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Punishing Probability: Predictive Policing and the Limits of Preventive Punishment in Islamic Law

Wahrizal Fakri[1], Dhani Sharma[2], Chelea Alika Raysa[3], Rifaldi[4]

[1-3]Sekolah Tinggi Agama Islam Negeri Mandailing Natal, Indonesia
[2]Universitas Aufa Royhan, Indonesia
[4]Universitas Muhammadiyah Tapanuli Selatan, Indonesia

Abstract
The use of artificial intelligence in law enforcement, particularly predictive policing, raises fundamental questions concerning the boundaries between crime prevention and preventive punishment. This study examines the limits of state authority in using crime prediction from the perspective of Islamic law. It employs normative legal research with conceptual and normative-philosophical approaches, analyzing legal materials through qualitative-descriptive and evaluative methods. The analysis integrates *sadd al-dhara'i*, *maqasid al-shari'ah*, the presumption of innocence, and preventive justice. The findings indicate that crime prediction may support risk identification and proportionate preventive measures but cannot replace evidence of a criminal offense or the establishment of criminal liability. This study proposes the *Prediction–Prevention–Proof–Adjudication–Punishment* model as a normative framework distinguishing legitimate prevention from punishment based solely on anticipated future conduct. Within Islamic criminal law, *sadd al-dhara'i* supports harm prevention, while *maqasid al-shari'ah* requires the protection of justice, public welfare, and individual rights. The presumption of innocence further ensures that predictive outcomes do not substitute for proof of guilt. The study concludes that predictive technologies may support lawful crime prevention but cannot independently justify criminal punishment. This framework contributes to the development of fair and proportionate law enforcement policies grounded in Islamic legal principles.

Keywords: predictive policing; preventive punishment; Islamic law; *sadd al-dhara'i*; *maqasid al-shari'ah*; presumption of innocence.

Introduction

The development of artificial intelligence (AI) has driven the adoption of technology in law enforcement, including its use to identify patterns and predict the likelihood of crime. One such application is predictive policing, which involves the use of data and algorithmic analysis to support risk identification and crime prevention (Berk, 2021). This technology offers law enforcement agencies opportunities to allocate resources more effectively. However, legal issues arise when predictive outcomes are used to determine how individuals whose guilt for the anticipated offenses has not been established are treated (Raji & Sholademi, 2024). This situation raises fundamental questions about the limits of state authority in anticipating crime

*Correspondence: wahrizalfakhri@gmail.com

without disregarding individual liberty, legal certainty, and the protection of human rights.

Previous studies have examined the benefits and risks of using predictive technologies in law enforcement. Kaufmann et al. (2019) investigated how predictive policing algorithms shape the forms of knowledge used in police decision-making. Brayne and Christin (2021) examined the use of data-driven technologies in policing practices and their implications for the exercise of law enforcement powers. Meanwhile, Sachoulidou (2023) highlighted the challenges that algorithms and artificial intelligence pose to the presumption of innocence. These studies demonstrate that algorithmic predictions can influence assessments of individuals before their criminal guilt has been established. However, prior studies have not sufficiently articulated a normative framework distinguishing the legitimate use of predictive outcomes for crime prevention from their impermissible use as a basis for criminal punishment. This study addresses this gap through a five-stage model—*Prediction–Prevention–Proof–Adjudication–Punishment*—which clarifies the legal boundaries and procedural requirements governing each stage, particularly the transition from risk assessment to criminal liability.

Conceptually, crime prevention and preventive punishment must be distinguished in terms of their objectives, forms of intervention, and legal consequences. Crime prevention aims to reduce risk through measures that are relevant to the problem and supported by evidence, whereas preventive punishment refers to coercive interventions that, considering their purpose, severity, duration, or punitive effects, substantially resemble criminal sanctions despite being imposed on the basis of anticipated future dangerousness (de Vries & Bijlsma, 2022; Hinkle et al., 2020). This distinction is particularly important because predictive outcomes are probabilistic and may produce erroneous assessments. Jellema and Bijlsma (2026) demonstrate that the imposition of preventive sanctions raises questions concerning the evidentiary standards required to establish risk. In such circumstances, the principle of the presumption of innocence serves as an essential safeguard against treating the possibility of future conduct as evidence of criminal guilt.

From the perspective of Islamic law, the principle of *sadd al-dhara'i* provides a basis for understanding the legitimacy of preventive measures directed at means that may lead to harm (Elbalazi et al., 2026). Zahrah (1995) explains this principle as an effort to block pathways that may lead to prohibited acts. This framework can be brought into dialogue with preventive justice, which examines both the justification for and the limitations of state intervention aimed at anticipating harm before it occurs (Zedner & Ashworth, 2019). Meanwhile, *maqasid al-shari'ah* provides a normative framework for assessing whether a policy genuinely promotes public welfare and protects human beings (Auda, 2008). Integrating these perspectives with the presumption of innocence, which prevents predictive assessments from being treated as proof of criminal guilt, provides a normative framework for evaluating preventive measures without equating risk prevention with the determination of criminal liability.

Based on this body of literature, the central issue requiring clarification is how the preventive principles of Islamic law can be applied to assess the use of predictive technologies without providing excessive legitimacy to punishment before a criminal offense has occurred. This inquiry stems from the need to distinguish the state's authority to reduce crime risks from its authority to impose criminal sanctions. This study offers a normative analysis that brings together the principles of *sadd al-dhara'i*, preventive justice, the presumption of innocence, and *maqasid al-shari'ah* to examine

the limits of using crime predictions in law enforcement. Accordingly, the analysis focuses on the legitimacy, limitations, and legal consequences of applying such predictions to individuals.

This study aims to analyze the limits of state authority in using crime predictions to undertake preventive measures and to formulate a normative distinction between prevention and punishment from the perspective of Islamic criminal law. The analysis addresses the extent to which *sadd al-dhara'i* can justify preventive measures, how preventive justice constrains the exercise of coercive powers, and how the presumption of innocence and *maqasid al-shari'ah* protect individuals identified as being at risk. Through this approach, the study is expected to contribute to the development of Islamic legal thought in response to predictive technologies while providing normative considerations for formulating fair and proportionate law enforcement policies.

Method

This study employs normative legal research using conceptual and normative-philosophical approaches to analyze the use of crime prediction in law enforcement (Taekema, 2021). It focuses on the boundaries between prediction, prevention, and punishment, as well as their relevance to predictive policing, preventive justice, *sadd al-dhara'i*, and *maqasid al-shari'ah*. The normative-philosophical approach is used to evaluate the use of predictive technologies in light of the principles of justice, public welfare, and individual protection under Islamic law.

Primary and secondary legal materials are analyzed through library research. Primary materials include relevant statutory and regulatory provisions governing criminal justice, policing, data protection, and human rights, as well as the Qur'an, Sunnah, and Islamic legal principles relevant to crime prevention and punishment. Secondary literature is selected based on its relevance to the research questions, scholarly credibility, and conceptual contribution, with particular emphasis on peer-reviewed publications and relevant foundational legal works.

The legal materials are examined using qualitative-descriptive and evaluative methods, involving their identification, classification, and comparison based on relevant concepts and principles. The principles of *sadd al-dhara'i* and *maqasid al-shari'ah* are employed to assess the grounds and objectives of preventive measures, while the presumption of innocence and preventive justice provide a framework for determining the limits of state intervention. The normative evaluation considers legality, necessity, proportionality, procedural fairness, and the protection of individual rights. These criteria are used to establish normative boundaries for the use of prediction in law enforcement: predictive outcomes may inform vigilance and proportionate crime prevention but cannot independently justify criminal punishment in the absence of a criminal offense, valid evidence, and established criminal liability.

Results and Discussion

Crime Prediction and the Shift from Prevention to Preventive Punishment

In law enforcement practice, predictive policing can be used to estimate crime risks based on location and time or to assess risks associated with individuals (Gallese, 2026). The distinction between these predictive targets affects the types of interventions that law enforcement authorities may undertake. For example,

predictions about crime hotspots may be used to determine patrol priorities, whereas individual risk assessments may influence how authorities treat people considered to be at risk of offending. However, place-based deployment may also indirectly affect individuals and communities through intensified surveillance, repeated police encounters, and increased exposure to law enforcement interventions. Berk (2021) explains that predictive models can be used both to forecast crime patterns and to assess individual risks. Accordingly, the use of this technology must be evaluated in light of the purposes and consequences of actions based on predictive outcomes.

In its preventive function, predictive outcomes can be used to direct resources toward areas or situations that require greater attention. This use is consistent with an evidence-based prevention approach, which emphasizes the importance of information and evaluation in determining crime prevention strategies (Welsh & Farrington, 2012). Through a systematic review and meta-analysis, Hinkle et al. (2020) demonstrate that problem-oriented policing can contribute to reductions in crime and disorder. Although their findings do not directly address predictive-policing algorithms, they provide indirect support for the use of systematic information to identify specific problems and guide targeted preventive interventions. These findings underscore the importance of preventive measures directed at specific problems and the factors that contribute to crime. However, the effectiveness of prevention does not establish the accuracy of predictive models. Predictive analyses must still be evaluated because their reliability depends on data quality, processing methods, and the assumptions employed (Kaufmann et al., 2019).

Legal problems arise when predictive outcomes are no longer used solely to determine preventive measures but instead become grounds for imposing coercive measures on individuals. Under such circumstances, the state risks imposing consequences resembling punishment on individuals for conduct they have not yet committed. Sachoulidou (2023) identifies challenges posed by the use of algorithms in law enforcement to the principle of the presumption of innocence, particularly when predictions of future behavior influence the treatment of individuals. At the same time, the concept of preventive justice demonstrates that state efforts to anticipate harm must remain subject to limitations designed to protect individual liberty (Zedner & Ashworth, 2019).

Crime prevention and punishment rest on different justifications. Prevention aims to reduce the likelihood of crime and may be undertaken before a criminal offense occurs, whereas punishment must be grounded in a criminal offense and criminal liability established through evidence in accordance with the law. Accordingly, predictive outcomes may serve as supporting information for allocating general law enforcement resources, such as determining patrol priorities, but cannot, on their own, provide legal authorization for intrusive surveillance of a specifically identified individual or establish that individual's guilt (Raji & Sholademi, 2024). This distinction also clarifies that not every measure taken before a crime occurs constitutes preventive punishment. The problem arises when interventions justified in the name of prevention impose punitive consequences on the basis of predictions about an individual's future behavior.

These risks become increasingly significant when predictive technologies are used to classify individuals according to their anticipated dangerousness. Such classifications may become self-reinforcing when prior enforcement patterns shape subsequent risk assessments, potentially reproducing existing patterns of surveillance and unequal treatment. Zedner and Ashworth (2019) caution that the development of

the preventive state may expand state powers of surveillance and coercion, thereby threatening civil liberties. Cornford (2015) also discusses the problem of criminalizing conduct that has not caused harm or does not yet satisfy the requirements for a culpable and blameworthy act. These perspectives underscore the need for clear boundaries between risk reduction and the imposition of sanctions. An assessment of predictive policing must therefore consider the nature of the intervention and its impact on individual rights, rather than focusing solely on its stated preventive objectives.

One technical and legal concern is the occurrence of false positives, in which a model classifies an individual as likely to commit a predicted offense within a specified period, but the offense does not occur during that period. Such errors may arise from limitations in predictive accuracy or from biases in the data and variables used by predictive models (Berk, 2021). If predictive outcomes are accepted without critical scrutiny, individuals may become targets of surveillance or restrictions on the basis of erroneous assessments. Algorithmic outputs should therefore be treated as information requiring further evaluation, rather than as independent evidence of an individual's guilt or dangerousness.

Beyond prediction errors, labeling individuals as potential offenders may lead to stigmatization and influence how law enforcement authorities treat people who have not committed criminal offenses. A practical safeguard is to provide affected individuals with an opportunity to contest inaccurate risk classifications and request their correction. This situation risks obscuring the distinction between an individual predicted to pose a risk and an individual whose guilt has been established through legal proceedings. Sachoulidou (2023) highlights this concern in relation to the protection of the presumption of innocence in the use of algorithmic assessments. Thus, the shift in orientation from *what a person has done* to *what a person might do* is not merely a change in assessment methods; it may also alter the basis on which the state intervenes in individuals' lives.

Based on the foregoing analysis, predictive policing can support crime prevention provided that it serves legitimate purposes, is subject to critical evaluation, and does not result in excessive restrictions on individual rights. However, predictions about the likelihood of future criminal conduct cannot replace proof of a criminal offense or the establishment of criminal liability. The state's authority to reduce risk must be distinguished from its authority to punish individuals.

The Limits of Preventive Punishment from the Perspective of Islamic Law

From the perspective of Islamic law, the prevention of harm is an important consideration in legal determination. The principle of *sadd al-dhara'i* provides a basis for blocking means that may lead to prohibited acts by considering their potential consequences (Zahrah, 1995). In the context of predictive policing, this principle may support the use of technology to identify risks and determine preventive measures before harm occurs. However, such measures are justified only when the identified risk is supported by relevant and sufficiently reliable information, is reasonably connected to a potential harm, and warrants an intervention proportionate to its likelihood and severity. However, its application does not mean that every possibility of criminal conduct can be treated as a criminal offense. Risk assessment must remain attentive to the relationship between the means employed, the potential consequences, and the measures reasonably warranted, so that preventive efforts do not themselves generate new forms of harm (Elbalazi et al., 2026).

The application of *sadd al-dhara'i* to predictive technologies must therefore be distinguished from the justification for punishing individuals on the basis of predicted behavior. Predictions may help identify conditions that could give rise to crime, but algorithmic outputs remain probabilistic and do not establish that an individual has committed a criminal offense (Brayne & Christin, 2021; Hälterlein, 2021). This limitation is important because preventive measures intended to reduce risk have different legal consequences from punishment, which establishes guilt and imposes sanctions. Accordingly, *sadd al-dhara'i* is more appropriately understood as a normative basis for legitimate and proportionate prevention than as a justification for transforming predictions of future behavior into grounds for criminal liability (Hassan & Adom, 2022).

This limitation is also related to the principle of the presumption of innocence. In Islamic jurisprudence, this principle is supported by the legal maxim *al-asl bara'at al-dhimmah* (the presumption of freedom from liability), which establishes that a person is not presumed to bear legal liability without sufficient grounds (Ismail, 2024). This principle is further reflected in the evidentiary maxim *al-bayyinah 'ala al-mudda'i wa al-yamin 'ala man ankara*, which places the burden of proof on the party making a claim. These principles provide a jurisprudential basis for requiring sufficient evidence before attributing legal responsibility to an individual. In modern criminal procedure, this protection requires that individuals not be treated as offenders before their guilt has been established through lawful legal proceedings (Aditia & Iksan, 2025). In the context of predictive policing, the principle faces challenges when risk scores or algorithmic classifications influence law enforcement authorities' assessments of individuals. Sachoulidou (2023) demonstrates that the use of algorithms in law enforcement can blur the distinction between suspicion based on concrete conduct and assessments based on the likelihood of future behavior. Consequently, risk status generated by predictive systems cannot replace evidence of a criminal offense or serve as the sole basis for determining an individual's guilt.

From the perspective of preventive justice, the state retains a legitimate interest in protecting society from the threat of crime. However, the expansion of preventive measures may increase the state's powers of surveillance and coercion over individuals. Their implementation must therefore be subject to the principles of the rule of law, proportionality, and procedural protection (Zedner & Ashworth, 2019). The further an intervention moves beyond general prevention toward restrictions on individual liberty, the stronger the need for an adequate legal basis and sufficient justification. In such cases, decisions should provide specific reasons for the intervention and be subject to independent review to ensure that restrictions are necessary and proportionate. Accordingly, preventive justice may support measures intended to prevent crime before it occurs, but it cannot legitimize the imposition of punishment solely on the basis of predictions about what an individual might do (Gallese, 2026).

Furthermore, *maqasid al-shari'ah* provides a normative framework for assessing whether the use of predictive technologies genuinely promotes public welfare. In particular, the protection of life (*hifẓ al-nafs*), intellect (*hifẓ al-'aql*), property (*hifẓ al-mal*), and human dignity (*hifẓ al-'ird*) offers relevant criteria for evaluating the competing interests involved in predictive policing. These objectives require balancing the societal benefits of crime prevention against potential harms, including violations of individual liberty, privacy, and protection from discriminatory profiling (Fahmi et al., 2025). Auda (2008) emphasizes that Islamic law should be understood holistically and in terms of its objectives, including the protection of rights, justice, and human welfare. In this

context, the success of crime prevention cannot be assessed solely by a technology's ability to identify risks. Its effects on individual liberty and protection must also be considered (Aulia et al., 2025).

Studies on the use of artificial intelligence in Islamic law have likewise emphasized the relevance of *maqasid al-shari'ah* to evaluating issues of accountability, discrimination, transparency, and technological oversight (Habib, 2025; Qutieshat et al., 2026). Preventive measures must therefore take into account the balance between benefits to society and the potential harm borne by individuals (Cornford, 2015; Zedner & Ashworth, 2019). This proportionality requirement is also relevant to contemporary Islamic criminal jurisprudence, in which the legitimacy of punishment must be examined alongside its normative limits, the scope of state authority, and the objectives of Islamic law (Qowima et al., 2026).

Based on the integration of these three principles, the limits of preventive punishment lie in the distinction between the authority to prevent risks and the authority to impose criminal sanctions. *Sadd al-dhara'i* supports preventive measures directed at means that may lead to harm (Hassan & Adom, 2022); the presumption of innocence ensures that predictions do not replace the requirement of proof; and *maqasid al-shari'ah* directs policy toward the promotion of public welfare while respecting justice and individual rights (Dasrianto, 2024). Accordingly, predictive policing outcomes may be used as information to guide lawful, targeted, and proportionate preventive measures, but they are insufficient to establish guilt or justify the imposition of criminal punishment.

Reconstructing the Limits of Preventive Punishment: The Prediction–Prevention–Proof–Adjudication–Punishment Model

Based on the preceding discussion, the central issue is not the state's use of crime prediction per se, but rather the limits governing the use of predictive outcomes. Berk (2021) demonstrates that predictive technologies can forecast crime across spatial and temporal dimensions, but they remain subject to concerns regarding accuracy, bias, and transparency. Kaufmann et al. (2019) also explain how predictive policing transforms data patterns into a basis for action against potential crime. Prediction should therefore be positioned as an initial stage for identifying risks rather than as a determination of guilt (Hälterlein, 2021). This position is consistent with Sachoulidou (2023), who emphasizes the importance of protecting the presumption of innocence in the use of algorithms for law enforcement.

On this basis, the author proposes the *Prediction–Prevention–Proof–Adjudication–Punishment* model as a normative framework for delimiting the use of prediction within preventive law enforcement. Prediction serves to identify risks; prevention uses this information to implement lawful and proportionate preventive measures; proof involves the evidentiary substantiation of an alleged criminal offense; adjudication evaluates the evidence and determines guilt and criminal liability through fair legal proceedings; and punishment may be imposed only when the offense and the individual's criminal liability have been established through sufficient evidence and fair adjudication. Importantly, prediction and prevention are not mandatory prerequisites for every criminal punishment; rather, they represent stages that define the permissible use of predictive information before criminal liability is established. This model establishes a boundary against the tendency toward the development of a preventive state which, according to Zedner and Ashworth (2019), may expand risk-based

criminalization, policing, and punishment in ways that potentially threaten civil liberties.

Table 1. The *Prediction–Prevention–Proof–Adjudication–Punishment* Model

Stage	Function	Normative Limit
Prediction	Identifies crime risks or the likelihood of future offenses	Does not establish guilt or criminal liability
Prevention	Uses risk information to reduce the likelihood of crime	Must be lawful, proportionate, and assessed for effectiveness and effects on individual rights
Proof	Establishes the evidentiary basis of an alleged criminal offense	Must rely on legally admissible and sufficient evidence, not prediction alone
Adjudication	Evaluates the evidence and determines guilt and criminal liability	Must ensure fair proceedings and independent judicial assessment
Punishment	Imposes criminal sanctions	Permissible only after the offense and individual criminal liability have been established through fair adjudication

Source: Author's analysis and synthesis.

This concern is further illuminated by Jellema and Bijlsma (2026), who examine proof standards for future crimes and demonstrate that preventive sanctions based on the risk of future criminal conduct raise questions concerning evidentiary standards and the probability thresholds that may justify coercive intervention. Melander (2023) and de Vries and Bijlsma (2022) likewise demonstrate that the preventive turn in criminal law has increased the use of the concept of dangerousness to justify intrusive preventive measures. These findings indicate that the further criminal law shifts away from conduct that has already occurred toward predictions of future behavior, the more important it becomes to establish clear boundaries and stringent standards. This model does not reject the preventive function of law enforcement. Rather, it seeks to prevent prevention from becoming punishment based solely on possibility.

From the perspective of Islamic law, this model can be strengthened through the integration of three principles. *Sadd al-dhara'i* provides a basis for measures aimed at preventing pathways to harm, but it does not render every possibility of harm a criminal offense (Hassan & Adom, 2022). *Maqasid al-shari'ah* requires a balance between public protection, justice, rights, and individual welfare (Auda, 2008). Meanwhile, the presumption of innocence ensures that prediction does not replace the requirements of proof and criminal liability (Sachoulidou, 2023).

Accordingly, the synthesis proposed in this study is that the state is justified in taking measures to prevent crime risks, but this justification must end when predictions are used as substitutes for evidence to impose criminal punishment. This marks the boundary between legitimate preventive justice and pre-punishment, understood here as the imposition of criminal sanctions or equivalent punitive treatment on individuals solely on the basis of predicted future conduct, without proof of an offense and a fair determination of criminal liability. Thus, pre-punishment is not synonymous with preventive punishment. Rather, it refers to the illegitimate use of preventive reasoning to impose punitive consequences before the legal requirements for criminal liability have been satisfied.

Conclusion

Crime prediction may be used as a means of prevention, but it cannot serve as a basis for punishment solely on the grounds that an individual might commit a crime.

From the perspective of Islamic criminal law, *sadd al-dhara'i* provides a basis for preventing harm, while *maqasid al-shari'ah* ensures that preventive measures remain directed toward public welfare, justice, and the protection of individual rights. These limits are reinforced by the presumption of innocence, which requires the establishment of an offense and proof of guilt before an individual may be punished. As its principal conceptual contribution, this study proposes the *Prediction–Prevention–Proof–Adjudication–Punishment* model as a normative framework for delimiting preventive punishment. The model positions prediction solely as a basis for risk identification and prevention, whereas punishment may be imposed only after a criminal offense has been proven and criminal liability established through fair legal proceedings. In practical terms, the use of predictive technologies in law enforcement should remain subject to meaningful human oversight, particularly when predictive assessments inform decisions that may restrict individual rights. Nevertheless, this framework remains normative and has not yet been empirically tested in law-enforcement practice. Future research should therefore examine its practical applicability across different predictive policing contexts. Thus, the state can continue to use technology to prevent crime without transforming possibility into criminal guilt.

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