

# Mentally Disabled Persons in Islamic Jurisprudence and Contemporary Laws: A Comparative Study of Their Concept, Categories, and Legal Status

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## **Abstract**

Mentally disabled persons are considered one of the most vulnerable groups in society and require special legal, social and moral protection. Islamic jurisprudence established principles of justice, compassion, guardianship and dignity for mentally disabled persons centuries ago, whereas modern legal systems have introduced statutory protections through national and international human rights frameworks. This article presents a comparative and analytical study of the concept, categories, and legal status of mentally disabled persons in Islamic jurisprudence and contemporary positive laws. The study concludes that both systems emphasize the protection of human dignity and legal rights however, Islamic law provides a more comprehensive framework by integrating moral and social responsibilities alongside legal protections.

**Keywords:** Mental Disability, Islamic Jurisprudence, Contemporary Laws, Legal Capacity.

## **Introduction**

In Islamic Shariah, mentally disabled individuals are treated with special care, compassion, and facilitation. They are not held accountable for religious duties that require full mental capacity and sound understanding. The Prophet Muhammad ﷺ said: “The pen has been lifted from three persons, including the insane person until he regains his sanity.” This teaching clearly reflects that Islam takes human limitations and mental conditions into account and promotes ease rather than hardship. Allah says in the Holy Quran: “Allah does not burden a soul beyond its capacity.”<sup>1</sup>

Islam also ensures complete protection of the rights of mentally disabled persons, including their rights to life, property, dignity, inheritance, and care. If a person is unable to manage their financial or legal affairs, Islam provides a system of guardianship (*wilayah*) so that their interests are safeguarded and they are not exploited in any way. At the same time, any form of abuse, mockery, humiliation, or injustice against them is strictly forbidden.

Shariah commandments are closely connected with human intellect. A “*majnūn*” is a person whose mental ability is so affected that they are unable to perform their daily tasks or speak in a balanced and consistent way, although at times they may still act or speak correctly.

In Islamic jurisprudence, individuals with mental impairment are generally described as “*majnoon*” or “*naqis al-‘aql*” (deficient in intellect), because intellect is considered the foundation of legal responsibility (*taklif*) in Shariah.

## **Ahliyah in Islamic Jurisprudence**

In Islamic jurisprudence, **Ahliyah (legal capacity)** refers to the legal status that enables a person to acquire rights and assume responsibilities under Shari‘ah. In simple terms, it is the quality that makes a human being legally competent, so that the law can address them and recognize their actions as valid.<sup>2</sup> Wahbah al-Zuhayli explains legal capacity as the attribute that allows a person to be eligible for both acquiring rights and carrying legal obligations under Islamic law.<sup>3</sup>

There are two types of Ahliyah in Islam:

### **Ahliyah al-Wujūb**

Ahliyah al-Wujūb is the capacity of Rights. This type of capacity means that every human being has the ability to hold rights and obligations simply by being alive. It is linked to the concept of *dhimmah* (legal personality). This means that even a child or someone mentally impaired can still have rights such as inheritance, maintenance, or ownership.<sup>4</sup>

### **Ahliyah al-Addā**

Ahliyah al-Addā is the capacity of Performance. This refers to the ability of a person to perform actions that are legally valid in the eyes of Shari‘ah, such as contracts, acts of worship, and financial transactions. This capacity depends mainly on *aql* (intellect), *bulūgh* (puberty) and *tamyiz* (discernment). Because

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of this, people who lack full mental or intellectual capacity such as minors or individuals with mental disorders, may have limited or no capacity to act legally.<sup>5</sup>

In Islamic law, legal capacity is closely connected to mental soundness and maturity. For this reason, individuals such as the *majnūn*, minors *ṣabī*(minors) and *safīh* are treated differently in terms of legal responsibility and validity of actions.<sup>6</sup>

### Definition of *Majnūn*

In Islamic law, a **majnūn** refers to a person who has lost, or is seriously affected in, their mental capacity due to insanity. This condition affects a person's ability to think, understand, and make rational decisions in a normal way. Since Islamic legal responsibility is based on sound intellect (*‘aql*), a *majnūn* is not considered fully responsible for their actions.<sup>7</sup> In simple terms, a *majnūn* is someone who cannot properly understand what they are doing or distinguish between right and wrong in a legally meaningful sense. Islamic Jurists explain that such a person is considered to have a disturbed or absent intellect, which prevents normal reasoning and judgment.<sup>8</sup>

Because of this, Islamic teachings clearly state that a *majnūn* is not held accountable for legal obligations while the state of insanity continues. This is based on the well-known Prophetic principle:

“The pen is lifted from three persons... including the insane until he regains sanity.”<sup>9</sup>

This means that no sin or legal liability is recorded against a person suffering from insanity while the condition persists.

Islamic law recognises that mental capacity is not the same in every person. Some individuals have complete loss of intellect, while others may have partial weakness or specific limitations. Because legal responsibility in Shari‘ah depends on sound understanding, these differences directly affect **ahliyah**.

A **majnūn** is someone who has completely lost, or is severely affected in, their mental ability. Such a person is unable to think or act in a normal rational way and cannot understand the consequences of their actions. Because legal responsibility requires sound intellect, a *majnūn* is generally not held accountable in Shari‘ah.<sup>10</sup>

A **ma‘tūh** is a person whose mental ability is weak or confused but not completely absent. He may understand simple matters but struggles with clear reasoning and decision-making. In Islamic law such a person is treated with caution. In many legal matters, especially contracts and financial dealings, his capacity is considered limited and protection through a guardian is often required.<sup>11</sup>

A **safīh** is someone who has normal intelligence but lacks good judgment in financial matters, such as wasting money or making harmful economic decisions. Unlike the *majnūn* or *ma‘tūh*, a *safīh* understands what he is doing but his behaviour is irrational in managing wealth. For this reason,

Islamic law may restrict his financial dealings to protect his property.<sup>12</sup>

### **Legal Status**

If a mentally disabled or insane person has Muslim parents, he or she will be regarded as Muslim in Islamic law, because children and those who lack legal capacity are considered dependent upon the religion of their parents. Narrated by Abu Hurairah (r.a) The Prophet ﷺ said: “Every child is born upon Al-Fitrah (the natural disposition of Islam), then his parents make him a Jew, a Christian, or a Magian, just as an animal produces a perfect young animal. Do you see any part of its body amputated?”<sup>13</sup>

In Islamic jurisprudence, there are many detailed commandments concerning a person who is *majnūn* (mentally incapable), which are explained extensively in the books of *fiqh*. One of the key principles is that such a person is not required to perform acts of worship that involve physical and legal responsibility, such as purification (*taharah*), prayer (*salah*), fasting, or pilgrimage (*Hajj*). Even if a *majnūn* person happens to perform these acts, they are not considered valid because legal responsibility depends on sound intellect.

Just as Islamic law does not place religious obligations on children, it also does not hold a *majnūn* person accountable for such duties. Therefore, a person who is born *majnūn* or becomes *majnūn* before reaching puberty is treated in the same way as a child in matters of religious responsibility. Imam Wahbah al-Zuhayli states that:

“Islam, puberty (*bulūgh*), and sound intellect (*‘aql*) are, in general, the conditions for most of the Sharia rulings.”<sup>14</sup>

### **Definition of *majnūn* in Pakistan Laws**

In colonial-era legislation, the word “lunatic” was commonly used for a person who was believed to be mentally incapable of managing their own affairs.

lunatic means an idiot or person of unsound mind.”<sup>15</sup>

According to the above definition, the term “lunatic” refers to an idiot or a person of unsound mind. In most laws of Pakistan, this terminology was commonly used to describe a mentally disabled person.

Under the Guardians and Wards Act 1890, courts were empowered to appoint guardians for such individuals, effectively removing their legal independence.<sup>16</sup>

In 2016, history took a new turn when the Supreme Court of Pakistan took a step in favour of such individuals, marking an important move towards the protection of their dignity and rights.

“It has been noted that the evolution of medical science and human rights has sensitized the society to stigmatic labels such as “unsound mind”, “lunatic” and “insane”. Latest legislations all over the world do not use such terms. Therefore, we consider it appropriate to direct that the terms “unsoundness of mind” and “unsound mind” occurring in PPC, Cr.P.C. and

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the Prison Rules be substituted with term “mental disorder” or “mental illness”. The term “lunatic” wherever occurs shall also be substituted appropriately.”<sup>17</sup>

In criminal law, although the word “insanity” is not directly defined, section 84 of the Pakistan Penal Code 1860 provides protection to a person who, due to unsoundness of mind, is unable to understand the nature or wrongfulness of their act.

“The evolving medical science and contemporary human rights trends have sensitized the society regarding stigmatized labels for mentally sick persons such as “unsound mind”, “lunatic” and “insane”, leaving such people at mercy of society, so that they may deal with them, in whatever manner, they want. Such titles give general public an opportunity to humiliate, mock or even ridicule this unfortunate segment of our society, which further deteriorate their state of mind. Thus, there is a need to provide comprehensive and inclusive definitions in various laws for persons with mental disorder, so that the population may learn about mental health issues in better way and help to make this world a better place for these people. Moreover, these terms have been declared outdated by the World Health Organization (WHO) through its latest edition of International Classification of Diseases (ICD).”<sup>18</sup>

It is further said in the same statement:

“The said matter was extensively discussed by the Honourable Supreme Court in *Safia Bano v Home Department* PLD 2021 SC488, and afterwards, while announcing their judgment, the Court directed the Federal and Provincial Governments to replace these words with suitable medical terms such as “mental illness” and “mental disorder” in all relevant laws, rules and regulations of Pakistan. Hence, this amendment has been brought to serve the afore-cited purpose.”<sup>19</sup>

An idiot is a natural fool who is incurable and whose lack of capacity is from birth. Lunatic becomes insane after birth and whose incapacity is or might be temporarily or intermittent.<sup>20</sup>

However, these provisions were historically applied in a rigid manner, often treating mental illness as a permanent label rather than a changing medical condition. The language itself reinforced the idea that such individuals were “outside normal society,” rather than part of it.

### **Legislative Change: Criminal Laws (Amendment) Act 2023**

The Criminal Laws (Amendment) Act 2023 marks an important step away from this older thinking. One of its most significant contributions is the replacement of outdated and stigmatizing terms like “lunatic” and “insane person” with more respectful expressions such as “person with mental disability” and “person with mental illness.”<sup>21</sup>

This is not just a change of vocabulary. It reflects a deeper shift in legal thinking. The focus is no longer on control and exclusion, but on

understanding, treatment, and dignity. The law now increasingly recognises that mental health conditions should be assessed medically and treated humanely, rather than simply labelled legally.

This reform also aligns Pakistani law with constitutional values, particularly the right to dignity and fair trial under Articles 9, 14, and 10A of the Constitution of Pakistan 1973.

A major turning point in this legal transformation came through the Supreme Court's judgment in *Safia Bano v Home Department, Government of Punjab*.<sup>22</sup> In this case, the Court clearly moved away from outdated labels like "lunatic" and emphasised that mental illness should be understood in medical and constitutional terms.

The Court recognised that mental illness is not a fixed condition but a spectrum. A person may suffer from different levels of impairment, and therefore each case must be assessed individually through proper psychiatric evaluation.

Importantly, the Court linked mental health with dignity under Articles 9 and 14 of the Constitution, stressing that even persons suffering from severe mental disorders cannot be denied their basic human dignity. It also emphasized that such individuals should not be punished without proper medical assessment and treatment.

This judgment has played an important role in influencing how both courts and lawmakers now approach mental illness in criminal law.

The replacement of terms like "lunatic" and "insane person" with "person with mental disability" represents much more than legal drafting. It reflects a shift in how the law sees human beings who live with mental illness.

The Criminal Laws (Amendment) Act 2023 provides the legislative foundation for this change, while the Supreme Court in *Safia Bano* gives it constitutional and moral strength. Together, they represent Pakistan's gradual movement towards a more humane, respectful, and rights-based legal system.

At its core, this transformation reminds us that mental illness does not remove a person's dignity, it only requires the law to respond with understanding rather than stigma.

### **Definition in International Laws**

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.<sup>23</sup>

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.<sup>24</sup>

### **Conclusion**

In conclusion, contemporary legal systems have slowly moved away from old and harsh ways of describing mental disability toward a more humane

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approach based on dignity, care, and inclusion. In Islamic law, this protection is deeply rooted in ethics and compassion, where a person's legal responsibility depends on their intellectual capacity ('aql), and those who are unable to reason properly are not punished but are instead supported through care, guardianship, and social responsibility. Pakistan law is still developing in this area, but it is clearly moving away from colonial-era terms and adopting a more constitutional and rights-based understanding through reforms and court decisions that focus on dignity, fair treatment, and justice. International law, especially under the CRPD, provides the most developed framework by ensuring equality before the law and full recognition of the rights of persons with mental disabilities. Together, these systems show a clear direction: mental disability is no longer seen as a reason for exclusion, but as a human condition that deserves understanding, support, and respect.

### Suggestions

Pakistan should adopt a clear and uniform definition of mental disability across all laws to avoid confusion and inconsistency.

Old and stigmatizing words like "lunatic" and "insane person" should be fully removed from all remaining legal texts and official use.

The justice system needs better mental health facilities so that proper diagnosis and treatment can be provided in prisons and courts.

Judges, lawyers, and police officers should be trained to better understand mental health issues and how they affect legal responsibility.

Laws in Pakistan should be further aligned with international standards, especially the CRPD, to ensure full protection of rights.

Awareness programs should be introduced in society to reduce stigma and help people better understand mental illness.



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