

Personal Data as *Mal*: Rethinking Data Ownership in Islamic Economic Law

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Abstract: The advancement of the data-driven digital economy has established personal data as a strategic economic asset, while simultaneously precipitating a tension between its status as a privacy right and an economic commodity. Although modern legal frameworks prioritize data protection, the intricate issues of ownership and the distribution of economic value remain inadequately addressed, particularly within the paradigm of Islamic economic law, which classically restricts the concept of *mal* (property) to tangible objects or discernible benefits. This research aims to examine the status of personal data as *mal*, formulate a construction of *milkiyyah* (ownership), and analyze its implications for digital economic transactions. Utilizing a normative approach based on *fiqh muamalah* and conceptual analysis, this study demonstrates that personal data qualifies as *mal ghair maddi* (intangible property), as it fulfills the essential criteria of value, utility, and appropriability. Ownership, in principle, vests in the individual as the primary owner, whereas platforms possess only limited utilization rights contingent upon consent, thereby giving rise to a "layered ownership" model. Data-driven transactions can be structured through *ijarah* (leasing) or data licensing, provided they satisfy the principles of clarity, mutual consent, and the absence of *gharar* (uncertainty). This study further critiques data governance models that lean toward exploitation and contradict Islamic principles of justice, while proposing a Sharia-based data ownership framework that integrates the principles of *milkiyyah*, *manfa'ah* (utility), and *maslahah* (public interest) as a foundation for developing a more equitable and ethical digital economy regulation.

Keywords: Personal Data, Digital Economy, Sharia, Ownership, Property.

Introduction

The global digital transformation over recent decades has shifted the global economic structure from a foundation of physical resources toward a data-driven economy. In this landscape, data (including personal data) is no longer merely passive information; it has emerged as a strategic asset of significant economic value (Henderi dkk. 2024). Advancements in technologies such as big data analytics, artificial intelligence, and cloud computing have enabled data to be collected, processed, and monetized on a massive scale, establishing it as a primary factor of production in the contemporary digital economy.

The evolution of data commercialization practices by global technology firms demonstrates that data is increasingly treated as an economic commodity. Digital platforms do not only harvest user data but also transmute it into economic value through various business models, such as behavioral advertising, consumer preference analysis, and data-driven product development. This phenomenon has popularized the adage "data is the new oil," illustrating the status of data as a high-value resource and the central driver of the digital economy (Panday dan Malcolm 2018).

Within modern legal frameworks, the status of personal data remains characterized by conceptual ambiguity, reflecting a fundamental tension between rights protection and economic utilization. On one hand, personal data is viewed as an integral component of individual privacy rights that must be safeguarded against misuse (Eggum 2024). Conversely, the growth of the digital economy has positioned data as high-value assets that are processed, monetized, and even traded by commercial actors, particularly technology platforms. This dualism indicates a tug-of-war between a rights-based approach and a market-based approach, where data functions not only as an object of protection but also as an economic commodity. This tension persists beyond theoretical discourse, directly impacting how law positions, regulates, and distributes the value of personal data in digital economic practices, a matter that remains largely unresolved within current positive law constructions.

Contemporary regulations concerning personal data protection generally focus on safeguarding individual rights through mechanisms such as consent, processing limitations, and the obligations of data controllers. Nevertheless, this approach has not comprehensively addressed the fundamental questions of ownership and the distribution of the economic value derived from personal data. In other words, existing regulations tend to protect data from exploitation but fail to provide a clear framework regarding who legally owns the data and how its economic value should be equitably distributed. In practice, this situation results in the weakening of the individual's position as a data subject. Individuals often serve merely as data sources without possessing effective control over how that data is utilized, processed, or monetized. The consent provided through clickwrap agreements or privacy policies is frequently formalistic, reflecting neither genuine understanding nor equal bargaining power (Tuturoong dan Herry 2022). Consequently, individuals not only lose control over their personal data but also fail to receive proportional economic benefits from the utilization of said data by third parties.

When viewed through the lens of Islamic economic law, the issue of personal data becomes increasingly complex as it pertains directly to the concepts of ownership (*milkiyyah*) and property (*mal*) within *fiqh muamalah* (Islamic commercial jurisprudence). Classically, *mal* is generally associated with objects possessing physical existence or clear, identifiable benefits (*manfa'ah*), which fall under human control to be legally owned and utilized. However, as a digital entity, personal data is non-material and intangible; its economic value is not physically inherent but rather emerges from technological processing and market relations. This condition raises fundamental questions as to whether personal data can be qualified as *mal* from the perspective of Islamic law, and how its ownership construction can be formulated within a Sharia framework that is adaptive to digital economic developments (Aji Saifulloh 2026). Conversely, neither classical literature nor certain contemporary studies have provided adequate elaboration on digital entities such as personal data, notwithstanding preliminary efforts to examine digital assets, such as cryptocurrencies and virtual assets, as part of the expansion of the *mal* concept.

The urgency of this issue intensifies when linked to the validity of transactions in *fiqh muamalah*. Clarity regarding the status of the object is a fundamental requirement in determining the validity of a contract (*uqud*), both in terms of its permissibility (*halal-haram*) and legal validity. Ambiguity concerning the status of personal data, whether it constitutes *mal*, who the rightful owner is, and the mechanisms for its utilization and exchange, potentially introduces elements of *gharar* (uncertainty) into data-driven transactions (Ridwan 2021). Furthermore, although recent research has begun to examine the phenomenon of digital assets from an Islamic law perspective, the focus remains generalized and has yet to specifically address personal data as an economic entity with a dual dimension: as a personal right and an economic commodity. Consequently, absent conceptual and normative clarity, data-driven digital economic practices risk falling into a Sharia-problematic domain, highlighting an urgent need for the development of more profound analysis within the framework of Islamic economic law.

Several fundamental gaps remain inadequately addressed, particularly within the perspective of Islamic economic law regarding the status of data in the digital economy. Theoretically, there is a lack of systematic conceptualization that explicitly categorizes personal data as *mal* (property) within the *fiqh muamalah* framework, despite the fact that such classification carries direct implications for the legitimacy of ownership, the validity of transactions, and the distribution of economic benefits (Islam 1999). Normatively, ambiguity persists in the construction of ownership (*milkiyyah*) over personal data, particularly regarding whether data constitutes absolute individual property, is transferable, or possesses a limited nature of ownership. This situation is further exacerbated by digital economic practices where control over data typically resides with technological platforms, while individuals occupy a structurally vulnerable position, thereby giving rise to potential legal uncertainty and injustice.

This study introduces significant novelties in the advancement of Islamic economic law. Conceptually, it reinterprets the concept of *mal* (property) by incorporating personal data as an intangible entity possessing economic value. This approach extends the classical boundaries of *mal*, which have traditionally been associated with tangible objects or concrete benefits, toward a more adaptive understanding of digital economic realities. The author seeks to develop a Sharia-based data ownership framework centered on the principles of *milkiyyah* (ownership), *manfa'ah* (utility), and the protection of individual rights, thereby providing clarity on the individual's position as the primary data owner while establishing equitable limits on its utilization by third parties.

The research addresses several core questions: First, can personal data be categorized as *mal* from the perspective of Islamic economic law? Second, what is the construction of ownership (*milkiyyah*) over personal data within the framework of *fiqh muamalah*? Third, what are the conceptual implications of recognizing personal data as *mal* for digital economic practices and data-driven transactions?

Method

This study constitutes normative legal research employing an integrative analytical approach to bridge classical Islamic legal doctrines with contemporary digital economic realities. This approach is adopted because *fiqh* studies generally remain reliant on textual methods and analogies to classical objects, which often prove inadequate in explaining the distinct characteristics of novel digital entities, such as personal data. Consequently, there is a need for an approach that is not only normative but also capable of interpreting the context of technological advancements and modern economic practices.

Within this framework, the research develops a contextual approach by integrating the principles of *ushul fiqh* (principles of Islamic jurisprudence) and contemporary *ijtihad* (independent legal reasoning). This integration facilitates an alignment between universal Islamic legal maxims and evolving socio-economic dynamics. Accordingly, the analysis extends beyond literal textual interpretation to encompass adaptive legal reasoning regarding emerging forms within digital economic practices. Through this integrative approach, the study synthesizes classical *fiqh* constructions with modern digital economic developments to produce a conceptual framework that is more responsive to temporal shifts. The resulting analysis is directed toward formulating a

normative foundation for the development of Sharia-based digital economic regulations, emphasizing justice, transparency, and rights protection as core elements of data governance.

Results and Discussion

1. Reconstruction of the Concept of *Mal* in Islamic Economic Law

The concept of *mal* (property) within *fiqh muamalah* (Islamic commercial jurisprudence) cannot be narrowly construed as something purely physical in nature (Muhsin dkk. 2022). Although classical literature frequently cites tangible objects as examples of *mal*, scholars fundamentally establish the elements of value and utility (*manfa'ah*) as the primary criteria for determining the status of an entity as property. *Mal* is defined not merely by its physical existence, but by its capacity to provide Sharia-recognized benefits and possess value within economic interactions (Majid dkk. 2023).

The criteria for *mal* in Islamic law, namely, appropriability (*qābil li al-tamlīk*), economic value (*qimah*), and lawful utility (*manfa'ah mubāhah*), are inherently open to contextualization in accordance with temporal developments (Ridwan 2021). When integrated into the practices of the digital economy, entities that lack physical substance but fulfill these three criteria may be considered within the category of *mal* (Musanna dkk. 2022). The concept of *mal* possesses an elastic and adaptive character, facilitating an expansion of its conceptual scope without contradicting the fundamental principles of Islamic law.

Personal data can be said to fulfill these elements. It is capable of being owned in the sense that it is uniquely associated with a specific individual as the data subject; it possesses economic value through its capacity for processing and monetization within various digital business models; and it can be lawfully utilized provided it aligns with Sharia principles (Thaldar 2025). The value of data is not found in its physical form but in the information it conveys and its potential utility in economic processes, such as behavioral analysis, market segmentation, and the development of data-driven services.

Conceptually, personal data qualifies as *mal ghair maddi* (intangible property) within the perspective of Islamic economic law (Iskandar dkk. 2020). This qualification does not merely broaden the scope of property objects (*mal*) but also establishes a normative foundation for recognizing data as a legitimate economic entity in Sharia-compliant transactions. This serves as the point of departure for a more profound reconstruction of data ownership and utilization within a *fiqh muamalah* framework that is responsive to the realities of the contemporary digital economy.

In-depth analysis indicates that personal data possesses a dualistic ontological character, functioning as both a personal right and an economic asset. On one hand, personal data is inherent to the individual as an extension of their identity and privacy that warrants protection (Parkinson dkk. 2018). On the other hand, within digital economic practices, such data is processed and leveraged to generate economic value, thereby operating as a commodity within market systems. This duality places personal data in a unique position, distinct from conventional economic objects, as it simultaneously encompasses both personal and commercial dimensions.

From the perspective of Islamic economic law, the determination of an entity's status as *mal* (property) does not rely solely on its physical form; rather, it is primarily defined by the aspect of utility (*manfa'ah*) (Islam 1999). This principle provides a conceptual foundation asserting that intangible entities may be categorized as *mal* provided they possess Sharia-recognized utility. Consequently, the dimension of utility serves as a pivotal factor in understanding the ontological status of personal data within the *fiqh muamalah* framework.

The economic value of personal data is not intrinsically attached to its form but instead arises from the nexus between technology and economic activity. Processes such as big data processing, algorithmic analysis, and AI-driven valuation transform raw data into high-value information for commercial actors (Campbell-Verduyn dkk. 2017). Such value is relational and contextual, contingent upon how data is harvested, processed, and utilized within the digital ecosystem. This demonstrates that the value of data originates not from physical substance, but from its potential utility in generating economic profit.

Based on this construction, personal data can be understood as an information-based asset that acquires value through its capacity for utilization. The economic existence of data resides in its function and utility rather than its physical presence (König 2022). This understanding reinforces the argument that personal data warrants qualification as a form of *mal ghair maddi* (intangible property), while simultaneously providing an ontological basis for the development of ownership concepts and data-driven transactions within Islamic economic law.

Ownership of personal data, when examined from the perspective of Islamic economic law, is in principle inherent to the individual as the data subject. This is predicated on the nature of personal data, which is derived from an individual's identity, activities, and attributes, thus establishing an intrinsic link with the owner (Kusworo dkk. 2022). Within the *milkiyyah* (ownership) framework, this connection provides a normative basis for designating the individual as the primary owner (*al-mālik al-aṣlī*) of their personal data, possessing the rights to control, authorize, or restrict its utilization.

Furthermore, digital platforms or other third parties cannot be positioned as absolute owners of personal

data. The legal relationship is more accurately understood as the granting of access rights or limited utilization rights acquired through consent mechanisms. In this regard, consent does not facilitate the automatic transfer of ownership; rather, it merely legitimizes the use of data within predefined limits (Ramadhan dkk. 2024). Any claim of full ownership over user data by a platform would be fundamentally inconsistent with the basic principles of *milkiyyah* in Islamic law.

It is critical to distinguish between two fundamental aspects: ownership of the substance (*milkiyyah al-'ayn*) and ownership of the utility (*milkiyyah al-manfa'ah*). Personal data, as a non-material entity, is more precisely understood within the framework of ownership of utility, wherein the individual retains primary ownership rights while other parties merely acquire the right to utilize the data within an agreed-upon scope. This distinction serves as a cornerstone in formulating an ownership construction capable of accommodating the unique characteristics of data within the digital economy.

Of particular interest is how the author's analysis points toward a "layered ownership" model, characterized by a differentiation of rights between the primary owner and the data user. The individual, as the data subject, remains the primary owner with fundamental control rights, whereas the platform functions as the party acquiring limited and conditional utilization rights (Disemadi 2023). This model is not only aligned with the principles of *milkiyyah* in Islamic law but also provides a more equitable normative framework for regulating the relationship between individuals and corporations within the digital economic ecosystem.

2. Sharia Compliance of Data Transactions

Data-driven transactions within the digital economy can be qualified within the framework of contracts recognized in *fiqh muamalah* (Islamic commercial jurisprudence), specifically the *ijarah* (leasing of usufruct) contract. In this context, personal data is not exchanged as an object of ownership through a full transfer of title, but rather as a utility to which access is granted to a third party for use within predefined limits (Liddell dkk. 2021). Furthermore, the evolution of digital economic practices allows for the possibility of novel contract forms resembling data licensing, which substantively remain subject to analysis through the general principles of contracts in Islamic law.

The validity of such data-driven transactions is highly dependent on the fulfillment of fundamental contractual requirements: clarity of the subject matter (*ma'qud 'alayh*), mutual consent (*tarāḍī*), and the absence of excessive uncertainty (*gharar*) (Syihab 2023). Within the context of personal data, the clarity of the subject matter presents a unique challenge due to the intangible nature of data, which is frequently not fully understood by the data subject. Consequently, transparency regarding the types of data utilized, the purpose of utilization, and the duration of use becomes an essential requirement for maintaining the validity of the contract.

Should practices involve data exploitation without explicit consent or through merely formalistic consent mechanisms, they potentially contradict the principle of justice (*'adl*) in Islamic law. Information asymmetry and the disparity in bargaining power between individuals and digital platforms can lead to unilateral benefit-taking, which, from a Sharia perspective, may be categorized as a form of injustice (*ẓulm*) (Mantzari 2024). This demonstrates that ethical dimensions and the substance of consent serve as crucial elements in assessing the alignment of digital economic practices with Sharia principles.

It is imperative to recognize that not all data-driven digital economic practices are automatically valid within the perspective of Islamic law. Such validity must be critically assessed based on the fulfillment of fundamental contractual principles, as well as the values of justice and transparency. The author underscores the necessity of reconstructing data-driven transaction practices to ensure alignment with Sharia principles (Wahdan dkk. 2025), while simultaneously establishing normative boundaries against digital economic practices that potentially disadvantage individuals as data owners.

The dominant data governance model in the current digital economy is largely rooted in a capitalistic paradigm that centralizes data control within major technology corporations. Digital platforms function as the primary collectors, processors, and controllers of user data, which is subsequently monetized through various information-based business models (Carballa Smichowski 2019). Within this structure, personal data generated by individuals serves as a source of economic value accumulation for corporations, whereas the individuals, as the original owners of the data, occupy a relatively passive role.

This condition results in a significant imbalance in the distribution of the economic value derived from data. It is observed that the value generated from data utilization is not proportionally distributed to individuals as data subjects; instead, it is largely accumulated by platforms that possess the requisite technological capacity and infrastructure. This disparity is not merely economic but also structural, as platforms exercise far greater control over data access, processing, and utilization than the individuals themselves.

From the perspective of Islamic economic law, such a model presents serious normative challenges. The principle of distributive justice (*'adl*) requires that economic benefits derived from a resource must not be disproportionately concentrated in a single party. Furthermore, the preservation of property (*ḥifẓ al-māl*) is a primary objective of *maqāṣid al-sharī'ah*, necessitating the recognition of and respect for individual rights over their assets, including intangible forms such as data. Consequently, the concentration of control and economic

benefits within corporations, absent an equitable distribution mechanism, potentially contradicts these fundamental principles (Morck dkk. 2005).

Based on these findings, there is an urgent need for a reorientation of data governance models within the discourse of the digital economy. This reorientation involves not only regulative aspects but also the fundamental paradigm regarding data, shifting from a mere exploitable commodity to an entity encompassing dimensions of rights and justice. A Sharia-based approach offers a normative alternative that positions the individual as the primary owner of data and demands a more equitable and proportional distribution of benefits. This evaluation serves as the foundation for developing a data governance model that is more just and oriented toward the protection of individual rights.

3. Proposed Model: Sharia-Based Data Ownership Framework

Based on the conceptual findings of the preceding critical evaluation, this study proposes a Sharia-based data ownership framework as a normative alternative to prevailing data governance models. This framework establishes the individual as the primary owner of personal data, predicated on the premise that such data originates from individual identity and activities, possessing an intrinsic and inseparable link to the subject. Consequently, fundamental control rights over data reside with the individual, serving as a manifestation of the *milkiyyah* principle in Islamic law (Damayanti dkk. 2024).

Under this model, digital platforms are positioned not as owners, but as custodians, acquiring limited rights to access and utilize data based on valid consent. This custodial role entails legal and ethical responsibilities in data management, including obligations for security, usage transparency, and the restriction of utilization to agreed-upon purposes (Yan dan Jones 2026). Thus, the relationship between the individual and the platform shifts from an exploitative dynamic to one that is balanced and normatively structured.

Transaction mechanisms within this framework are grounded in transparency and fairness, fulfilling the fundamental principles of *fiqh muamalah*, such as clarity of the subject matter, mutual consent (*tarāḍī*), and the absence of excessive uncertainty (*gharar*). Data-driven transactions can be structured as a form of usufruct leasing (*ijarah al-manfa'ah*) or licensing schemes that preserve primary ownership for the individual. This ensures that every instance of data utilization possesses clear Sharia legitimacy and does not prejudice either party.

In essence, this model integrates three core principles of Islamic economic law: *milkiyyah* (ownership), *manfa'ah* (utility), and *maṣlahah* (public interest). The principle of *milkiyyah* ensures the recognition of individual rights as data owners; *manfa'ah* facilitates data utilization within legitimate economic activities; while *maṣlahah* serves as the foundation for ensuring that data governance yields broader societal benefits without compromising justice (Ishak 2019). The integration of these three principles produces a framework that is both normative and applicable in responding to the dynamics of the digital economy. The proposed Sharia-based data ownership framework functions not only as a theoretical construction but also as a practical alternative for establishing data governance that is more equitable, transparent, and oriented toward the protection of individual rights in the contemporary digital economy.

The proposed Sharia-based data ownership framework demonstrates significant compatibility with modern data protection regimes. Specifically, the recognition of individuals as the primary data owners aligns with the consent-based regulatory approach that serves as the foundation of various contemporary data protection systems. The mechanism of consent as a basis for processing legitimacy finds its equivalent in the concept of *tarāḍī* (mutual consent) within *fiqh muamalah*, which emphasizes the paramount importance of mutual agreement in every legal relationship.

One of the distinct advantages of the Sharia-based approach is its offering of additional dimensions that are not always the focal point of modern positive law: moral legitimacy and substantive justice. While modern regulations tend to emphasize procedural compliance, such as fulfilling administrative requirements for obtaining consent, the perspective of Islamic law demands a more substantive quality of consent, encompassing transparency, adequate understanding, and a balance of power between the parties (Muhamad Sulaeman 2024). Consequently, the Sharia approach not only complements but also enriches existing regulatory frameworks with a more robust ethical dimension.

The integration of these two approaches presents an opportunity for harmonization between positive law and Islamic law in the regulation of personal data. The Sharia-based data ownership model can function as a supplementary normative framework that strengthens the protection of individual rights while promoting a more equitable distribution of economic benefits (Abdi Dzul Jalal Ikram dkk. 2026). In the context of nations with pluralistic legal systems or those that accommodate Sharia principles, this approach holds high relevance for adoption in public policy formulation. Integrating Sharia principles with modern legal frameworks provides a basis for establishing a data governance system that is not only legally effective but also substantively just and aligned with broader ethical values.

4. Implications for Islamic Digital Economy

The recognition of personal data as *mal* (property) within the framework of Islamic economic law carries significant implications for the expansion of economic objects within the Sharia economic ecosystem (Hasanuddin dkk. 2024). Conceptually, these findings affirm that economic objects in Islam are not limited to tangible assets but also encompass intangible entities possessing value and utility. Consequently, personal data can be positioned as a legitimate economic resource that may be integrated into Sharia-compliant economic activities without contradicting the principles of *fiqh muamalah*.

This reconstruction facilitates the emergence of diverse data-driven economic instruments aligned with Sharia principles, for instance, data utilization schemes through usufruct-based contracts (*ijarah*) or data licensing designed with transparency and fairness. Furthermore, a custodianship-based data management model enables the development of digital business ecosystems that transcend mere profit orientation by prioritizing justice and the protection of individual rights (Septanto 2021). This demonstrates that the digital economy and the Sharia economy are not disparate domains but can be constructively integrated.

A further implication is the reinforcement of the individual's position within the digital ecosystem. By recognizing data as *mal* owned by the individual, data subjects are no longer relegated to passive objects within the digital economic process; instead, they are positioned as subjects possessing economic rights over the data they generate (Shodiq dkk. 2025). This holds the potential to foster more balanced relations between individuals and digital platforms while mitigating unfair data exploitation practices.

At the policy level, these findings provide a foundation for the future development of Sharia-based digital economy regulations. Such regulations can integrate individual ownership, transactional transparency, and equitable benefit distribution as core elements of data governance. A Sharia-based digital economy functions not only as a normative alternative but also as a model capable of fostering a more inclusive, ethical, and equitable economic system in the face of global digital transformation.

Discussion

The findings of this study regarding the qualification of personal data as *mal ghair maddi* (intangible property) underscore the necessity of reconstructing ownership concepts, shifting from a foundation of materiality toward a utility-based value system (Saefullah 2024). In contrast to classical assumptions often narrowly interpreted as the attachment of property to physical existence, *fiqh muamalah* (Islamic commercial jurisprudence) conceptually positions *manfa'ah* (utility) as the central element in determining an entity's status as *mal*. In this context, such an approach demonstrates greater compatibility with digital economic developments than modern ownership theories, which continue to struggle with ambiguity in classifying data as a legal object. For instance, the "bundle of rights" theory in Western legal traditions has shifted the understanding of ownership from the object itself to a collection of rights, yet it remains unable to consistently explain the position of personal data, which is simultaneously personal and economic in nature. Similarly, the concept of intangible property in modern law tends to be partial and contingent upon specific regimes, such as intellectual property (Ilyasa 2020). Consequently, these findings indicate that the concept of *mal* in Islamic law possesses a more flexible and comprehensive epistemological capacity to define non-material entities like data, while offering a conceptual framework that is more adaptive to contemporary digital economic realities.

The dualistic character of personal data, as an entity residing between the realms of rights and commodities, reveals the limitations of modern legal approaches in responding to the digital economy. Data protection regimes tend to situate data within a protective framework of privacy rights, often neglecting the economic dimension inherent in its utilization. Conversely, digital economic practices evolving within the framework of "data capitalism" treat data as an economic resource to be maximally exploited, frequently failing to provide an adequate normative foundation for individual rights (Trisna Dewi dkk. 2021). This tension highlights the failure of the dichotomous "rights-based" and "market-based" approaches in managing the hybrid reality of data. In this context, the perspective of Islamic law offers a more integrative alternative by positioning data as an entity that remains inherently attached to the individual as a rights holder, while concurrently allowing for economic utilization within just and lawful boundaries. This approach avoids reducing data to a mere commodity and prevents the absolutization of rights that might hinder economic productivity, thereby presenting a more balanced "middle way" between protection and utility in data governance.

The reconstruction of the concept of ownership (*milkiyyah*) in the context of the digital economy demands a shift from a paradigm of absolute ownership toward a more relational and function-based model. In modern legal practice, particularly within intellectual property and licensing regimes, ownership of non-material objects is often not absolute but fragmented into limited rights that can be transferred or utilized by other parties (Rofida 2015). Nonetheless, such approaches remain primarily oriented toward economic interests and have yet to fully account for the personal connection between the subject and the object, especially regarding personal data. In this regard, the distinction in Islamic law between *milkiyyah al-'ayn* (ownership of the substance) and *milkiyyah al-manfa'ah* (ownership of the usufruct/utility) provides a more adaptive framework for explaining ownership structures that

are layered and contextual rather than singular. Ownership is understood not as absolute dominance over an object, but as a rights-based relationship constrained by purpose, utility, and the principle of justice. Consequently, the concept of *milkiyyah* in Islamic law demonstrates superior flexibility in accommodating digital economic characteristics, while offering an ownership model that is better balanced between individual control and third-party utilization.

The power imbalance within the digital ecosystem indicates that the relationship between individuals and platforms is not one of equality but rather reflects a systemic structure of dominance. This phenomenon aligns with the concepts of platform capitalism and the surveillance economy, where technology firms act not merely as intermediaries but as dominant actors controlling infrastructure, data flows, and value production mechanisms (Liang dkk. 2022). Within this framework, individuals effectively become objects of data extraction without proportional control over its utilization. From the perspective of Islamic law, this situation cannot be viewed as a neutral economic relationship; rather, it harbors potential violations of the principle of *'adl* (justice) and even verges on *zulm* (exploitation), particularly when economic benefits accumulate disproportionately to one party. This suggests that the primary problem in the digital economy is not merely technological but lies in the skewed distribution of power, necessitating normative interventions capable of rebalancing the relationship between individuals and corporations within a more equitable and ethical framework.

The consent-based approach in modern data governance reveals fundamental limitations when confronted with the reality of unbalanced digital relations. Formally, consent is positioned as the primary legitimacy for data processing; however, in practice, it is often procedural and fails to reflect genuine autonomy, especially within complex and non-transparent clickwrap agreements (Jarovsky 2018). This gives rise to an "illusion of consent," wherein individuals technically "agree" but substantively lack understanding or viable alternatives. From the perspective of Islamic law, the concept of *tarāḍī* (mutual consent) extends beyond the formal expression of agreement, requiring consent predicated on knowledge, balanced bargaining power, and the absence of covert coercion. Consequently, the consent approach in modern law can be evaluated as falling short of the standards of substantive justice expected in Sharia. This implies a need for a redefinition of the concept of consent in data governance, one that is oriented not only toward procedural validity but also toward the quality of a legal relationship that is just, transparent, and equitable between the parties.

The Sharia-based data ownership model proposed in this research offers not only an alternative normative framework but also demonstrates competitive relevance within the global discourse on data governance. When compared to approaches such as the fiduciary data model, which imposes a duty of trust on data managers toward data subjects, or the data trust model, which seeks to institutionalize data management through collective entities, the Sharia approach offers a structure more integrated across legal, ethical, and economic dimensions (Nugraheni dkk. 2024). Unlike these models, which are generally rooted in contractualism or secular institutionalism, the Sharia framework combines the principles of individual ownership, utilization restrictions, and a *maṣlahah*-oriented focus within a single, coherent normative system. This facilitates the creation of data governance that not only protects individual rights but also ensures a more equitable distribution of benefits. This model does not merely serve as a local or normative alternative; it possesses the potential to contribute to the development of a global paradigm for data governance that is more balanced between economic efficiency and social justice.

Theoretically, this research makes a vital contribution to broadening the global discourse on ownership within the digital economy, specifically by presenting an Islamic legal perspective as an alternative framework that remains largely unexplored. Amidst the conceptual impasse in modern legal theory regarding the status of data, hovering between personal rights and economic objects, the *mal* and *milkiyyah* approaches offer a more integrative and non-fragmented conceptual foundation. This contribution extends beyond the development of ownership theory within Islamic law; it carries broader implications for the fields of data governance and law and technology, which are currently dominated by Western-centric paradigms. By situating data within a framework that synthesizes the dimensions of rights, utility, and justice, this research demonstrates that Islamic legal theory possesses the capacity to participate actively in global academic discourse, not merely as a comparative perspective, but as a conceptual source capable of offering solutions to contemporary problematic issues.

The policy implications of these findings suggest an opportunity to construct hybrid data regulation models that integrate modern legal frameworks with Sharia principles. Within contemporary data protection systems, such as consent-based regimes analogous to the GDPR, the reinforcement of individual rights protection serves as the primary foundation (Hasanuddin dkk. 2024). Nevertheless, such approaches tend to prioritize procedural compliance and have yet to fully address the dimension of substantive justice regarding the distribution of economic value derived from data. This is precisely where the Sharia perspective provides added value, emphasizing ethical legitimacy and distributive justice to protect individuals not only as legal subjects but also as owners of economic resources. The integration of these two approaches facilitates a more comprehensive policy formulation, wherein regulation functions not only as a control instrument but also as a mechanism to ensure a balance between economic innovation, rights protection, and social justice within the digital ecosystem (Kira dkk. 2021).

While this research offers a comprehensive conceptual reconstruction, several limitations warrant acknowledgment. First, the study's normative-conceptual nature precludes empirical testing of how Sharia-based data ownership constructions can be implemented within complex, cross-jurisdictional digital industry practices. Second, the analysis has yet to exhaustively explore divergent views among the various schools of jurisprudence (*madhahib*) in *fiqh muamalah*, which may yield interpretative variations regarding the concepts of *mal* and *milkiyyah* within the digital sphere. Third, the scope of this research is confined to a legal perspective and does not fully integrate interdisciplinary insights from digital economics, data science, or technology studies. Consequently, further research is essential to validate the proposed model through empirical inquiry, conduct comparative legal studies, and develop multi-disciplinary analyses to enhance its relevance and applicability within the global digital ecosystem.

Conclusion

The reconstruction of personal data ownership concepts from the perspective of Islamic economic law utilizes an adaptive *fiqh muamalah* (Islamic commercial jurisprudence) approach to digital economic developments. The analysis reveals that personal data qualifies as *mal ghair maddi* (intangible property), as it fulfills the primary criteria of *mal*: possessing value, being legally utilizable, and existing within an identifiable ownership relationship. Ultimately, this underscores that the concept of *mal* in Islamic law is dynamic and capable of accommodating non-material entities emerging within the modern economic context.

Normatively, ownership of personal data is inherent to the individual as the data subject, while third parties, such as digital platforms, possess only limited utilization rights based on valid consent. This construction leads to a "layered ownership" model, which distinguishes between primary ownership and utilization rights. In the context of transactions, data utilization can be structured through usufruct-based contracts, such as *ijarah* (leasing), provided that the principles of clarity, mutual consent, and the absence of *gharar* (uncertainty) are fulfilled. Consequently, not all data-driven digital economic practices are Sharia-compliant, particularly those involving elements of injustice or exploitation.

The prevailing data governance models tend to centralize control and economic benefits within corporations, resulting in imbalances that contradict the principle of justice in Islamic law. In response, this study proposes a Sharia-based data ownership model that designates the individual as the primary owner and the platform as a custodian with limited rights. This model integrates the principles of *milkiyyah* (ownership), *manfa'ah* (utility), and *maṣlahah* (public interest), demonstrating compatibility with modern legal frameworks while providing a more robust ethical dimension.

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