



THE RESPONSIBILITY OF CELL PHONE SERVICE TECHNICIANS FOR DAMAGE DURING REPAIRS ACCORDING TO THE MALIKI SCHOOL OF LAW

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ABSTRACT

*The development of mobile phone service as a necessity of modern society has not been fully followed by clear legal accountability for damaged goods and loss of consumer data. Informal service practices, minimal transparency, and the absence of clear boundaries of responsibility often create legal uncertainty and are detrimental to consumers. This study aims to analyze the accountability practices of mobile phone service personnel in Medan Perjuangan District and assess them from the perspective of Maliki Islamic jurisprudence as formulated in the book *Al-Muwaṭṭa'*. The study uses an empirical juridical approach with qualitative methods through interviews and literature studies. The results show that mobile phone service practices do not fully reflect the principles of trust, clarity of contracts, and responsibility (*ḍamān*), especially in cases of additional damage and loss of consumer data. From the Maliki perspective, control of consumer goods during the service process gives rise to legal liability obligations, unless the risks have been clearly explained and agreed upon from the beginning of the contract. The novelty of this research lies in the integration of empirical data with Maliki fiqh analysis based on *Al-Muwaṭṭa'* to formulate a fairer and more relevant service accountability framework for contemporary muamalah practices.*

Keywords: mobile phone service; accountability; Maliki jurisprudence; *Al-Muwaṭṭa'*; contemporary transactions.

1. INTRODUCTION

The development of digital technology has made mobile phones an essential device in modern society. Mobile phones serve not only as a communication tool but also as a means of storing personal data, a means of digital economic transactions, and a means of supporting social and professional activities. Data shows that mobile phone ownership and usage in Indonesia continues to increase in line with the expansion of the digital economy and information technology-based services (Fatimatuzzahra et al., 2023).

Consequently, this increased use is a growing demand for mobile phone repair services, particularly for repairs to devices experiencing technical damage.

However, this growing demand for mobile phone repair services is not always accompanied by professional and accountable service practices. In practice, relationships between consumers and service providers are generally established informally, without clear written agreements regarding the scope of work, repair risks, limits of liability, and compensation mechanisms for additional damage or loss of consumer data. This situation creates legal uncertainty and places consumers in a vulnerable position, especially when disputes arise due to losses incurred during the repair process (Mahayani et al., 2022).

The issue of accountability in mobile phone repair services becomes increasingly complex when linked to the loss of consumers' personal data. In the context of a digital society, personal data has significant economic, social, and psychological value, so data loss cannot be viewed as a purely non-material loss (Fatimatuzzahra et al., 2023). However, empirical findings indicate that most mobile phone repair providers do not recognize data loss as part of their responsibility, arguing that data is not the primary objective of the repair service. This view demonstrates the weakness of contract construction and the absence of adequate consumer protection mechanisms.

From an Islamic legal perspective, service relationships involving the transfer of another person's property cannot be separated from the principles of trust and the fulfillment of contracts. The Qur'an explicitly emphasizes the obligation to maintain trust and fulfill contracts as the foundation of ethical and legal transactions (QS. an-Nisa' [4]: 58; QS. al-Mā'idah [5]: 1). This principle emphasizes that every party who receives goods in a service contract has a moral and legal obligation to guard, maintain and return the goods in their proper condition.

﴿ إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا ۚ وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ ۗ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ ۗ إِنَّ اللَّهَ كَانَ سَمِيعًا ۝٥٨ ﴾

"Indeed, Allah commands you to convey trust to those who are entitled to receive it, and when you establish laws between people, you must establish them fairly." (QS. An-Nisā' [4]: 58)

This paragraph emphasizes that trust is a fundamental principle in every legal relationship, including service relationships. When the consumer hands over the cellphone to the service person, at that time the service person assumes a trustworthy obligation to safeguard and return the item intact and properly. Apart from that, the Qur'an also emphasizes the obligation to fulfill the contract in every muamalah transaction:

﴿ يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ ۗ ﴾

"O you who believe, fulfill these promises." (QS. Al-Mā'idah [5]: 1)

In the study of classical muamalah jurisprudence, the principles of trust and responsibility for goods under the control of another party are formulated systematically, one of which is in the Maliki School. The book *Al-Muwatta'* by Imam Malik provides a normative basis regarding the concept of responsibility (ḍamān), the prohibition of

gharar, and clarity of contracts in muamalah transactions (Malik ibn Anas, 2004). Although the historical context of *Al-Muwatta'* does not explicitly discuss modern repair services, the principles formulated therein are universal and can be applied through an analogous approach (*qiyās*) to contemporary muamalah practice (Kamali, 2021).

Several previous studies have discussed the responsibilities of service providers from the perspective of positive law and consumer protection (Sutedi, 2017; Permata, 2016). On the other hand, contemporary muamalah jurisprudence studies generally place service contracts within a general theoretical framework without sufficient empirical field data (Hidayat, 2022; Hidayatullah, 2024). Thus, a significant research gap exists: the lack of studies that integrate the empirical practice of mobile phone service with a specific and systematic analysis of Maliki fiqh based on *Al-Muwatta'*. Based on this gap, this study aims to examine the practice of liability of mobile phone service providers for damaged goods and lost consumer data, based on empirical data in Medan Perjuangan District, and assess it from the perspective of Maliki fiqh. The novelty of this research lies in the effort to integrate field findings with the principles of trust, clarity of contracts, and obligations of *ḍamān* as formulated in *Al-Muwatta'*, in order to formulate a fairer, contextual, and relevant service accountability framework for contemporary muamalah practices.

2. RESEARCH METHOD

This study uses an empirical juridical approach with a descriptive qualitative research design. The aim is to analyze the congruence between the Maliki school of jurisprudence (*fiqh muamalah*) and the accountability practices of mobile phone service providers in the field. The juridical approach is used to examine Islamic legal principles related to trustworthiness (*amanah*), clarity of contracts, the prohibition of *gharar* (unclear), and responsibility (*ḍamān*), as formulated in the book *Al-Muwatta'*. While the empirical approach is used to understand the reality of mobile phone service practices in the contemporary social context. This approach is relevant for bridging the gap between legal norms and social practices (Soekanto & Mamudji, 2019; Marzuki, 2021).

The research location was determined to be Medan Perjuangan District, considering that this area is one of the areas with a relatively high level of mobile phone service activity and reflects the characteristics of informal service practices in urban areas. The research subjects consisted of mobile phone service providers and consumers who had used these services and experienced or were likely to experience losses in the form of additional damage or data loss during the repair process. Informants were selected using a purposive sampling technique, with the following criteria: (1) service providers who have actively run a mobile phone service business for at least one year, and (2) consumers who have submitted a mobile phone for repair in the past six months. This technique was used to obtain relevant and in-depth data in accordance with the research objectives (Moleong, 2022).

The research data consisted of primary and secondary data. Primary data were obtained through semi-structured interviews, which allowed researchers to explore the experiences, understanding, and practices of accountability from the perspectives of both service providers and consumers in a flexible yet focused manner. Secondary data included primary legal materials in the form of the Qur'an, hadith, and Imam Malik's book

Al-Muwatta', as well as secondary legal materials in the form of books on Islamic jurisprudence (fiqh muamalah), scientific journals, and contemporary Islamic economic law literature relevant to the research topic (Hidayat, 2022; Hidayatullah, 2024).

To enhance the validity and credibility of the data, this study employed source and data triangulation techniques, comparing statements between service providers and consumers and linking empirical findings to Maliki Islamic jurisprudence norms and related legal literature. Furthermore, the researcher conducted limited member checking by reconfirming interview results with key informants to ensure the accuracy and relevance of the data obtained (Sugiyono, 2021).

Data analysis was conducted qualitatively using descriptive-comparative analysis techniques. The analysis stages included data reduction, data presentation, and thematic conclusion drawing. Empirical data regarding mobile phone service practices were analyzed and then compared with the principles of accountability in Maliki Islamic jurisprudence to assess the degree of conformity, deviations, and legal implications. This analysis technique was chosen because it allowed the researcher to systematically and contextually integrate field findings with the normative framework of Islamic jurisprudence in muamalah (Islamic transaction) (Miles, Huberman, & Saldaña, 2019).

3. RESULT AND ANALYSIS

Mobile Phone Service Practices and Accountability Patterns in the Field

Mobile phone service practices in Medan Perjuangan District exhibit characteristics of small- to medium-scale services that have grown organically to meet the needs of the urban community. Most mobile phone service businesses operate independently, based on individual technical expertise, and are not yet bound by standard operating procedures (SOPs). Services offered generally include hardware and software repairs, component replacements, and system updates. This pattern reflects the character of urban informal services, which prioritize speed of service and cost efficiency over legal and administrative certainty (Permata, 2016).

In the relationship between service personnel and consumers, the prevailing practice is dominated by informal relationships. Legal interactions between the two parties are rarely outlined in written agreements, but rather based on trust, custom, and direct communication upon delivery of the mobile phone. This situation results in an implicit contractual relationship, where the rights and obligations of the parties are not explicitly defined from the outset. This relationship pattern is common in the informal service sector and often places consumers at a disadvantage under legal protection (Mahayani et al., 2022).

The agreements used in mobile phone repair services are almost entirely verbal and undocumented. Agreements typically only cover the type of damage, cost estimates, and timeframe, without detailed discussion of repair risks, potential additional damage, or liability mechanisms in the event of losses. This lack of documented agreements results in a weak evidentiary basis in disputes between service providers and consumers, and opens up the possibility of unilateral risk transfer to consumers (Sutedi, 2017).

The evolving scope of services in the field also demonstrates common practices that potentially pose legal risks, particularly regarding the service provider's complete control of the device and consumer data during the repair process. In many cases, consumers

hand over their phones and system access without any data security procedures or notification of the potential loss of personal information. This practice demonstrates that data protection and professional due care are not yet an integral part of mobile phone repair service standards (Fatimatuzzahra et al., 2023).

Regarding liability patterns, common forms of damage during the service process include additional damage to other components, post-repair malfunctions, and loss of consumer data. Field findings indicate that additional damage is often perceived as an unavoidable technical consequence, especially on devices with pre-existing problems. However, these claims are generally not accompanied by technical explanations that consumers can verify, leading to dissatisfaction and potential conflict (Ambodo & Supriyono, 2025).

Service technicians tend to be defensive in their response to additional damage, limiting their responsibility to the initial damage agreed upon verbally. In many cases, service technicians claim that other damage falls outside their scope of responsibility, especially in the absence of a prior written agreement. Dispute resolution mechanisms are generally informal, involving direct negotiation, discounts, or re-repairs without a clear guarantee. The absence of a structured dispute resolution mechanism demonstrates the weak legal protection for consumers in mobile phone service practices (Marzuki, 2021).

From a bargaining perspective, consumers are in a relatively weak position compared to service providers. Consumer dependence on the technical expertise of service providers, limited information, and the absence of written agreements make it difficult for consumers to demand accountability when losses occur. This inequality is exacerbated by the common perception that service providers are merely technical assistance, not a legal relationship that gives rise to legal responsibility. This situation demonstrates the need for a fairer and more transparent accountability framework, both from a positive law perspective and muamalah jurisprudence (*fiqh muamalah*), to balance the relationship between service providers and consumers (Hidayat, 2022; Hidayatullah, 2024).

Accountability of Service Providers from the Maliki School of Law Based on the Book *Al-Muwatta'*

The empirical findings in the previous sub-chapter indicate that mobile phone service practices are still dominated by informal relationships, lack transparency, and tend to blur the lines of responsibility between service providers and consumers. This phenomenon cannot be viewed solely as a technical service issue, but rather as a muamalah legal issue concerning trustworthiness, clarity of contracts, and responsibility for losses. In this context, the Maliki school of jurisprudence (*Mazhab*) perspective is relevant in providing a comprehensive normative framework for more in-depth assessments of mobile phone service practices.

Zulham and Rokan explain that Islamic economic law in Indonesia has developed as a legal system aimed at ensuring justice, legal certainty, and protection for parties in economic transactions (Zulham & Rokan, 2022). This principle aligns with the concepts of *amanah* (trust) and *dhaman* (trustworthiness) in muamalah (consumption) jurisprudence, particularly the Maliki school, which places responsibility as a logical consequence of the possession of goods in a service contract.

Therefore, the practice of mobile phone service providers that disclaims responsibility for damage and data loss not only contradicts classical Islamic jurisprudence principles but also aligns with the direction of the development of Islamic economic law in Indonesia, which demands fair and balanced legal protection.

From the perspective of the Maliki school of jurisprudence, the practice of providing mobile phone service can be classified as an *ijarah* contract, a contract for the use of someone's services in exchange for a specified fee. Although the primary object of this contract is the service, not the goods, the presence of the customer's mobile phone in the possession of the service provider during the repair process makes the contract subject to legal consequences for the goods. The Maliki school emphasizes that every service contract involving the possession of another person's goods gives rise to certain legal obligations, particularly those related to the safeguarding and return of the goods in their proper condition (Hidayat, 2022; Kamali, 2021).

The concept of *amanah* (trust) is a fundamental principle in the Maliki school, inherent in the party receiving another person's goods in a contract. In the context of mobile phone repair services, the service provider holds the position of *amīn*, the trustee who is obligated to safeguard the customer's goods from damage, misuse, and loss during the period of possession. The book *Al-Muwatṭa'* emphasizes that possession of goods through a contract gives rise to moral and legal responsibility, so that any damage incurred is principally the responsibility of the possessor, unless it can be proven that the damage occurred through negligence (Malik ibn Anas, 2004).

In the practice of mobile phone service, the principle of trustworthiness is often undermined by informal service patterns and a lack of transparency. The handover of mobile phones and system access without adequate security procedures demonstrates the weak internalization of the value of trustworthiness in contemporary *muamalah* practices. However, in the Maliki school of thought, possession of goods is not merely a technical fact but the basis for the obligation to safeguard and fully account for those goods. When service personnel neglect this obligation, they violate the principle of trustworthiness, the foundation of Islamic *muamalah* ethics (Hidayatullah, 2024).

The principle of prohibition of *gharar* also has strong relevance in assessing the practice of mobile phone repair services. The Maliki school views *gharar* as any form of ambiguity in a contract that has the potential to give rise to disputes and injustice. In the context of service, the lack of clarity regarding repair risks, the possibility of additional damage, and the limits of the service provider's liability constitutes a prohibited form of *gharar*. This ambiguity contradicts the principle of clarity of the contract (*bayān al-'aqd*), which is a prerequisite for valid and fair transactions (Hallaq, 2020; Kamali, 2021).

In addition to trust and the prohibition of *gharar*, the Maliki school also emphasizes the principle of *ḍamān* (responsibility for compensation) as a consequence of possession of the goods and the economic benefits derived from the contract. The principle of *al-ghurm bi al-ghurm* emphasizes that the party benefiting from a contract must bear the inherent risks. In the practice of mobile phone repair services, service personnel receive compensation for their services, so they are legally obligated to cover additional damage and data loss arising from negligence or carelessness during the repair process (El-Gamal, 2022).

From the Maliki school of thought, consumer data loss cannot be viewed as a purely non-material loss. Data stored on a mobile phone has beneficial value (*manfa'ah*) and

legitimate interests for the owner, so deletion or loss of data due to the negligence of the service personnel can give rise to an obligation to compensate. The Maliki school allows for the recognition of non-physical losses as long as there can be evidence of a loss of benefit recognized by sharia. Therefore, the practice of mobile phone repair services that deny liability for data loss without a clear contractual basis contradicts the principles of amanah (trustworthiness), the prohibition of gharar (unlawful use), and the obligation of dhaman (unlawful use) in Maliki jurisprudence (Hassan & Lewis, 2023; Hidayatullah, 2024).

Synthesis of Maliki School of Jurisprudence and Mobile Phone Service Practices: An Ideal Model of Accountability

Based on empirical findings and normative analysis from the Maliki School of Jurisprudence, it can be seen that the main problem in mobile phone service practices lies not merely in the lack of formal regulations, but rather in the absence of an accountability framework based on the values of trust and clarity of contracts. Current service practices remain informal, oriented toward technical efficiency, and tend to ignore the legal consequences of controlling consumer goods. This situation indicates a gap between modern service practices and the principles of muamalah fiqh (Islamic jurisprudence) systematically formulated in the Maliki School of Jurisprudence (Hidayatullah, 2024).

The integration of empirical findings, commercial law, and Maliki School of Jurisprudence demonstrates that mobile phone service practices should be built on the principles of clear contracts, prudence, and responsibility for consumer goods. The principles of commercial law that emphasize the obligations of business actors for goods under their control (Permata, 2016) align with Imam Malik's view in *Al-Muwatta'* regarding the obligation of those in control of another's goods to bear the risk of damage not previously agreed upon.

This synthesis confirms that muamalah jurisprudence is not antagonistic to positive law, but rather can serve as an ethical and normative foundation that enriches the application of commercial law in modern service practices. Thus, mobile phone service practices should ideally be guided by a model of accountability that is fair, transparent, and oriented toward consumer protection.

In the Maliki school of thought, the *ijarah* service contract is understood not only as a relationship of exchange of services and compensation, but also as a legal relationship that gives rise to moral and legal responsibilities. The service provider's possession of the goods during the repair process is the basis for the obligation of amanah (trust) and dhaman (trustworthiness). This principle emphasizes that the service provider's responsibility cannot be absolved simply because there is no written agreement, as such responsibility is inherent in the substance of the contract and the fact of possession of the goods themselves. Therefore, the practice of unilaterally limiting liability found in empirical research lacks legitimacy from a Maliki jurisprudence perspective (Kamali, 2021).

The ideal model for accountability in mobile phone service providers, from the Maliki school of thought, must encompass at least three main elements. First, a clear contract (*bayān al-'aqd*) from the outset of the transaction, including an explanation of the type of damage, scope of work, potential repair risks, and compensation mechanisms in the event

of additional damage or data loss. This clarity directly implements the prohibition of *gharar*, as affirmed in the *Al-Muwaṭṭa'*, which states that any contract containing ambiguity has the potential to give rise to injustice and disputes. In the modern context, clarity of the contract can be achieved through the provision of written or verbal information that is easily understood by consumers, without necessarily requiring a complex formal contract (Hallaq, 2020).

Second, it emphasizes the principle of trust and responsibility (*ḍamān*) during the period of possession of the goods. Based on Maliki jurisprudence, any damage that occurs while the goods are in the possession of the service provider is, in principle, the responsibility of that party, unless it can be proven that the damage occurred through negligence and has been explained and agreed upon beforehand. This principle aligns with the provisions of *'uḥdah*' in the *Al-Muwaṭṭa'*, which establishes the period of possession as the basis for imposing responsibility for defects in goods. In the practice of mobile phone service, the application of this principle requires service personnel to work professionally, carefully, and transparently at every stage of repair (El-Gamal, 2022).

Third, the recognition of the value and protection of consumer data as part of legitimate assets and benefits. In the contemporary context, personal data stored on mobile phones has significant economic, social, and psychological value. Therefore, data loss due to negligence by a service personnel can be viewed as a form of loss that gives rise to an obligation to compensate. The Maliki school of thought allows for the recognition of non-physical losses as long as the loss of legitimate benefits (*manfa'ah mu'tabarah*) can be proven. Thus, consumer data protection becomes an integral part of the trustworthiness responsibility in mobile phone service contracts (Hassan & Lewis, 2023).

The synthesis of the Maliki school of jurisprudence and the reality of mobile phone service practices demonstrates that the implementation of a model of accountability based on trustworthiness, clarity of contract, and *dhaman* is not utopian but can be implemented contextually in modern service practices. This model not only provides fairer protection for consumers but also enhances professionalism and public trust in service providers. Thus, Maliki jurisprudence, through *Al-Muwaṭṭa'*, is not only relevant as a classical normative legacy but also possesses strong adaptive power in responding to contemporary *muamalah* legal issues.

4. CONCLUSION

This research shows that mobile phone service practices in Medan Perjuangan District are still dominated by informal service patterns, lacking transparency, and lacking clear contracts between service personnel and consumers. This situation creates uncertainty regarding the limits of liability, particularly when additional damage and loss of consumer data occur during the repair process. As a result, consumers are in a legally weak position and struggle to hold themselves accountable for their losses.

From a Maliki school of jurisprudence (*fiqh*), mobile phone service practices constitute a service contract that creates an obligation of trust and legal responsibility for goods under the service personnel's control. The consumer's possession of the mobile phone during the service process constitutes the basis for the obligation to safeguard and account for the goods in their entirety, unless specific risks have been clearly explained and agreed upon from the outset of the contract. Therefore, unilateral limitations on

liability by service personnel are unjustifiable as they contradict the principles of justice and clarity of the contract.

This research also confirms that unclear information regarding repair risks and compensation mechanisms reflects an element of uncertainty in mobile phone service practices. This situation has the potential to give rise to disputes and contradicts the principles of fair and balanced transactions. Furthermore, the loss of consumer data must be understood as a real loss, as data holds significant value and importance for its owner.

Conceptually, this study confirms the relevance of Maliki Islamic jurisprudence (fiqh) in addressing contemporary issues of transactional transactions, particularly in modern service practices involving the control of goods and data belonging to others. The principles of trustworthiness, clarity of contracts, and responsibility for compensation provide a normative framework that can serve as a basis for formulating a fairer and more contextual service accountability model.

Based on these findings, this study recommends that mobile phone service providers implement clarity of contracts from the outset of the transaction, transparently disclose risk information, and acknowledge responsibility for damage to goods and data loss that occurs during the period of control. The implementation of these principles is expected to not only improve consumer protection but also strengthen professionalism and public trust in mobile phone service practices.

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