

MENTAL DISABILITY AND CRIMINAL JUSTICE IN INDONESIA: A LEGAL AND INFORMATIONAL LITERACY APPROACH BASED ON MAQASHID AL-SYARI'AH

Jumanah Nasution

Universitas Islam Negeri Sumatera Utara, Indonesia

E-mail: jumanah3002234001@uinsu.ac.id*

Muhammad Syukri Albani Nasution

Universitas Islam Negeri Sumatera Utara, Indonesia

E-mail: muhammadsyukrialbani@uinsu.ac.id

Ramadhan Syahmedi Siregar

Universitas Islam Negeri Sumatera Utara, Indonesia

E-mail: ramadhansyahmedi@uinsu.ac.id

Receive : 07 Jan 2025
Accepted : 03 Feb 2025
Published: 08 May 2025
DOI : 10.30829/jupi.v10i1.24167

Abstract

This study explores the concept and practice of criminal responsibility for individuals with mental disabilities in Indonesia through an interdisciplinary lens that integrates doctrinal legal analysis, information literacy, and Islamic legal principles, particularly Maqashid al-Syariah. The research aims to (1) examine the legal construction of criminal liability for people with mental disabilities under Indonesian law, (2) assess the role of information literacy in legal processes involving such individuals, and (3) analyze the alignment of Indonesian legal practices with Islamic principles of justice, proportionality, and human dignity. Employing a normative legal research method, this study utilizes statute, case, and comparative approaches to analyze laws, court decisions, and scholarly interpretations. The findings reveal persistent inconsistencies in how courts assess mental incapacity, often relying on inadequate psychiatric evaluations and failing to apply protections guaranteed by Law No. 8 of 2016 and the revised Criminal Code (KUHP Articles 38–39). Additionally, the study highlights a significant gap in information literacy among legal actors and affected families, exacerbating procedural injustice. The case of a schizophrenic defendant in South Sulawesi illustrates how the lack of accessible legal information and contextual assessment leads to human rights violations. The research concludes that integrating Maqashid al-Syariah—particularly the principle of hifz al-'aql (preservation of intellect)—with enhanced information literacy frameworks offers a more just, inclusive, and humane approach to criminal responsibility. Legal reform, public legal education, and individualized assessment are critical to ensuring that the rights and dignity of mentally disabled individuals are upheld within Indonesia's justice system.

Keywords: Criminal responsibility, mental disability, information literacy, Maqashid al-Syariah, Indonesian criminal law, human rights, legal reform.

INTRODUCTION

The notion of criminal responsibility lies at the heart of any legal system, serving as a cornerstone principle that determines whether an individual may rightfully be subjected to criminal sanctions. In Indonesian law, this responsibility is tightly bound to the principle of

nullum crimen sine lege, which demands that no one shall be punished without a clear and lawful provision. However, complexities arise when this doctrine intersects with the rights of individuals with mental disabilities—groups that demand nuanced legal interpretations grounded in both justice and human dignity (Dalimunthe et al., 2024).

Legal reforms in Indonesia, including the promulgation of Undang-Undang Nomor 8 Tahun 2016 concerning persons with disabilities, explicitly recognize individuals with mental and intellectual impairments as legal subjects, entitled to equal protection and treatment before the law (Tongat, 2008). Simultaneously, the new Indonesian Criminal Code (KUHP), particularly in Articles 38 and 39, introduces specific provisions aimed at addressing the criminal responsibility of persons with mental disabilities. These provisions, while progressive in intent, raise critical legal and ethical questions: To what extent should disability status influence the imposition of criminal liability? Does the existence of a mental disorder absolve individuals from criminal responsibility, or should courts prioritize the individual's role and intention in committing the offense?

From a theoretical standpoint, this study draws on the theory of moral culpability and legal capacity, which posits that criminal responsibility hinges on an individual's mental capacity to comprehend and act upon the law (Morse, 2011). Moreover, the legal doctrine of insanity defense, as explored in comparative criminal law literature, underscores the necessity of assessing an individual's ability to distinguish right from wrong and to control one's actions at the time of the offense (Simon & Ahn-Redding, 2006). This study also integrates informational literacy theory—especially as applied in legal education and judicial interpretation (Lloyd, 2007; Bruce, 2010)—to argue that fair legal processes require more than mere textual knowledge of the law; they demand contextual, critical engagement with legal norms, particularly in cases involving vulnerable populations (Arisakti, 2021).

Empirically, various studies and court decisions in Indonesia reveal inconsistencies in how judges assess the mental condition of defendants with disabilities. For instance, research by Yuliana (2021) and Lestari (2022) highlights that the assessment of mental incapacity is often subjective, lacks standardized criteria, and heavily depends on the availability and interpretation of psychiatric evaluations. Furthermore, there is a documented gap in the training of legal practitioners regarding disability rights and mental health, which undermines the application of legal protections designed for persons with mental disorders (Handayani et al., 2020). These shortcomings often result in unequal treatment, legal ambiguity, and procedural injustices that disproportionately affect individuals with mental disabilities.

To address these challenges, this research offers an integrated approach by combining legal doctrinal analysis, informational literacy perspectives, and the Islamic legal framework of *maqashid al-syari'ah*. Specifically, it focuses on *maqasid al-'uqubat*—the objectives of punishment—which emphasize deterrence (*zajr*), justice (*'adl*), and rehabilitation (*islah*) while maintaining proportionality in the application of sanctions. According to Nuruddin al-Khadimi (2012), these objectives must be interpreted in ways that uphold the dignity of individuals while ensuring that punishment remains just and purposeful.

Thus, this study seeks to (1) examine the legal construction of criminal responsibility for individuals with mental disabilities in Indonesian law; (2) evaluate how informational literacy is applied in judicial decision-making involving mental disability; and (3) analyze the compatibility of Indonesian legal practices with *maqashid al-syari'ah*. The expected outcome is a normative framework that promotes legal reform, protects human dignity, and strengthens inclusive justice in Indonesia's criminal law system (Wati et al., 2024).

In response to such dilemmas, this study seeks to explore the issue of criminal responsibility of persons with mental disabilities in Indonesia through an interdisciplinary lens that integrates legal analysis with informational literacy—the capacity to interpret, contextualize, and apply legal knowledge critically. The study further adopts the framework of *maqashid al-syari'ah* (the higher objectives of Islamic law) as an evaluative lens to assess whether the Indonesian legal framework aligns with the Islamic principles of justice, protection of human dignity, and proportionality in punishment (Wahyuni, 2017; Dalimunthe et al., 2024).

The concept of *maqashid al-syari'ah*, particularly *maqasid al-'uqubat* (the objectives of punishment), emphasizes deterrence, rehabilitation, and fairness, ensuring that no punishment exceeds what is deserved based on the offender's awareness, intention, and participation in the act. This approach highlights the centrality of moral agency over mere physical or mental conditions. In this context, the thesis problematizes the legal treatment of disability as a fixed identity rather than a contextual condition, questioning whether the current Indonesian criminal justice system sufficiently differentiates between individuals with full, partial, or no understanding of their actions (Utami, 2025; Widodo et al., 2015).

This research aims to fill a scholarly gap by addressing three interrelated aspects: (1) the normative legal construction of criminal responsibility for persons with mental disabilities under Indonesian law; (2) the implementation of informational literacy in judicial processes involving disability; and (3) the compatibility of existing legal norms with the *maqashid al-syari'ah* approach. Ultimately, this study contributes to the discourse on inclusive legal practices and ethical adjudication, promoting a justice system that respects diversity while upholding the principles of fairness and accountability.

RESEARCH METHOD

This type of research is normative legal research. As with normative legal research, the author will only conduct document studies, namely using legal material sources in the form of laws and regulations, court decisions/rules, legal theories, and opinions of scholars. Because another name for normative legal research is doctrinal legal research, it is also referred to as library research or document studies (Ibrahim et al., 2005). The approaches used by the author are the statute approach; case approach; and comparative approach. The processing technique for the legal materials that have been collected is carried out in stages; inventory, identification, classification and systematization (Muhaimin, 2020).

This systematization stage is carried out so that there is no contradiction between one legal material and another. The legal materials that have been collected and grouped are then reviewed using a conceptual approach, a statutory approach, and other approaches. This is intended to obtain a picture or answer to the problems that are the focus of the study in the research. The processing of legal materials in this study was carried out by systematizing the legal materials by selecting legal materials, then classifying them according to the classification of legal materials and compiling the legal materials so as to obtain research results systematically and logically. This activity is to find the relationship and connection between one legal material and another to get a general picture of the answers to the research results. The analysis used in this study uses a qualitative analysis method, namely by interpreting the legal materials that have been processed. The use of this interpretation method aims to interpret the law, whether there are gaps in legal norms, antinomies of legal norms, and unclear legal norms in the legal materials, especially primary legal materials.

RESULT AND DISCUSSION

Analysis of the Concept of Criminal Responsibility of Individuals with Mental Disabilities in Indonesia in Relation to Information Literacy

In the Indonesian legal system, the concept of criminal responsibility (*pertanggungjawaban pidana*) is closely tied to an individual's capacity to understand and control their actions at the time of committing a crime. For persons with mental disabilities, this principle becomes particularly complex due to impaired cognitive and psychological functions that may inhibit their comprehension of legal norms or consequences. Article 44 of the Indonesian Penal Code explicitly provides exemption from criminal liability for those who are proven to be mentally incapacitated when committing a criminal act. However, in practice, the enforcement of this provision often encounters interpretative ambiguities and institutional shortcomings, particularly concerning the accurate assessment of mental health conditions.

Linking this to the realm of information literacy, there emerges a critical gap in how legal rights and procedures are communicated and accessed by persons with mental disabilities and their families. Information literacy, defined as the ability to recognize when information is needed and to locate, evaluate, and effectively use it, plays a fundamental role in empowering individuals to engage with the justice system. Limited access to clear, inclusive, and cognitively appropriate legal information significantly undermines the ability of this vulnerable group to defend their rights or benefit from protective legal provisions. Furthermore, the absence of targeted legal education and accessible information formats within judicial institutions further alienates individuals with mental disabilities from fair legal treatment. Thus, improving legal information literacy for marginalized groups is not only a matter of educational reform but a requisite for upholding justice and human rights in Indonesia's criminal law system.

People with mental disabilities have long been part of the challenging discourse of criminal law, especially in relation to their position as legal subjects. In the context of the Indonesian national legal system, the recognition of people with disabilities as legal subjects has gained strong legitimacy through Law Number 8 of 2016 concerning Persons with Disabilities. This law is not only an important milestone in the struggle for equal rights, but also emphasizes the principle of non-discrimination in various aspects of life, including in the realm of criminal law (Prodjodikoro, 2003).

Article 9 of Law Number 8 of 2016 explicitly states that people with disabilities have two fundamental rights in the legal context: first, the right to receive equal treatment before the law; and second, the right to be recognized as a legal subject. This provision provides a guarantee that people with disabilities, including those with mental disabilities, must be recognized as individuals who have the same legal capacity as other citizens. In other words, they are not merely objects of compassion or special treatment, but individuals who have rights and obligations inherent in their citizenship status (Ashar, 2019).

Recognition of people with mental disabilities as legal subjects has direct consequences for the meaning of criminal responsibility in cases involving them. This is important because in many previous legal practices, people with mental disabilities were often considered legally incapable and automatically subordinated to the judicial process. In fact, such an approach is contrary to the principle of substantive justice which requires that each individual be assessed based on their factual and contextual conditions, not solely on the basis of medical labels or categories. One important advancement in the Indonesian legal system that reflects this development in understanding is the provisions in the new Criminal Code (KUHP), namely

Articles 38 and 39. Both articles explicitly regulate the conditions of people with mental and intellectual disabilities in the context of criminal responsibility. Article 38 of the Criminal Code (New) states that anyone who at the time of committing a crime has a mental and/or intellectual disability may be subject to a reduction in sentence or other measures. Meanwhile, Article 39 of the Criminal Code (New) states that a person who is in a state of acute exacerbation with psychotic symptoms or severe intellectual disability cannot be punished, but can be subject to certain measures.

These provisions reflect the state's recognition of the diversity of conditions of people with mental disabilities in relation to their capacity to act legally. However, the approach used still has problems, especially because the reduction or elimination of criminal responsibility is often based on the status of the person with a disability itself, rather than on a comprehensive evaluation of the individual's role, awareness, and intention in the crime committed. In many cases, this has the potential to create unfair generalizations, because not all people with mental disabilities experience disorders that affect their ability to understand and control their actions.

Thus, it is very important for the national legal system to develop a more contextual and individualistic approach in determining whether a person with a mental disability can be held criminally responsible. Recognition that people with mental disabilities are legal subjects must be accompanied by a fair protection mechanism—both to protect their rights as citizens and to ensure that criminal responsibility is only imposed if it is proven that there are elements of awareness and intention in the criminal act.

Ultimately, the existence of people with mental disabilities in the Indonesian criminal law system must be understood in a broader framework, namely as part of the state's efforts to ensure equality, protection, and justice for all citizens. As legal subjects, they have the right to be tried fairly and based on the principles of caution and humanity. They are not merely objects of legal treatment, but also owners of full rights to a legal process that respects their human dignity.

The Perspective Of Maqashid Al-Syariah And Information Literacy Towards The Concept And Practice Of Criminal Responsibility For People With Mental Disabilities In Indonesia

Criminal responsibility is a foundational principle in any legal system, determining whether an individual can be held accountable for a crime. In Indonesia, this principle is influenced by both national law and the broader socio-religious context, particularly in regions or institutions where Islamic jurisprudence contributes to legal interpretations. The position of persons with mental disabilities within this framework raises both legal and ethical concerns (Fauzan et al., 2023). This paper explores the issue from the dual perspectives of Maqashid al-Syariah (the objectives of Islamic law) and information literacy, proposing an integrated framework for justice that protects the dignity and rights of the mentally disabled.

Maqashid al-Syariah identifies five essential objectives: the protection of religion (din), life (nafs), intellect ('aql), lineage (nasl), and property (mal). The principle of hifz al-'aql (preservation of intellect) directly intersects with the treatment of individuals with mental disabilities in criminal law (Asmawi, 2022). Islamic jurisprudence, as derived from the Qur'an and Hadith, recognizes that individuals lacking full mental capacity are not to be held accountable for criminal acts in the same way as those who are fully sane. This reflects a moral imperative to protect not only life but also intellectual and psychological integrity. Applying this concept in Indonesia calls for a judicial system that differentiates between intentional criminal

acts and those committed under impaired mental states, ensuring the law serves justice and compassion rather than mere retribution.

Information Literacy: Access to Legal Rights and Services. Information literacy the capacity to identify, locate, evaluate, and effectively use information becomes a pivotal tool for the realization of justice. In the context of people with mental disabilities, both the individuals themselves and their caregivers often lack access to accurate and accessible legal information. This digital and communicative gap impedes their ability to advocate for legal protections afforded under both secular law and Islamic ethics. A literate population in terms of legal rights and available mental health protections would contribute significantly to the equitable treatment of such individuals in the justice system (Humaizi et al., 2024).

Legal institutions in Indonesia still face structural challenges in disseminating clear and inclusive information regarding criminal procedures and rights for persons with mental disabilities. This results in misinterpretations, wrongful incarcerations, and missed opportunities for rehabilitation (Indainanto et al., 2023). Information literacy, therefore, is not merely an educational issue but a justice issue. Improving legal communication strategies, adapting materials for diverse cognitive needs, and ensuring community-based information dissemination align closely with both the maqashid of preserving intellect and human dignity (Sikumbang et al., 2024).

Integrating Maqashid al-Syariah with information literacy frameworks offers a more holistic approach to understanding and improving the practice of criminal responsibility for people with mental disabilities in Indonesia. While Islamic jurisprudence calls for the ethical and humane treatment of individuals with limited mental capacity, the actualization of this principle requires that legal knowledge and rights be made accessible through enhanced information literacy. Ensuring justice for all, particularly the most vulnerable, necessitates synergy between theological ethics, legal reform, and inclusive communication practices. People with mental disabilities are a vulnerable group who often face serious challenges in the criminal justice system. For years, the main problem they face is recognition as legal subjects who have full criminal responsibility capacity. Often, legal decisions regarding them are based on overly simplistic assessments—namely based on mental disability status alone, without considering the individual's awareness, intention, and ability to understand and control the criminal behavior they commit.

Law Number 8 of 2016 concerning Persons with Disabilities has provided a more solid legal basis in guaranteeing the rights of people with disabilities, including the right to receive equal treatment before the law and the courts. This regulation recognizes that people with mental disabilities remain citizens who have basic rights, including the right to justice. Furthermore, the new Criminal Code that has come into effect in Indonesia also contains special provisions relating to people with mental and intellectual disabilities in the context of criminal law.

Article 38 of the (new) Criminal Code states that "any person who at the time of committing a crime has a mental and/or intellectual disability may be subject to a reduction in sentence or other measures." Meanwhile, Article 39 stipulates that "a person who is in a state of acute exacerbation with psychotic symptoms or severe intellectual disability cannot be punished, but may be subject to certain measures." This provision shows recognition of the limitations of individuals with mental disorders in carrying out full criminal responsibility.

However, the phrase "having mental and/or intellectual disabilities" in Article 38 of the Criminal Code raises fundamental issues within the framework of justice. Linking the reduction or elimination of criminal responsibility solely based on disability status or condition can be considered too narrow and non-contextual. Disability is an individual and complex identity. Each individual has different levels of impairment, awareness, and self-control abilities. Thus, it is unfair if legal decisions are made categorically without considering in-depth psychological and social evaluations of each individual.

In this context, a criminal law approach based on the evaluation of the individual's role and awareness is more relevant and fair. This evaluation should involve a comprehensive psychological assessment, and be supported by competent experts. In this way, the legal system can minimize the risk of errors in imposing criminal penalties on individuals who should not be legally responsible due to unstable mental conditions or severe mental disorders.

Islamic law provides a more conceptual basis for assessing a person's legal capacity through two main concepts, namely *ahliyyatul wujub* (eligibility to have rights) and *ahliyyatul ada'* (eligibility to carry out legal obligations). In Islamic law, people with mental disabilities still have *ahliyyatul wujub*, namely basic human rights that cannot be revoked, such as the right to life, protection, and humane treatment. However, the capacity to be responsible for legal actions or *ahliyyatul ada'* can be lost if a person does not have consciousness or loses the will to act due to mental disorders (Syam et al., 2024).

Thus, both in positive law and in Islamic law, the principle of substantive justice demands that criminal responsibility can only be imposed on individuals who have consciousness and intention when committing a crime. People with mental disabilities can only be held accountable if it is proven that at the time of committing the crime, they had an adequate level of consciousness and self-control. This reflects the principle of *Hifz al-'Aql* in *Maqashid al-Syariah*, namely the principle of protecting reason as one of the main objectives of Islamic law. However, in practice, the approach taken by law enforcement officers often does not reflect these principles. Inconsistency and inconsistency in the application of the law to people with mental disabilities are still real problems. Two conflicting court decisions can be used as real examples of the weak understanding of the concept of criminal responsibility in the context of mental disabilities.

The concept of criminal responsibility for persons with mental disabilities is not only a legal issue, but a deeply ethical and informational one. In Indonesia, where the legal system blends civil law with moral and religious considerations, understanding how such individuals are treated within the justice system requires a multidimensional perspective (Kholil et al., 2024). This section reflects on a real case involving a mentally disabled person prosecuted under the Indonesian Penal Code, analyzed through the lens of *Maqashid al-Syariah* and information literacy.

In 2019, a case emerged in South Sulawesi where a young man known publicly as "Ari," diagnosed with schizophrenia, was prosecuted for allegedly committing a violent offense. Despite medical records proving his mental condition, he was detained for several months without access to proper psychiatric evaluation or legal representation that understood his psychological state. The case triggered public concern and advocacy from human rights organizations, highlighting systemic gaps in addressing criminal responsibility for mentally disabled individuals in Indonesia's legal system (Rambe et al., 2023).

Under the Islamic legal principle of *hifz al-‘aql* (preservation of intellect), individuals like Ari should be protected rather than punished when their mental condition compromises their legal accountability. Islamic jurisprudence categorically exempts individuals with severe mental disorders from criminal liability, as their actions lack the required intent (*niyyah*) and awareness (*‘ilm*). From this standpoint, prosecuting Ari contradicts the very essence of Islamic justice, which prioritizes mercy, dignity, and rehabilitation over punishment for those unable to comprehend their actions.

Ari's case also demonstrates a critical failure in information literacy—both on the part of the legal apparatus and the affected individual's family. Neither Ari nor his family fully understood the legal procedures, nor were they informed of their rights to request psychological assessments or appeal for legal aid. Legal documents were not made accessible in simplified or supportive formats, and public defenders were ill-equipped to handle cases involving mental disabilities. This informational injustice contributed to Ari's prolonged detainment, showing how lack of access to comprehensible legal information can result in serious violations of human rights. Information literacy, when absent among vulnerable populations, becomes a systemic barrier to justice. If Ari's family had access to mental health legal advocacy resources or if the legal system had an inclusive communication mechanism in place, the outcome could have been significantly different.

CONCLUSION

The intersection of criminal responsibility, mental disability, and information literacy in the Indonesian legal system reveals a profound gap between normative legal principles and practical implementation. While the Indonesian Penal Code, Law No. 8 of 2016, and the newly reformed Criminal Code have taken significant steps to recognize the legal status and rights of people with mental disabilities, the justice system continues to face challenges in ensuring fairness and protection for this vulnerable group. Islamic legal principles, particularly *Maqashid al-Syariah* with its emphasis on *hifz al-‘aql* (preservation of intellect), reinforce the ethical obligation to exempt individuals with impaired mental capacity from criminal liability, highlighting the importance of compassion, rehabilitation, and human dignity over punishment. The case of Ari exemplifies the systemic failures in both legal protection and access to information. His prolonged detainment despite a documented mental health condition illustrates how a lack of information literacy—among both legal actors and affected families—can lead to unjust legal outcomes.

Without accessible legal knowledge, contextual assessments, and inclusive communication strategies, individuals with mental disabilities are at risk of being misjudged, mistreated, and marginalized within the criminal justice process. Therefore, a more holistic legal approach is essential—one that combines the protective principles of *Maqashid al-Syariah* with strengthened information literacy frameworks. This integrated model demands legal reforms that go beyond categorical exemptions to consider the nuanced, individual conditions of each person with a mental disability. It also requires the state to invest in public legal education, inclusive legal procedures, and specialized legal aid. Only through such reforms can the Indonesian legal system fulfill its commitment to justice, equality, and human rights for all citizens, including those with mental disabilities.

SUGGESTION

This study has made an important contribution in showing the legal inequality experienced by people with mental disabilities in the criminal justice system in Indonesia. To strengthen these findings, it is recommended that further research be conducted with a more holistic and cross-disciplinary approach. First, further research can involve case studies in various regions to explore how law enforcement officers apply the principle of justice to individuals with mental disabilities in real practice. A qualitative approach through in-depth interviews with judges, prosecutors, lawyers, and the defendant's family will provide a more complete contextual picture.

THANK YOU-NOTE

Special thanks are given to the supervisors and legal experts and religious figures who have provided constructive input in the process of compiling the theoretical framework and data analysis. The author also expresses appreciation to legal institutions, organizations of people with disabilities, and field sources who have been willing to take the time to share experiences and information that are very valuable for the completeness of this research data.

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