activities. It is also restricted in its ability to determine the will of the offender based on their aim and purpose.

It is impossible to consider this AI as a legal subject for which it can be held accountable. Legal responsibility, according to an expert named Hans Kelsen, is a legal obligation where a person must accept the consequences for his actions (Pane et al., 2025). In other words, legal accountability comes from a person's actions that are contrary to the current law. In Indonesia, legal subjects can only be people or legal organizations. It basically says that one can be held responsible for the actions or mistakes of others. This method can be applied to actions performed by AI that can result in losses and other legal consequences.

This artificial intelligence falls under the Electronic Information and Transaction Law (ITE Law) as an electronic agent (Nurjanah & Liyus, 2025). One of those gadgets that reacts to the information that is sent to everyone automatically is an electronic agent. Legal liability from AI that violates legal provisions indirectly, the person who created the AI can be held responsible for it. PP 71 of 2019 (Government Regulation Number 71 of 2019) pertaining to the Implementation of Electronic Transaction Systems, especially in article 21 paragraph 2c, which reads as follows: (Januar et al., 2024)

"If the Electronic Transaction is carried out through an electronic agent, all legal ramifications associated with the execution of the electronic transaction are the operator of the electronic agent's responsibility."

In addition, Article 31 stipulates that: (Dwivedi et al., 2021)

"The operator of the electronic system is responsible for protecting users and the wider community from damage caused by the electronic system that he creates or organizes."

In this instance, the electronic system operator is an individual who uses artificial intelligence and also based on the theory of substitute liability, in the event that artificial intelligence (AI) is utilized to commit a crime, the person who uses it will be fully responsible.

Civil liability is usually based on violations of the law that harm others. Article 1365 of the Civil Code as a form of accountability for unlawful acts (onrechtsmatigedaad) (Saputra et al., 2025). Actually, unlawful acts refer to the conventional concept of liability, which means liability based on fault (schuld aansprakelijkheid). There is no reason to claim losses if there is no fault. The Criminal Code's Article 1365 governs illegal activities in the following ways: (Mendy Cevitra dan Gunawan Djajaputra, 2023)

"Every act that breaks the law and causes harm to others must be compensated by the person who did it because of his fault."

In addition, according to Civil Code Article 1367 (1), which means:

"A person is not only responsible for the actions committed by the person he or she is concerned with or the goods he supervises, but also responsible for the actions of others".

Article 33 of the Economic Crimes Law states:

"Whoever intentionally, either by himself or through the intermediary of others, withdraws a share of wealth to avoid punishment, disciplinary action, or temporary disciplinary action imposed by the emergency law, commits an economic crime".

According to Article 70, Paragraph 1 of Law Number 27 of 2022 about the Protection of Personal Data;

"Administrators, control holders, orderers, beneficial owners, and/or companies can be prosecuted for criminal acts if the company commits criminal acts as referred to in Articles 67 and 68".

Articles 112-118 of Law No. 28 of 2014 respecting Intellectual Rights and Property's criminal provisions, only "person" is mentioned in the person in charge, without mentioning a legal entity. Artificial Intelligence, also known as artificial intelligence, is an adjective that means intelligence. Artificial intelligence was created with the aim of helping human activities and jobs. By mimicking the human frame of mind, artificial intelligence can take data, process it, and make decisions about what to do.

Thus, artificial intelligence cannot be regarded as a legal subject; rather, it can only be regarded as a legal object. This conclusion is based on positive law that applies in Indonesia. The usage of AI is not governed by any laws in Indonesia. The sole relevant legislation is the Electronic Information and Transactions Act and its associated rules.

#### 4. Conclusions

Artificial intelligence is not a legal person; rather, it is a legal object, according to Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions (PP 71/2019). Artificial intelligence is, of course, a human technology application. The operator of the electronic system in this case bears legal responsibility for the operation of the system it operates. Thus, artificial intelligence cannot be regarded as a legal subject; rather, it can only be regarded as a legal object. The positive law that governs Indonesia serves as the foundation for this judgment. Actually, AI can't be held responsible for what they've done because they're not humans. In addition, AI does not have the necessary soul to determine errors.

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