

**MENTAL CAPACITY IN ISLAMIC LAW AND SCHIZOPHRENIA:
 A NARRATIVE REVIEW**

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Abstract	<p><i>The capacity and functionalities of the ‘aqal delineated by classical jurists are made within the context of fulfilling the taklīf or religious responsibilities although Islamic Law encompasses every aspect of human life and functions. The discourse on mental impairments and its implication toward legal capacity have also been made in classical literature, approaching it with the classical view held at the time. Psychiatry has developed its own clinical threshold in diagnosing mental disorders; centering upon identification of symptoms and disrupted areas of functions. This study aims to review literatures correlating the legal implications of schizophrenia according to Islamic Law. In this qualitative study, document review and descriptive analysis methods were applied to extract data from the literature. The findings show that clinical practice in diagnostic criteria and assessment scales need to be considered by Islamic Jurists in order to precisely determine the status for legal capacity of Muslims diagnosed with schizophrenia.</i></p> <p>Keywords: <i>Islamic Law, Schizophrenia, Mental, Disorders, DSM-5-TR.</i></p>
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INTRODUCTION

Psychiatry and psychology own much hegemony on the discourse relating mental health and disorders (Ian Grey, 2018). In fact, in the modern courtroom setting in Sharia courthouses worldwide, psychiatrists are often called upon as expert witness to give their expert opinion and aid the *qāḍī* or judge and lawyers to resolve cases involving mental health issues (Chaleby, 2001). The status for competency or incompetency can only be established after a psychiatric diagnosis is conducted proving a person suffers a particular mental health condition (O’Grady 2020, p. 1473). Psychiatric diagnosis for every mental condition is performed based upon a specific clinical threshold; identifying the origin of the disorder (only if possible), manifestation of symptoms, observing the period of disturbances faced by the patient and areas of normal human functionality that have been disrupted (Paris, 2013: 8, Houghtalen & McIntyre, 2017).

Nonetheless, psychiatry remains a secular discipline without any inclination towards a particular religion; for reasons that it can focus on preserving and treating the mental well-being of a person without any religion claiming dominance in its clinical practice. The limitation is although Islam as a religion and code of law is being practiced worldwide, there is still a gap in synthesizing and directly adopting psychiatric doctrines in Islamic Law (Ghaly, 2019; Ali & Keshavarzi, 2019). This is because Islamic Law had already formulated its own theory of ‘aqal or mind, incorporated within the framework of legal competency resulting in the varying view of mental well-being and optimum health

(Keshavarzi & Ali, 2019). Since mankind's purpose of existence to submit to almighty God and prepare for the life in the hereafter, the Quran and Muhammad's prophethood was revealed so that man could fulfill his existential purpose by performing his religious obligations, living up to his responsibilities and threading on the path of righteousness. Any condition obstructing a Muslim's ability in fulfilling his purpose either by physical disability or impairment towards the 'aqal is considered to be detrimental hence suspending his competency so as not exasperate his condition (Keshavarzi & Ali, 2019).

It is the effort of assessing or determining what constitutes mental impairment that Islamic Law may differ with psychiatry as functionalities of the 'aqal are absent in the clinical threshold for mental disorders. Emerging from this conundrum is the complicated question of determining the status of competency of a Muslim who have been diagnosed with mental disorders. The issue that feeds the conundrum is to determine whether the clinical threshold for mental disorders particularly schizophrenia would effectively disrupts the functionality of the 'aqal to the extent that causes the nullification or diminution for legal capacity as pursuant to Islamic Law. With the advent of today's diagnostic criteria and assessment scales -both of which are empirical in nature-, the efforts in resolving the conundrum could begin by correlating the disturbances caused by the symptoms listed in diagnostic criteria with its effects toward the functionalities of the 'aqal and then evaluating the level of severity of symptoms to determine the implications on the legal capacity.

The first section of this article presents the concept of legal capacity and mind or 'aqal in Islamic Law; dissecting the role of the 'aqal in fulfilling religious responsibilities. The second section discusses the manifestation of schizophrenia; detailing the clinical practice for diagnosing schizophrenia, the psychological disturbances experienced by the patients and assessing the levels of severity of symptoms. The third section of this article reviews the contemporary literatures' attempt in rationalizing schizophrenia and mental disorders as the nullification for legal capacity in Islamic Law.

METHODOLOGY

Contemporary psychiatric literatures were obtained from Google Scholar search engine using the keywords; diagnosis, assessment scales, symptomatology, phenomenology, positive and negative symptoms of schizophrenia. Contemporary Islamic Law literatures were also searched using the same technique by using the keywords; forensic psychiatry in Islamic Law and Islamic Ethics in psychiatry and also the keywords (written in Arabic); *amrāq al-nafsī, al-junūn, fiqh mu'āṣarah, ahliyyah al-taklīf* and *'aqal fī al-fiqh*. The literatures collected were narrowed down according to the scope of discussion; pertaining only to the disturbances caused by the symptoms of schizophrenia and its effects onto the legal capacity in Islamic Law. Snowballing technique was also used to further acquire relating literatures. Descriptive methodology was used in describing the concept of *ahliyyah* held by classical scholars, the diagnosis and symptomatology of schizophrenia. Document review and deductive reasoning were applied onto contemporary Islamic law literatures in order to postulate the theories by modern Islamic Jurists in adopting psychiatric doctrines into Islamic Law thus scrutinizing the theories while taking into account the clinical practice of diagnosing and assessing symptoms of schizophrenia.

RESULTS AND DISCUSSION

Legal Capacity And 'Aqal In Islamic Law

A person who believes in Islam is called a Muslim and a Muslim whom religious responsibilities were made obligatory upon is called a *Mukallaf*. The terminology *mukallaf* is derived from the word *taklīf*, which literally means responsibility. This denotes as the obligation from divine commandments that Muslims fulfill by means of practicing it, abstaining from its prohibitions and in an instance given the choice of practicing or abstaining (Nasir 2016). The main notion of the *taklīf* is God's commands for humans to lead a righteous and virtuous life while avoiding transgression and vice onto other fellow human beings. This notion transcends across the acts of worship, matrimony, business transactions

and in the legal justice system. The source of the *taklīf* is from the *khiṭāb* or God's speech, which is to a certain degree reflect to be in parallel with the Western concept of scripture although scripture in Islam is not limited to only authoritative text. *Khiṭāb* directly refers to the Quran and its textual contents are further detailed by the Sunnah; the living tradition of Prophet Muhammad saw (Zaydan, 2015). It is from the *khiṭāb* that Islamic Law is conceived and the prophetic sunnah illuminates the nature performing the *taklīf*. Performing and fulfilling the *taklīf* necessitates action and speech from an individual Muslim, as both efforts are the only evidence that show a person is attempting to fulfill the *taklīf*. Therefore, in order for the action and speech to be deemed as valid in the effort of fulfilling the *taklīf*, the individual Muslim are required to possess competency (Zuhaily, 2015).

In Islamic Law, competency is best described as *ahliyyah*, which could be translated as capacity, eligibility and qualification (Chaleby, 2001). *Ahliyyah* is categorized into two; *ahliyyah al-wujūb* and *ahliyyah al-adā'* (Zaydan, 2015). *Ahliyyah al-wujūb* refers to the capacity to receive rights, entitlements and be presented with the *taklīf*. Whereas *ahliyyah al-adā'* refers to the Muslim being made compulsory upon to perform the *taklīf* and be held accountable (Zarqa, 2016). Both *ahliyyah* have a *manāṭ* that means underlying qualification by which attaining those qualification merits a Muslim to attain the respective *ahliyyah*. The *manāṭ* for *ahliyyah al-wujūb* is life hence when a Muslim is born, he is eligible to receive inheritance, gifts, endowment, protection of his life is assured under law and other rights that come with paternal lineage. On the other hand, the *manāṭ* for *ahliyyah al-adā'* is a sound mind or *'aqal*. Puberty was set as a demarcation to indicate that the *'aqal* has been fully formed and without any presence of defect construe that the *'aqal* is fully functional (Abu Zahrah: 328). Possessing *'aqal* consequently means that the actions and speech produced by a Muslim is a product of rationality and reason. Hence, the Muslim's action and speech are legally valid and bears legal consequences.

Therefore, what is meant by *'aqal*; with its role and functionality toward fulfilling the *taklīf*? Most importantly, the *'aqal* serves as the epicenter for faham or comprehension. The first step in fulfilling the *taklīf* is to actually understand and comprehend the *khiṭāb* because the act of fulfilling must be done in concordance with God's intended purpose and following the prophetic example set out in his sunnah. Al-Āmidī (2012: 201) specifically delineate that the *'aqal* capable of comprehension is supposed to understand the following from the *khiṭāb*: (1) The type of commandment contained in the *khiṭāb*, (2) The commanding authority is Allah and His commandments are compulsory to obey and (3) The methods of performing such commandments. Comprehending and understanding the *khiṭāb* is the main method of gaining knowledge and it is through knowledge that a Muslim is able to perceive the abstract idea of performing the *taklīf*; picturing oneself performing the acts of worship or undertaking other religious responsibilities (Syawkāni, 2000: 92). Once a Muslim is able to understand and is knowledgeable with the act of performing, he would be able to form his own intentions or *qaṣad*; hence performing the *taklīf* willingly and voluntarily (Ghazālī, n.d: 125).

Besides comprehension, the *'aqal* must have the capacity for distinguishing or *tamyīz*. Al-Syāfi'i defines the *'aqal* as tool that Allah had created for mankind that permits them to distinguish between a thesis from its anti-thesis (Zarkasyi, 2016: 84). When presented with two objects or facts bearing some resemblance or completely opposite in nature with the original, he will be able to recognize the nature of the object so as not to be confused between it (Yasin, 2011: 170). Stemming from ability of distinguishing and differentiating, a Muslim is capable to differentiate between good and bad and matters that brings benefit or harm.

Completing the functionality of the *'aqal* is *idrāk al-ghāib min al-syāhid* (al-Taftāzānī, n.d: 329). Basically, this functionality means attaining knowledge or understanding about matters that are absent for the time being based upon the knowledge that is already available. The already existed knowledge and understanding, with the ability of *idrāk*, may facilitate to further conceive new information or realizing any entailing issues related with the original matter (Yasin, 2011: 168). Among the thought process involved in *idrāk* is

istidlāl min al-athar ‘alā al-mu’aththar or *istidlāl min al-lāzim ‘alā al-malzūm* (al-Taftāzānī, n.d: 329). *Istidlāl* is the act of seeking reason behind an occurrence, reaching a conclusion on the basis of evidence and resolving the causality of a phenomenon by looking into its effects it had caused (Ismail, 2016: 33). The axiom above means in the effort to attain the unavailable information is through inferring the effect on the effected and inferring issues that are definitive to occur a particular circumstance. *Istidlāl* in this case aims to know the causer of the effect and correlation between or entailing issues in a particular occurrence. Another thought process stemming from *idrāk* is *al-wuqūf ‘alā al-‘awāqib* or perceiving the outcome or consequent of a certain affair. This ability of perception enables a Muslim to grasp the effects of one’s own action or foresee the consequences following an incident happening around him (Yasin, 2011: 169). It is with that percept that a Muslim can discern the path leading to harm or benefit after recognizing the implications.

Therefore, mentioning the functionalities of the *‘aql* within the context of *taklīf* would be incomplete without articulating in actuality how does the *‘aql* is used in fulfilling and performing the *taklīf*. (1) The capacity for *faham* is mainly responsible in gaining knowledge about the *taklīf* and knowing how to perform in accordance with the *khiṭāb* thus achieving the object of performing the *taklīf* which is to draw one nearer to Allah swt (Ibn Najjār, 1993: 499; Laknāwī, 2002: 115). (2) The *‘aql* permits a Muslim the ability to willingly choose the option that brings benefit while abandoning the option that are harmful (al-Muḥāsibī, 1971: 202). One’s act would always be based upon a clear conscience; maintaining on the path that is recognizably good and avoiding the path that is evidently bad whether it concerns the worldly affairs or the hereafter (al-Sarakhsī, n.d: 347). (3) A Muslim should be able to produce coherent speech that carries meaning. Al-Nasafī (n.d: 32) states that a person with a sound *‘aql*, besides pronouncing words clearly, should be articulate, their speech is well organized and logical for human understanding. Other sign that evidently shows the competency of a Muslim is possessing the ability to control one’s conduct and behave appropriately. One’s own conduct whether it may be taking action or inaction is based on one’s own choice judging by the suitability of the situation. For example, a provocative situation would infuriate all parties that are offended and it would be logical to see them expressing anger either through words or actions and the same goes as complimenting someone would definitely give pleasure. Acting inappropriately means acting without rational cause; acting the opposite way of what would be expected under normal circumstance. Figure 1 is a comprehensive illustration for the capacity of faculties of the *‘aql* and the functionalities that stems from it.

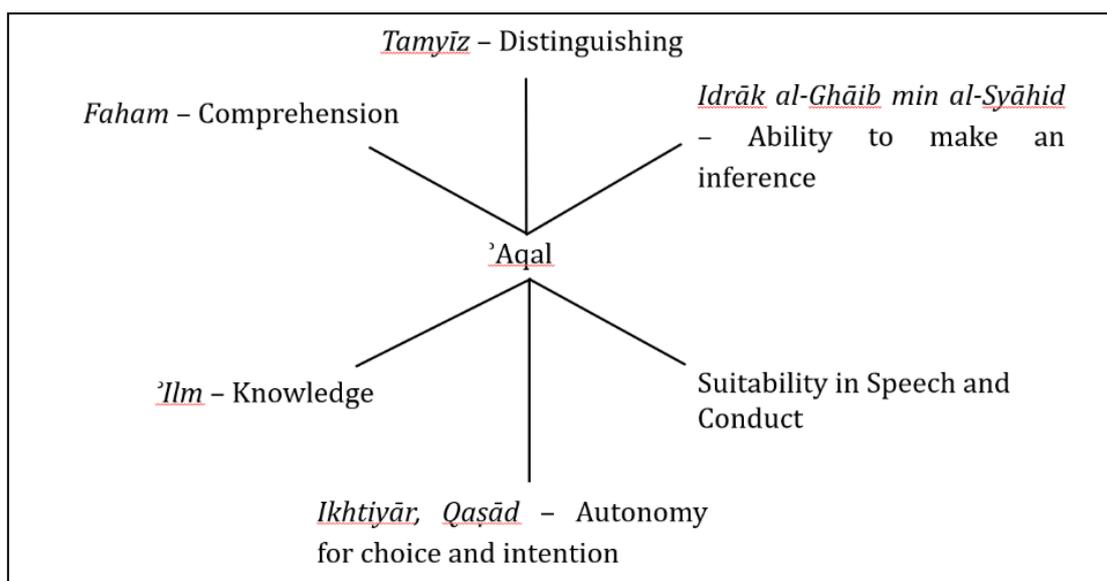


Figure 1: The Faculties and Functionalities of the *‘Aql*.

The possession of *ahliyyah al-wujūb* and *ahliyyah al-adā'* means a Muslim had attained the status of a *Mukallaf* or legal capacity and Islamic Law is fully applicable onto that individual Muslim. He is entitled to receive rights and have the competency to be held accountable under law. However, there are human conditions or surrounding circumstances that can transpire leading to the loss or diminution of legal capacity. Since the basis for establishing *ahliyyah al-wujūb* is life, the loss of life or death is the only cause for the loss of *ahliyyah al-wujūb* together with *ahliyyah al-adā'*. Whereas the basis for *ahliyyah al-adā'* is *'aqal* and any condition exhibiting a weak, impaired and loss of *'aqal* would result in compromising the *ahliyyah al-adā'* without effecting *ahliyyah al-wujūb*. The conditions compromising both *ahliyyahs* are described as *'awāriḍ* (plural for *'āriḍ*) meaning obstruction because the condition obstructs the perpetual application of law onto a person; the original law can no longer be applied given that the person is incapable to perform the *taklīf* accordingly due to his condition leading to exemption from law or following a new type of law distinctive for the situation (al-Nuri, 1954).

The most severe type of mental impairment is *al-junūn* or insanity. This condition reflects an individual Muslim losing all faculties of the *'aqal*. As the *'aqal* is an abstract component of man, the noticeable proof for its functionality is through observing the speech and action that an individual produces by which it conforms to one's own social norms and appropriate to a situation (Ibn Amīr al-Ḥāj, 1999: 223). It is through this method of observing the non-conformity and inappropriateness of an individual's speech and action that classical jurists set as a standard for recognizing the absence of *'aqal*. Classical jurists like al-Taftāzānī (n.d: 348) and al-Bukhārī (n.d: 371) offered a detailed definition by stating *al-junūn* as losing the capacity for distinguishing between good and bad, perceiving the consequence for the affairs that had occurred and the ability for making an inference. For that reason, the actions undertaken by them are the exact opposite from the objective intended to achieve and are self-nullifying because it is not based on thought or reason. Other synonymous definitions are the loss of intellect and the inability to perceive general perceptions.

Another attenuated form of mental impairment is *al-'atah*. It is not as severe as losing all faculties of the *'aqal* since jurists describe the person afflicted with *al-'atah* as part of their speech mirrors the speech of the insane while another part is normal or alike those with a sound *'aqal*. Scholars deduced that there is a group of *ma'tūh* who had lost the capacity for *tamyīz* and a group who could still retain certain functionalities of the *'aqal* may it be *tamyīz* (Abū Zahrah: 339) as they can differentiate between sale and purchase as handing over possession in exchange for money (Ali & Keshavarzi). The group of *al-'atah* lacking in *tamyīz* follows the same rulings as the *al-junūn* which is the total loss of *ahliyyah al-adā'*. They are exempted from the compulsory acts of worship and all transactions involving speech are not to be legally bounded. Reason being is those acts are essentially based upon reason and one's own choice but the absence of *'aqal* implies the lack thereof.

The latter condition of *al-'atah* somewhat parallels with children who are in the early stage of possessing intellect but it is yet to be fully formed (Zaydān, 2015; Zuhaylī, 2015). The acts of worship are not made compulsory upon them however it is legally valid if they perform it. Certain transactions that are beneficent for them are legally binding and transactions that are marginally counterpoised requires the permission of a guardian. All in all, transactions and affairs that bears benefit and are in the best interest of the person are permitted and any practices that yield the opposite outcome are interdicted. Nonetheless, the *ma'tūh* are still held accountable to any offence made to a third party and are held responsible for compensation. In this situation whereby only certain laws are exercised onto an individual Muslim, the status of *ahliyyah* is known as *ahliyyah al-adā' al-nāqīṣah* meaning diminution or reduction of legal capacity (Zuhaylī, n.d: 167).

Clinical Manifestations Of Schizophrenia

Currently, the diagnosis for schizophrenia can be referred from two classification systems; the Diagnostic and Statistical Manual for Mental Disorders 5th edition (DSM-5) and the

International Classification of Diseases 11th edition (ICD-11) (Cuesta & Peralta, 2016). The DSM-5-TR is now being utilized in Malaysian Hospitals as mandated by Malaysia's Ministry of Health. In the DSM-5-TR, there are six diagnostic criteria -alphabetically listed as Criterion A until F- need to be assessed. Criteria A lists the symptoms of schizophrenia and there are five core symptoms of schizophrenia beginning with delusions, hallucinations, disorganized speech, grossly disorganized or catatonic behavior and negative symptoms. At least two of those symptoms need to be present for a significant amount of time during a month period. Given schizophrenia is a psychotic illness; at least one of the two symptoms must either be hallucination, delusion or disorganized speech.

For a more facilitated way of identifying symptoms, studies suggest dividing the symptoms into three dimensions; psychoticism, disorganization and negative symptoms (Nancy Andreasen, 2020). Hallucination and delusion symptoms make up the psychotic dimension. Those symptoms are also referred to as positive symptoms which are the exaggeration of normal human experience (Fisher & Buchanan, 2020). Hallucinations are false sensory perception that occur without stimulus but with a quality similar to true perception (American Psychiatric Association [APA], 2013). They can occur in any of the five human senses; visual, auditory, somatic or tactile, gustatory and olfactory. The most common form of hallucination is auditory hallucination which experienced by 78 percent of patients followed by visual hallucinations at 49 percent and somatic hallucinations at 20 percent (Nancy Andreasen, 1987).

Patients describe auditory hallucinations as hearing voices commenting on the patients' life, voices of a third person conversing and other reported of hearing noises and music. Visual hallucinations are often patients' experience of seeing flashes of light, human or animal forms and objects. Somatic or at times referred to as tactile hallucinations are perceiving sensations of being touched, electrical shocks or insects crawling under the skin (Andreasen, 2020).

Delusions on the other hand are false beliefs that are fixed and unshakeable in light of contrasting evidence (APA, 2013). Apart from hallucinations which are disturbances in perception, delusions are disturbances in thought as patients suffering from delusions often held beliefs that are implausible even to same-culture peers. Delusions would revolve around religious themes, paranoia and the most common form of delusions are persecutory which is accounted by 80 percent of patients (Lewis et al., 2017). Among the forms of delusions are grandiose, nihilistic, persecutory, somatic and religious. Grandiose refers to possessing wealth, great beauty or having a special ability and nihilistic refers to believing one is dead and the world does not exist. Patients with persecutory delusion believe that they are persecuted, followed, monitored or spied by friends, neighbors or the government. Somatic delusion is a false belief about one's body not functioning properly or that their organs rotting or disfigured. Religious delusions in believing that one may have a terrible or great relationship with God and must undertake a special mission or have divine powers. Patients with hallucinations may in part further reinforce their delusions (Lewis et al., 2017).

In view of the many types of hallucinations and delusions and those associated with other mental disorders, the Schneiderian First Rank Symptoms postulated by Kurt Schneider, set to organize eleven hallucinatory and delusional symptoms that is considered to be specific to schizophrenia. The first three symptoms are auditory hallucinations which involve voices commenting, voices discussing and audible thoughts. The remaining eight are delusional symptoms which are thought broadcasting, thought withdrawal, thought insertion, made will, made acts, made effects and somatic passivity that reflects the loss of autonomy over thought, action, will and bodily functions (Peter Liddle, 2009). The most notable experience that causes great distress and impairment in patients is negative content auditory hallucinations; patients hear threatening voices, demeaning in manner, criticizing and abusive (Laroi et al., 2019).

Next is the disorganization dimension that comprises disorganized speech and grossly disorganized or catatonic behavior. Disorganized speech is the manifestation of a

person's disorganized thinking as it is evident in their conversation and the way they speak (APA, 2013). One pattern referred to as derailment or loose associations is when the person would change the topic of other different topic mid conversation. Bleuler describes loose associations as the loss of connections between words and ideas that binds thought into a coherent whole (Peter Liddle, 2009). Tangentiality depicts the person's manner of giving unrelated answers to questions. The more severe pattern is when the speech is severely disorganized that it becomes incomprehensible. At certain times, it may be resembled receptive aphasia which is being able to speak well and create sentences but does not make sense and illogical (APA, 2013).

Disorganized behavior is characterized with obvious abnormal motor behavior that would cause difficulties in performing goal-given tasks that requires a person to behave in a certain way. DSM-5-TR describes their behavior could range from having childlike silliness to unpredictable agitation (APA, 2013). Patients may exhibit wildly inappropriate expressions, exaggerated gestures and expressions of surprise and anger (Stephen F. Lewis et al., 2017). The same goes as catatonic which ranges from stupor to catatonic excitement. In catatonic stupor, patients appear immobile, mute and unresponsive but fully conscious while in catatonic excitement, patients exhibit uncontrolled and pointless motor movement and activities (Andreasen, 2020). Catatonic patients at times will assume weird and abnormal postures for long periods and imitate other peoples' movements and gestures (Andreasen, 2020).

Besides that, negative symptoms are defined as the diminution, reduction or lack of normal human functioning (Fisher & Buchanan, 2020; Lewis et al., 2017). Negative symptoms mainly revolve around the person's diminished emotional aspects or in other words the absence of normal behaviors relating to motivation, interest and expression (Correll & Schooler, 2020). Patients are unable to express emotions or display behaviors that suits a certain situation accordingly as it is expected from a normal and healthy person. DSM-5-TR lists two main symptoms that are diminished emotional expression and avolition. Diminished expression and avolition are factors for the negative symptom construct and several symptoms are underneath those factors. Diminished emotional expression factors represent the behaviors related to the expression of emotion whereas avolition refers to the internal experience (Marder & Kirkpatrick, 2013). Blunted affect refers to decreased emotional expression and reactivity to events and alogia meaning reduction in quantity of words spoken and elaboration are grouped under diminished emotional expression (Galderisi et al., 2018, Malaspina et al., 2013). Avolition; reduce initiation of goal-directed activity due to reduced motivation, asociality; reduce social interactions and commitment to relationship and anhedonia; reduced experience of pleasure in activities and events are grouped under avolition (Galderisi et al., 2018; Malaspina et al., 2013). Negative symptoms are responsible for causing poor patient functioning, poor quality of life and lowered productivity which hamper their ability to perform daily tasks and work (Correll & Schooler, 2020).

Moreover, Criterion B highlights the areas of social and occupational dysfunctions that were caused by schizophrenia whereas Criterion C highlights the duration of symptomatic disturbances (Tandon et al., 2013). DSM-5 states that it is important to observe a person's area of functioning such as work, interpersonal relations, academic achievement (for children and adolescence) and self-care. The disturbances would cause disruption in one or more areas of functioning and that the level of functioning is noticeably lower than the level achieved before being afflicted with schizophrenia (APA, 2013). In Criterion C, the duration of disturbances must exceed 6 months. Psychiatrists have outlined three stages of schizophrenia that begins with prodromal phase, proceeding with active phase and ends with residual phase (Kaplan & Sadock, 2010). The prodromal phase features subtle changes in social attitudes, behavior and emotional responsive that includes social withdrawal, work impairment, inappropriate affect, deterioration in personal hygiene and strange ideation. By the time the phase progresses into active phase, psychotic symptoms may start to appear as hallucinations and delusions begins to manifest. In the residual

phase, the intensity of the symptoms begins to die down and the level of disturbance is similar of that in prodromal phase. Psychotic symptoms may persist but not as severe as during the active phase (Andreasen, 2020). Criterion C outlines that in the 6 months duration, it must include the manifestation of active phase symptoms from Criterion A for at least a period of 1 month. Symptoms in prodromal and residual phase may only features negative symptoms or also symptoms from Criterion A but in attenuated form and not as severe or intense as during active phase (APA, 2013).

Criterion D, E and F describes that differential diagnosis in other words determining criteria that differentiate schizophrenia from schizoaffective, depressive, bipolar disorder, physiological effects of medical substances. It must be ruled out that psychotic episodes in schizophrenia are not the consequent from consuming or abusing medical substances nor does other symptoms and features are caused by other disorders (APA, 2013).

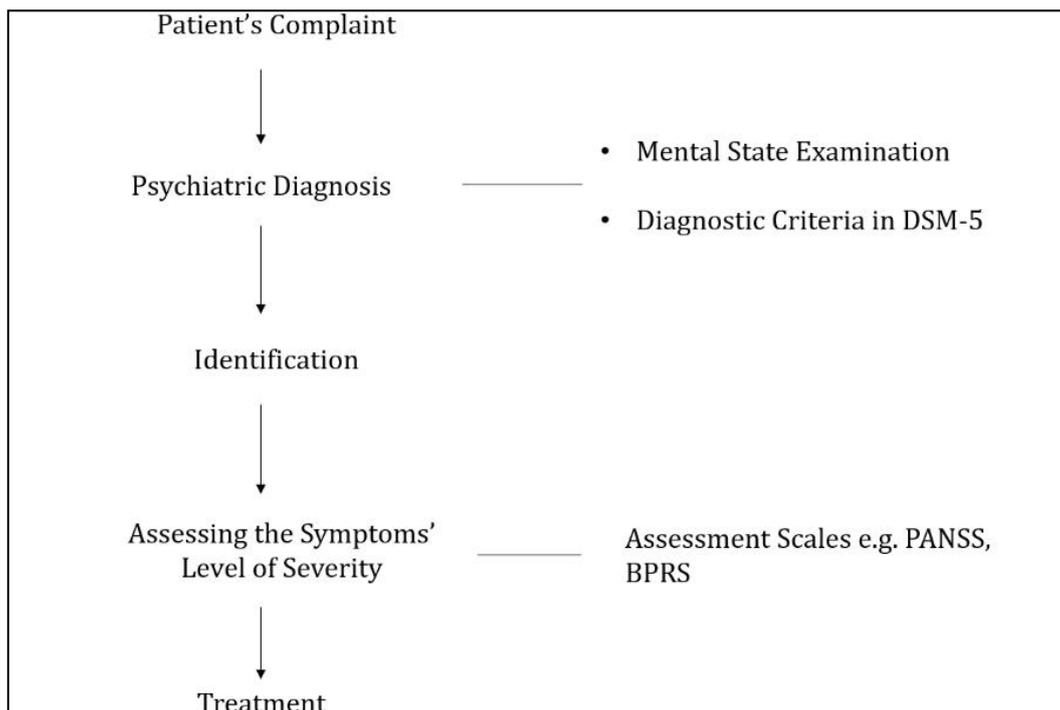


Figure 2: Steps in the diagnosis and treatment for patients of schizophrenia.

After the diagnosis is conducted by which it is identified that the patient is facing schizophrenia, psychiatrist will now assess the level of severity of symptoms. By using standardized assessment scales for example Positive and Negative Syndrome Scale (PANSS) and Brief Psychiatric Rating Scale (BPRS), the initial level of symptomatic disturbances can be established and the subsequent level after the patient have begun treatment. Although there are five core symptoms of schizophrenia, these assessment scales further details specifically the subtypes of the core symptoms and other disturbances associated with it. There are 30 items evaluated in PANSS; seven positive symptoms, seven negative symptoms and sixteen psychopathological disturbances. Whereas in BPRS, there are 24 items assessed revolving around major psychiatric symptoms.

The methods used by psychiatrists to assess these symptoms is by interviewing the patients about their experiences, collecting reports from family members or caregivers, observing the patients' behavior and comparing their functional performance with their peers not suffering from psychiatric conditions. The mode of assessment is by assigning marks or ratings to each item beginning from 1 to 7, arranged in an incremental order. Rating 1 denotes as absent and rating 7 describes the symptom as extreme. Each assessment scale provides a detailed rating definition for each item being evaluated; explaining specifically the condition of symptoms for each level of severity, guiding the examiner in

issuing the rating mark appropriately. At the same time PANSS, also a general rule for the ratings 2 to 7 as exemplified in the table below.

Table 1: Definitions for Rating Points

Rating Points	Rating Definition
1 <i>Absent</i>	Symptom is absent.
2 <i>Minimal</i>	Questionable or subtle or suspected pathology, or it may allude to the extreme end of normal range.
3 <i>Mild</i>	A symptom whose presence is clearly established but not pronounced and interferes little with day-to-day functioning.
4 <i>Moderate</i>	A symptom though representing a serious problem, either occurs only occasionally or intrudes on daily life only to a moderate extent.
5 <i>Moderate Severe</i>	Marked manifestations that distinctly impact on one's functioning but are not all-consuming and usually can be contained at will.
6 <i>Severe</i>	Gross pathology that is very frequent, proves highly disruptive to one's life and often calls for direct supervision.
7 <i>Extreme</i>	The most serious level of psychopathology, whereby the manifestations drastically interfere in most or all major life functions, typically necessitates close supervision and assistance in many areas.

Source: Positive and Negative Syndrome Scale (PANSS) Rating Criteria: General Rating Instructions.

Schizophrenia And The Implications On Legal Capacity

Studies by Huda Hilal (2008), Muhayzi' (2011), 'Awf (2016), Jabbur (2019) and Hassan Mahmud (2020) found schizophrenia to be deemed as *al-junūn*. Muhayzi' (2011) started by categorizing mental disorders according to its effect toward the *ahliyyah*; beginning with disorders that annuls *ahliyyah*, disorders that diminish *ahliyyah* and disorders that does not annul nor diminish *ahliyyah*. Severe schizophrenia was categorized as a mental disorder that annuls *ahliyyah*. The stance can be considered as so when patients suffering with hallucination begin to conform to hallucinations they are experiencing and become utterly convince with their delusions. In this case, the influence of hallucination and delusion will dominate the patients' thoughts, compelling them to do acts that they are unable to refrain or resist from doing thus indicating the loss of control over choice and intention. With the *'aqal* heavily influenced by those compelling thoughts making one's choice and intention uncontrollable resulting in the loss of *ahliyyah*.

Moreover, 'Awf's (2016) view on schizophrenia is based upon the notion of *al-junūn* being grouped as according to the period of *al-junūn* manifestation or loss of *'aqal*. Patients experiencing schizophrenia whose symptoms are fully formed and have no hope of recovery are considered to be inflicted with *al-junūn al-muṭbiq* and its ruling is to be applied in cases of worshipping rituals, business transaction and legal issues. Besides that, patients whose conditions are improving while undergoing treatment but some psychotic symptoms persist are considered as *al-junūn al-juz'ī* or partial insanity that is to say that major parts of the patients' thought and *idrāk* are impaired. Lastly is the situation where the patients' condition has improved after undergoing treatment and symptoms have disappeared but due to the fact that medications were not taken as according to the prescription, symptoms begin to manifest again. Therefore, this condition is to be deemed as *al-junūn al-munqaṭi'*.

Al-Saadi (2020) finds that symptoms do not necessarily result in the total loss of *'aqal* or its disturbances manifested as to a particular level of severity but instead varies according to the individual condition. There are symptoms that annul the *ahliyyah* and there are symptoms that only diminish the *ahliyyah*. Patients experiencing psychiatric symptoms

could still retain their capacity of *faham* and *tamyiz*. Hence al-Saadi propose that in the effort to procure a more precise ruling involving mental disorders, it is imperative to know and study the level of severity of symptoms so as to knowing the extent of impairment toward the *'aqal* and its effects on *ahliyyah*.

Alike to the study of Muhayzi' (2011), Jabir (2018) resorted to classify mental disorders according to its disruption toward the *'aqal*. The first category is designated for the disorders that causes the total loss of *'aqal* or a significant disruption; the ability for *idrāk* and *tamyiz* have been significantly disrupted or partially disrupted. The ruling of *al-junūn* can be applied for patients losing both the abilities for *idrāk* and *tamyiz*. If the ability for *idrāk* -either wholly or partially- is disrupted at particular period, hence the ruling of *al-junūn* can only be applied in the circumstance whereby the *idrāk* is disrupted. In periods when the *idrāk* is not disrupted, the patient can still be considered as *mukallaf*. The second category involves mental disorders that implicates the *irādah* but the *idrāk* and *tamyiz* can still retain its functionality. Patients find themselves being involved in situation where they cannot control the thoughts and actions even though they realize that the thoughts and actions are contrary to logic. The third category denotes the mental disorders that disrupts the patient's conduct and behavior without disrupting the ability of *idrāk* and *tamyiz*. It is still possible for them to act upon their own choice and intention but due to their conduct and behavior being disturbed they have become accustomed to act inappropriately repeatedly and find it difficult to abandon such acts.

On another tangent discussing mental disorders without particularly noting schizophrenia, Ghaly (2019) proposes a new category of *ahliyyah* which is context-specific *ahliyyah*. This new category addresses the situation where an individual experiences a certain type of mental disorders but does not result in the total loss of *'aqal* nor the disruption is equivalent to *al-'atah*. However, the impairment toward a particular mental faculty is severe enough to disturb certain area of function but other areas could still retain its functionality, just as the case reiterated by Saadi (2020). The individual would not be appropriately fitted in *ahliyyah al-adā' al-kāmilah* nor *al-nāqīshah* hence the new context-specific category; in certain areas of function that are not effected, Islamic Law and rulings are fully exercised. On the contrary in the areas disrupted, they would be exempted or adopt new rulings.

Reviewing the previous studies, contemporary literatures derive the ruling for schizophrenia *al-junūn* which results in the total loss of *ahliyyah* is based on two symptoms; hallucination and delusion. The diagnostic criteria in the DSM-5 states there are five core symptoms, the other three symptoms: disorganized speech, catatonia or disorganized behavior and negative symptoms are yet to be studied and discussed with the aim of discerning which faculty of the *'aqal* would be disrupted. Besides, the use of assessment scales in the clinical setting signify that patients does not experience the same type of symptoms with identical level of severity but rather with varying level of severity. Jabir (2018) resorted to organize mental disorders into groups considering their effects toward the functionality of the *'aqal* held by Islamic Law. Therefore, the findings of Ghaly (2019) and Saadi (2020) by which they stated different symptoms or even disorders results in varying degree of disruption are in parallel with Jabir (2018). Studies have yet to show the status of *ahliyyah* of Muslims patients experiencing less severe level of disruption.

Future Outlook On The Discourse Of Mental Disorders Within The Context Of Islamic Jurisprudence

With the availability of literature on the concept of reason and legal capacity provided by the classical scholars, the next appropriate step forward is by incorporating psychiatric and psychological knowledge into the Islamic legal threshold for mental capacity. To undertake such step, first it is imperative to first study the rationality of how psychiatric symptoms impact a persons' *'aqal*. *Al-junūn* could be simply understood as the total loss of *'aqal* and the disruption in all its faculties whereas the scenario for *al-'atah* is more diverse and is represented in a kaleidoscopic array of manifestations. Each faculty carries out a particular

type of functioning -whether it is separate or complimenting each other- that are required in the performance and practice of the *taklif*. Properly delineating the impact of psychiatric symptoms on the *'aqal* and its effects on each faculty would facilitate Muslim scholars in identifying the condition of the *'aqal* for those diagnosed with mental illness or disorders. This would enable Muslim scholars to know and differentiate whether the psychiatric symptoms and manifestations directly disrupts the functionality and faculty of the *'aqal* or rather would cause psychological difficulties in performing the *taklif*. That being said, the level of severity of symptoms should be assessed and be taken into consideration. Furthermore, Muslims scholars could precisely identify the areas of functioning that are impaired with respect to the inability to perform by the mentally ill or disordered.

CONCLUSION

Islamic jurists in the past have poured their efforts in analyzing problems that had arisen and deducing a new framework to procure a more precise and appropriate ruling. The knowledge of Islamic jurisprudence is not tangential to the ever-expanding discourse of psychiatry and psychology but at times unintelligible with each other due to the unfamiliarity of methodology and objectives between the two. The abstract idea of *ahliyah* and the jurists' opinion on reason should materialize and properly translate into modern practical application. It is important in the efforts of materializing it, a careful consideration and analysis into the standard psychiatrists' clinical practice should be observed so that an accurate and congruent framework be created and applied in a legal and clinical setting as well by Muslim jurists.

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