

## Re-evaluation of Judges' Conditions for Disabilities: A Comparative Study of Islamic Jurisprudence and the Convention on the Rights of Persons with Disabilities

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**Abstract:** Contemporary judicial systems increasingly recognize disability inclusion as a matter of equal access to justice, yet classical Islamic jurisprudence is often perceived as conditioning judicial office on bodily integrity. This article re-evaluates the eligibility of persons with physical disabilities, particularly blindness, to serve as judges by comparing classical *fiqh* positions across the four *madhāhib* with Saudi judicial practice under *Niẓām al-Qāḍā'* and the Convention on the Rights of Persons with Disabilities (CRPD). Employing library-based legal research with a normative, comparative, and *maqāṣid*-oriented analysis, the study examines authoritative juristic texts, Saudi judicial regulations, and core CRPD provisions on legal capacity and access to justice. The findings demonstrate a cross-system consensus that mental competence (*salāmah al-'aql*) and moral integrity (*al-'adālah*) constitute the fundamental requirements for judicial office, whereas physical conditions function as instrumental requirements (*wasīlah*) subject to institutional accommodation. Saudi precedents, most notably the appointments of blind judges such as Ibn Bāz and Ibn Ḥumayd, demonstrate compatibility in law in action between Islamic legal reasoning and inclusive judicial standards. The article contributes by articulating a *maqāṣid*-based reconciliation between *fiqh* and disability rights norms and proposes an implementable framework for inclusive judicial recruitment through functional capacity assessment and reasonable accommodation.

**Keywords:** Disability; Blind Judges; *Shurūṭ al-Qāḍī*; CRPD; Saudi Judiciary; Islamic Jurisprudence; *Maqāṣid*

### Introduction

The issue of inclusivity of persons with disabilities in the justice system has become a global concern as awareness of access to justice and reasonable accommodation are strengthened. A paradigm shift has occurred from a medical and charitable approach to a rights-based approach that demands the equal participation of persons with disabilities in all public institutions. This shift is emphasized in the Convention on the Rights of Persons with Disabilities (2006) (CRPD) with the principle of equality before the law for all individuals, and in its update by 192 countries, several countries have ratified it, such as Saudi Arabia in 2008 and Indonesia in 2011 (Docherty, 2023; Dufour, 2020; Finkelstein & Gross, 2025; Knevel, 2023; Lafferriere, 2020; Matar, 2023; Véron, 2020). The declaration, as a follow-up to ratification, encourages states to ensure equal access for persons with disabilities, not only as litigants but also as law enforcers and judges (Martínez-Pujalte, 2018; Nor et al., 2025).

In line with this direction, the inclusive justice discourse not only questions the access of people with disabilities as justice seekers, witnesses, or litigants, but also addresses the internal configuration of judicial

institutions: who may serve as judges and how the system assesses eligibility and provides institutional support. Recent literature on justice for persons with disabilities emphasizes that exclusion from judicial positions, when not based on relevant competency standards, has the potential to create institutional inequalities that reduce the legitimacy of the judiciary itself as society becomes more pluralistic and human rights-conscious (Cuervo-Botero et al., 2025; Domański & Lackoroński, 2023; Piray Rodríguez & Narváez Inca, 2023; Ramadhan & Muslimin, 2022; White et al., 2023). Therefore, the key question moves from whether persons with disabilities can participate to how the judicial system should assess capacity and ensure accommodation without lowering the standards of the judiciary. (Ferri, 2017).

The Islamic legal tradition describes the requirement that judges be bound by the concept of *ahliyyah*, or legal proficiency, which includes the capacity for reason (*al-ahliyyah al-'aqliyyah*) and physical perfection (*al-ahliyyah al-jasadiyyah*). (Al-Māwardī, 2000; Al-Qarāfi, 1994; Al-Sarakhsī, 1993; Ibn Farḥūn, 1996). This is where the normative tension arises when classical jurisprudence places emphasis on *ahliyyah al-'aqliyyah*, while *al-ahliyyah al-jasadiyyah* is considered a criterion that has the potential to restrict access for persons with sensory disabilities, such as those who are visually impaired (Domański, 2023b; Ferri, 2017). This tension is even more relevant when the issue of disability is examined within the framework of *maqāṣid al-sharī'ah*, which emphasizes the protection of reason (*hifz al-'aql*), dignity (*karāmah*), and the elimination of hardship (*raf' al-ḥaraj*) as normative ethical orientations of Islamic law (Ibn 'Āshūr, 2004; Kamali, 2020).

In an effort to avoid a pseudo-contradiction between *fiqh* and modern law, this study adopts Saudi Arabia as the context for a case-based legal reasoning analysis. Saudi Arabia is a particularly relevant case because it is a jurisdiction rooted in the Islamic legal tradition, yet in practice it demonstrates a form of "law in action" through the precedent of appointing blind scholars to high judicial positions, such as Shaykh 'Abd al-'Azīz bin Bāz and Shaykh 'Abd Allāh bin Ḥumayd, as well as through modern institutional arrangements under *Nizām al-Qaḍā'* (Alsalem, 2023; Bani Younes et al., 2012; Nor et al., 2025). This choice of context allows the study to assess whether classical terms are better understood as goals (*ghāyah*) or merely as instruments (*wasīlah*) that can be adjusted through institutional support and assistive technology.

Previous research tends to develop in three relatively separate paths: (1) doctrinal studies of *ahliyyah* and the requirements of judges in classical jurisprudence; (2) international human rights studies on the CRPD, which emphasize legal capacity, access to justice, and reasonable accommodation; and (3) studies of Shari'ah judicial policies in Muslim countries that address institutional reform and accessibility (Efendi et al., 2025; Ferri, 2017; Ghaly, 2009; Kamali, 2020; Morrison-Dayana, 2023; Nor et al., 2025; Quraishi & Kamali, n.d.; Sopyan, 2022; Ugli et al., 2025; Wescott, 2020). However, there is still an analytical gap at the comparative level in integrating these three strands to explain, on the basis of empirical precedents and a systematic reading of *fiqh*, how standards of judicial eligibility can be reconstructed into an inclusive framework without sacrificing the principles of judicial prudence (*iḥtiyāt*) and the quality of adjudication. This gap is reflected in the limited number of studies that treat concrete cases of blind judges in the Islamic world as legal data to bridge *fiqh*, national regulations, and international norms (Domański, 2023a; Domański & Lackoroński, 2023; White et al., 2023). Based on this background, this article formulates the following research questions: first, how do the four Sunni schools of jurisprudence interpret judicial eligibility in cases involving physical disabilities, particularly visual impairment, within the framework of *ahliyyah* and *shurūṭ al-qāḍī*? Second, how do *Nizām al-Qaḍā'* and judicial practices in Saudi Arabia reflect, modify, or institutionalize these classical conditions in relation to CRPD principles, particularly reasonable accommodation and effective access?

The contribution of this article is multiple. Theoretically, this article asserts that the suitability of judges in the Islamic legal tradition and modern human rights norms shares a common ground in the fundamental requirements of mental competence (*salāmah al-'aql*) and moral integrity (*al-'adālah*), while physical requirements are more appropriately understood as instrumental means (*wasīlah*) that can be accommodated through institutional support, in line with the principle of *al-mashaqqah tajlib al-taysīr* (Kamali, 2020; Quraishi & Kamali, n.d.). In practical terms, this article offers a policy argument for structuring the recruitment and feasibility assessment of judges with disabilities based on functional capacity assessment and reasonable accommodation, by positioning the Saudi experience as a relevant

comparative reference for *Shari'ah* judicial reform in other Muslim jurisdictions (Bani Younes et al., 2012; Jafar & Yaqub, 2021; Nor et al., 2025). To situate the argument within a clearer academic framework, the following section reviews the development of the literature on *ahliyyah*, *maqāṣid*, CRPD, and inclusive judicial reform as the basis for determining the position of this research.

## Literature Review

The review of the eligibility of judges with disabilities has developed along three streams of study that often run in parallel but are not yet fully integrated. The first stream comes from the *fiqh* tradition, which formulates *ahliyyah* and *shurūṭ al-qāḍī* as the basis for judicial legitimacy, with an emphasis on *salāmah al-'aql* (sanity of reason) and *salāmah al-hawās* (adequate functioning of the five senses) as conditions of legal competence (Al-Sarakhsī, 1993; Al-Shāṭibī, 1997; Ibn Qudāmah, 1986). The second stream emerges from international human rights discourse, especially through the CRPD, which promotes the elimination of structural discrimination and affirms reasonable accommodation as a condition for substantive equality in access to justice (Domański, 2023b; Ferri, 2020; Kakoullis, 2020). The third stream derives from studies of judicial reform, including *Shari'ah*-based justice systems, which highlight institutional strategies to expand accessibility, professionalism, and institutional legitimacy (Bani Younes et al., 2012; Nor et al., 2025). The problem is that these three streams are often read partially: *fiqh* is positioned as a purely normative discourse, the CRPD is treated as an external standard, while judicial practice is framed in administrative terms. As a result, the issue of judges with disabilities often remains an abstract debate, lacking a framework for assessing their operational suitability—that is, whether or not to allow them to serve.

In classical jurisprudence, the debate about disability in judicial office mainly arises when physical limitations are linked to judicial functions, such as the examination of evidence, the assessment of testimony, and the communication of verdicts. A number of classical texts cite *salāmah al-hawās* as a functional requirement for the performance of judges' duties because sight and hearing are seen as essential to procedural accuracy (Al-Māwardī, 2000; Al-Qarāfī, 2017). However, the *fuqahā'* do not always equate physical disability with absolute incapacity. Ibn Farḥūn (1996) distinguishes between obstacles that undermine the core of legal competence and those that relate only to the means of carrying out tasks. Within this framework, mental disabilities such as *'atah*, *junūn*, or *khafq al-'aql* tend to be positioned as a principled barrier to *ahliyyah al-adā'*, while physical disabilities are more often debated at the procedural level. Ghaly (2009) explains that this classical construction emerged within a pre-modern epistemic context, in which judicial accuracy was highly dependent on individual sensory abilities and was not supported by administrative mechanisms or assistive technologies, as in modern justice systems (Al-Ḍawījī, 2023; Kamali, 2020; Mavani, 2014).

Arifinsyah et al. (2025) argue that elaborating the principles of *maqāṣid* allows for the reinterpretation of *ahliyyah* from mere physical fitness to moral and intellectual competence. This approach is in line with the theory of *firāsah* put forward by Ibn al-Qayyim al-Jawziyyah (as analyzed by Hilal, 2024), in which the sharpness of intuition and moral integrity are considered judicial competence, rather than merely physical attributes (Al-Mazrou, 2023). Thus, the concept of *ahliyyah* in Islamic law is not a static entity but a dynamic construct that can evolve in response to social, ethical, and public interest considerations. The integration between *ahliyyah al-adā'* and the principle of reasonable accommodation as developed in the Convention on the Rights of Persons with Disabilities (CRPD) indicates an emerging direction toward a more humanistic and inclusive interpretation of legal competence in Islamic law (Al-Ḥumayd, 1984; Domański, 2023b; Ferri, 2017; López San Luís, 2020).

The reading of *fiqh* does not stop at the literal interpretation of technical requirements; rather, this study employs *maqāṣid* as an evaluative framework. Specifically, *maqāṣid* refers to two main axes. First, the concept of *maqāṣid* as legal purposes that protect human interests, as formulated by Ibn 'Āshūr (2004), is further elaborated by Kamali (2020), who emphasizes that *maqāṣid* is not merely an ethical theory but an operational tool for assessing whether a legal requirement functions as a means (*wasīlah*) that achieves its objective (*ghāyah*) or has instead become an obstacle that generates *ḥaraj*. Within this framework, the issue

of disability in the judiciary is analyzed through three key *maqāṣid* indicators: (i) *ḥifẓ al-'aql* (protection of rational capacity as the foundation of judicial decision-making), (ii) *karāmah* (dignity and equality of participation in public spaces), and (iii) *raf' al-ḥaraj* (the elimination of disproportionate burdens through adjustment of procedures/tools). This framework is important because it allows for a more rigorous assessment: physical requirements are not automatically rejected but are critically evaluated to determine whether they genuinely contribute to the realization of justice or merely reflect technical assumptions that can now be addressed through accommodation.

Ghaly (2009) shows that the way the Islamic tradition understands disability is not singular but is shaped by theological, cultural, and socio-epistemic contexts. The criticism that arises does not seek to negate *fiqh*, but rather to challenge the reduction of disability as an unnecessary reason for social exclusion. Mavani (2014) argues that jurisprudential responses to human complexity, including medical issues, require contextual readings that combine normative principles and practical realities. At this point, *maqāṣid* becomes a means of shifting the focus from bodily perfection to moral and intellectual competence, as well as the guarantee of supporting mechanisms. In a more applied context, Sodiqin (2021) asserts that barriers to legal participation that are not based on *qat'ī* postulates have the potential to conflict with the mandate of *raf' al-ḥaraj* and the realization of the public good. Hilal (2024), complementing this debate from an ethical-professional perspective, argues that the sharpness of judgment and integrity as essential qualities of justice are not synonymous with physical perfection. Meanwhile, Arifinsyah et al. (2025) reinforce the epistemic claim that the relationship between Islam and human rights should not be framed as a conflict, but rather as a field of reconciliation grounded in universal values that are also embedded within the Islamic tradition.

On the international legal side, the CRPD emphasizes two clusters of norms relevant to this research such as the principle of equality or anti-discrimination, and the obligation to ensure effective access to justice (Azcona, 2022). Ferri (2020) shows that reasonable accommodation is not a form of dispensation that lowers standards, but rather a feature of justice design that shifts the focus from individual incapacity to shortcomings in institutional design. Vivanco (2024) demonstrates variations in national implementation and highlights the importance of policy instruments to ensure that accommodation is not merely a normative promise. However, the majority of CRPD studies still position persons with disabilities as users of the judicial system (e.g., litigants or witnesses), rather than as institutional actors who perform judicial functions. Domański & Lackoroński (2023) highlight the dynamics of legal capacity and decision-making support as systemic issues influencing policy, but the literature on judges with disabilities remains relatively limited and is often overlooked in studies of the legal profession. This is where a critical gap emerges: the need to move from treating the CRPD as a general normative framework to employing it as a more specific analytical tool for judicial office.

Empirical studies of the disability within the legal profession corroborate the thesis that inclusion will not be effective without changes in organizational culture and work design. White et al. (2023), for example, show that barriers to participation are often structural (e.g., document access, workspace design, and internal procedures), and therefore require institutional rather than merely normative solutions. In the context of sharia justice, Nor et al. (2025) demonstrate that accessibility can be built through procedural adjustments and administrative support, in line with the principle of reasonable accommodation. In the Saudi context, Bani Younes et al. (2012) provide a comparative basis for judicial requirements in Saudi law that are rooted in the sharia framework but have been institutionalized through modern regulatory forms. The limitation of this empirical strand lies in two main aspects. First, studies often focus on access to justice for persons with disabilities as parties, rather than on the design of eligibility and feasibility frameworks for judicial office. Second, studies of the Muslim world rarely use historical precedents (e.g., the appointment of blind judges) as empirical legal data to test the comparative compatibility of jurisprudence, regulations, and international norms. This limitation makes it clear that the issue of judges with disabilities has not been sufficiently examined at both the conceptual and operational levels. Accordingly, there remains a need for an analytical model that integrates *fiqh*, institutional practices, and international norms in a systematic manner.

Based on the literature map, there are four gaps that are directly addressed by this research: (1) Integrative gap: there is no analytical model that unifies *fiqh al-qaḍā'*, *maqāṣid*, and the CRPD into a single coherent and testable framework based on documentary data (Azcona, 2022; Ibn Qudāmah, 1986; Kakoullis, 2020; Kamali, 2020); (2) Gap in actors' focus: CRPD literature highlights access for persons with disabilities as users of the judiciary, while their position as judges, as part of institutional legitimacy, remains underexplored (Abobaker, 2024; Claessen, 2024; Ferri, 2017, 2020; Ruiz-Calderón, 2023; Vivanco, 2024); (3) Practice-based gap: research on modern sharia justice has not sufficiently utilized concrete cases in Muslim countries as evidence that norms can operate through institutional design (Bani Younes et al., 2012; Nor et al., 2025); (4) The gap in operationalization of *maqāṣid*: *maqāṣid* is often presented as an ethical justification but has not been adequately translated into measurable standards for feasibility assessment and the design of accommodation in the context of judicial office (Ibn 'Āshūr, 2004; Jafar & Yaqub, 2021; Sodiqin, 2021). Thus, this study positions itself as a document-based normative-comparative inquiry that examines whether physical requirements in *fiqh* should be understood as objectives (*ghāyah*) or as instruments (*wasilah*) that may be substituted through accommodation, and how such an interpretation can be aligned with CRPD principles without compromising judicial prudence. The *maqāṣid* framework of Ibn 'Āshūr and Kamali is used not merely as a complementary perspective but as an analytical tool for testing the consistency of legal objectives across three normative regimes—*fiqh*, Saudi regulatory and judicial practice, and the CRPD.

## Method

This research is a library-based legal study with a comparative qualitative–normative design, which aims to assess the normative validity and institutional application of judicial requirements for persons with disabilities (especially the visually impaired) across three regimes: (1) *fiqh* of the four schools of *ahliyyah* and *shurūṭ al-qāḍī*; (2) Saudi Arabia's judicial law and practice through the *Nizām al-Qaḍā'* and the precedent for the appointment of blind judicial figures; and (3) international legal standards through the CRPD (especially the principles of access to justice and reasonable accommodation). A comparative approach is used to place each regime on its own normative basis, then to assess the convergence and divergence. To strengthen the cutting-edge and state-of-the-art dimension, this research also draws on reputable scholarly references that discuss Saudi legal reform, CRPD implementation, and judicial accessibility practices in the context of Muslim countries and across jurisdictions.

The research data are divided into primary and secondary sources. Primary sources include: (a) authoritative *fiqh* works that are referenced by the *madhhabs* (Al-Māwardī, 2000; Al-Qarāfī, 1994; Al-Sarakhsī, 1993; Ibn Farḥūn, 1996; Ibn Qudāmah, 1986); (b) positive Saudi legal documents (*Nizām al-Qaḍā'*) as well as biographical and institutional materials documenting the practice of appointing blind judges (Ibn Bāz and Ibn Ḥumayd); and (c) the international human rights instrument, the CRPD (United Nations, 2006), along with explanatory literature on reasonable accommodation and access to justice (Domański, 2023b; Ferri, 2017, 2020; Vivanco, 2024). Secondary sources include reputable international journal articles relevant to the Saudi context and the implementation of the CRPD, e.g., a review of Saudi legal reform and judicial authorities (Al-Subhi, 2023; Bashayreh, 2022), the Saudi disability policy paradigm in line with the CRPD (Abobaker, 2024; Alsalem, 2023; Wu, 2024), and studies on access to justice in the context of religious justice (Maftuhin & Cammack, 2025; Nor et al., 2025). Saudi Arabia was chosen as a comparative context because it offers a unique combination of the normative basis of sharia and modern judicial practice.

The analysis technique used is a *maqāṣidī*–comparative–normative approach (Jafar & Yaqub, 2021; Khairina et al., 2024; Ramadhan & Muslimin, 2022; Sulaeman et al., 2025; Yaqub et al., 2023). Operationally, the analysis is carried out through four stages: (1) the extraction of norms from *fiqh* texts and regulations (identification of the fundamental conditions of *salāmah al-'aql* and *al-'adālah*, as well as the instrumental conditions of *salāmah al-ḥawās*); (2) comparative mapping in the Saudi–CRPD matrix to assess the function of each condition (*ghāyah/wasilah*) and its consequences on the eligibility of judges with disabilities; (3) testing the coherence of *maqāṣid* by using a framework that refers explicitly to Ibn 'Āshūr (2004) (dimensions of *karāmah* and public benefit) and Kamali (2020) (actualization of *maqāṣid* and *raf' al-ḥaraj*), so

that the conclusion does not stop at permissibility or disagreement, but rather at the rationality of the legal objective; and (4) the triangulation of norms and practice by linking the comparative results to Saudi judicial precedents (Ibn Bāz and Ibn Ḥumayd) to explain the difference between the law in the books and the law in action. With this design, the research output is not only normative conclusions, but also policy arguments based on functional capacity assessment and reasonable accommodation that are compatible with *maqāṣid*.

## Results and Discussion

### Highlights of the Fiqh School on Judge's Requirements for Persons with Disabilities

The transformation of the judge's conditions (*shurūṭ al-qāḍī*) is undeniably part of progressive *fiqh al-qaḍā'* (Rohman et al., 2024), which defines a person's eligibility to occupy judicial office. The majority of the *fuqahā'* require seven main criteria: (1) Islam, (2) puberty, (3) sanity, (4) independence, (5) male gender, (6) fairness and trustworthiness, and (7) the ability to perform *ijtihād*. Some scholars add physical requirements, such as the ability to speak and hear, which are directly related to the implementation of judicial functions (Al-Māwardī, 2000; Al-Qarāfī, 1994). In this framework, disability is viewed through two lenses: as *'arīḍ* (temporary barrier) or *'ājiz* (permanent barrier). The *fuqahā'*, including Al-Samnānī (1984), emphasize that the sharpness of the mind and the honesty of the heart are more important than the perfection of the body, thus distinguishing between temporary conditions that hinder the performance of duties, such as fever, loss of voice, or severe illness that can be cured, and permanent conditions, such as blindness or muteness.

The basic principle in Islamic jurisprudence is that the position of the judge (*qāḍī*) is the highest symbol of public trust (*wilāyah 'āmmah*), so that the *fuqahā'* set strict conditions to maintain their integrity, competence, and worthiness, including Islam and puberty (*shar'ī* maturity); *'adālah*; *al-'ilm*; and *salāmah al-ḥawās wa al-'aql* (Al-Māwardī, 2000; Al-Qarāfī, 1994). However, differences among the madhhabs arise in the interpretation of *salāmah al-ḥawās* (physical condition) and *ahliyyah al-'aql* (intellectual capacity). These two aspects constitute the main points of discussion when related to persons with physical and sensory disabilities.

The Hanafi mazhab emphasizes the functional aspect in the implementation of judicial duties. Al-Sarakhsī (1993), in *al-Mabsūt*, states that a judge must be able to examine evidence, understand testimony, and write judgments independently. This emphasis on the perfection of the senses is reflected in the statement that "*Man faqata ḥissan min ḥawāsīhi al-mu'āwinah 'ala al-qaḍā', lā yaṣihḥu qaḍā'uhu*" (Whoever loses one of the five senses that helps the implementation of justice, then his judgment is invalid). Hanafi scholars such as al-Sarakhsī and Abū Yūsuf argue that sensory disabilities such as blindness or deafness would hinder the functions of *istidlāl* (legal deduction) and *mushāhadah* (observation of evidence). Therefore, in this framework, the Hanafi mazhab rejects the appointment of blind judges, except in extreme emergencies (*ḍarūrah*). However, in the context of modern *maqāṣid*, this view is *fiqhī-ijtihādī*, not *tawqīfī* (fixed), so it can be reviewed with the help of legal technology and institutional support. The principle held by Hanafi scholars, namely the necessity of being able to understand facts correctly, can now be realized without the need for fully functioning sensory faculties, as shown by the blind judge in Riyadh.

The Maliki mazhab is known to be more flexible and considers *al-maṣlahah al-mursalah* (the common good) and *'urf* (social context). Ibn Farhūn, in *Tabṣirat al-Ḥukkām*, states: "*Lā yu'zal al-qāḍī illā bi 'ājiz 'an al-adā' aw kharq al-'adālah*" (A judge is only dismissed if he is incapable of carrying out his duties or violates integrity). The Maliki mazhab assesses that abilities (*qudrah 'alā al-adā'*) do not have to be physical, but include rational and administrative abilities. Therefore, a judge who loses his sight but is still able to understand the evidence, preside over the trial, and assess substantive justice is still considered valid. In the contemporary context, the principle of *al-'urf muḥakkam* (social customs as the basis of law) can be used as a basis for modern judicial institutions to reinterpret the feasibility of judges based on the context of technology and available support systems. It is this Maliki view that is ethically most compatible with the CRPD framework and the concept of reasonable accommodation (Ferri, 2017).

The Shafī'i mazhab, as explained by Al-Māwardī (2000) in *Al-Aḥkām as-Sultāniyyah* and Al-Nawawī (2003) in *Rawḍat al-Tālibīn*, holds that judges must have adequate physical prowess, especially sight and hearing, as both are considered the main instruments of justice. The emphasis is expressed in the statement: “*Wa lā yajūzu an yakūna al-qāḍī a'mā aw akhraṣ, li 'adam al-qudrah 'alā al-samā' wa al-baṣar*” (It is not valid for a judge to be blind or dumb because he is unable to hear or see). However, the Shafī'iyyah also open up space for *rukhsah* (dispensation), based on the principle of *al-darūrah tubīḥ al-maḥzūrāt*, if there are no other qualified judges in a region. In the modern context, this condition can be broadly interpreted as a systemic state; for example, when technology allows the replacement of vision functions, physical conditions are no longer a barrier. This Shafī'i approach reflects the spirit of *sadd al-dharī'ah* (prevention of legal errors), which in the modern era can be translated as the obligation of the judicial system to provide technological and procedural support to prevent injustice against judges with disabilities.

The Hanbali mazhab places *salāmah al-'aql* (sanity of mind) as the core of *ahliyyah*. Ibn Qudāmah (1986), in *al-Mughnī*, affirms: “*Fa idhā baqiya 'aqluhu wa dīnatuhu, fa-lā yu'zal bi 'arīḍin jismi*” (If his intellect and religion are still preserved, then he should not be dismissed for physical disability). This view shows the distinction between physical and mental disabilities, which is very relevant to the concept of legal capacity in CRPD Article 12. The Hanabilah, in principle, reject discrimination based on physical conditions that do not affect reason and integrity. This approach is the basis for the legitimacy of the appointment of blind judges in Saudi Arabia, as stipulated in *Nizām al-Qaḍā'* Articles 31–35, which only require *al-ahliyyah al-shar'iyyah wa al-'adālah*, without mentioning physical perfection. In contemporary practice, the Hanbali opinion is considered to be the closest to the principle of *maqāṣid* because it assesses the worthiness of judges based on cognitive and moral capacity, rather than physical attributes. The comparative analysis of the four schools shows the thought patterns that can be extracted as follows:

**Table 1. Comparative Synthesis of Madhhab Perspectives on Judges with Sensory Disabilities (Blindness)**

Madhhab	Dominant Position toward the Visually Impaired	Rationality of <i>Fiqh</i> (Core Argument)	Adaptation Space (Indicator)
Hanafi	Tends to be strict; problematic if it interferes with the verification of evidence	The accuracy of proof and fact verification depends on the function of the senses	Open if accuracy is guaranteed by the system (administration/tools)
Maliki	Relatively flexible; focuses on the ability to uphold justice	<i>Maṣlahah</i> , functional capacity, and Physical Requirements Are Instruments	High: adjustment of procedures to safeguard the purpose of justice
Shāfi'i	More restrictive; emphasizes procedural prudence	Vision and hearing are considered core instruments of evidentiary procedure	Medium: can be fulfilled through institutional adjustment
Hanbali	More inclusive; emphasizes reason and integrity	<i>Salāmah al-'aql</i> and <i>al-'adālah</i> as fundamental conditions; physical aspects are operational	High: institutional support in line with <i>raf' al-ḥaraj</i>

Sources: Al-Māwardī (2000); Al-Sarakhsī (1993); Ibn 'Alī Ibn Farḥūn (1996); Ibn Qudāmah, (1986). Modern framework reinforcement: Domański (2023b); Ferri (2020); Ibn 'Āshūr (2004); Kamali (2020); Vivanco, (2024).

Based on Table 1, the comparison of schools shows a consistent pattern: (i) consensus on the fundamental conditions of mental prowess (*salāmah al-'aql*) and moral integrity (*al-'adālah*), and (ii) differences in sensory conditions that, in many arguments, actually function as tools to maintain the quality of proof, not ends in themselves. Thus, the differences among the schools can be understood as procedural variations of the *iḥtiyāt* level, not as a conflict of principle against the participation of persons with disabilities. Based on the framework of *maqāṣid* referred to in Ibn 'Āshūr (2004) and the operationalization of *maqāṣid* by Kamali (2020), the physical condition is most appropriately placed as a *wasīlah*, the value of which depends on whether it is still necessary to attain the *ghāyah* in the form of justice and benefit. Therefore, the doctrine adopted in this article is to locate the eligibility of judges in rational and moral capacity as a core condition, and to place physical conditions into the realm of institutional design through

reasonable accommodation as developed in modern international law (Domański, 2023b; Ferri, 2020). This synthesis forms the basis for the legal test through textual analysis, in comparison with Saudi judicial regulations and practices and their relevance to the norms of the CRPD.

The *maqāṣidī* synthesis of the views of the madhhabs, when compared with the framework of modern *maqāṣid* and the CRPD, shows that the four madhhabs can be reunderstood through three key principles: First, the principle of *al-'adl* (justice): all madhhabs depart from the effort to maintain substantive justice. Thus, when technology and the legal system allow judges with disabilities to uphold equal justice, the legitimacy of the judiciary is guaranteed; Second, the principle of *al-karāmah al-insāniyyah* (human dignity): the rejection of disability solely due to physical limitations is contrary to *maqāṣid ḥifz al-'ird* and the principle of *lā ḍarar wa lā ḍirār* (there should be no harm or discrimination); Third, the principle of *al-mashaqqah tajlib al-taysir* (difficulty brings ease): in the modern context, this principle is translated into reasonable accommodation, which is the obligation of the judiciary to provide supporting facilities for judges with disabilities so that they can carry out their duties without excessive difficulty.

### Recontextualization of Saudi Arabian Positive Law and the Convention on the Rights of Persons with Disabilities

The juridical and historical context in the Saudi Arabian judicial system is governed by the *Nizām al-Qaḍā'* (Law of Justice), which affirms in Articles 31–34 that judges (*qāḍī*) must meet two main requirements: *al-ahliyyah al-kāmilah* (full legal proficiency) and *al-'adālah* (moral and scholarly integrity). Interestingly, the *Nizām al-Qaḍā'* does not list physical conditions such as sight or hearing as part of *ahliyyah*, signaling a significant shift from the literal understanding of classical jurisprudence (Hanafi-Shafi'i) towards a *maqāṣidī* paradigm that emphasizes the substance of justice. This is in line with actual practice, in which two prominent Saudi judges – Shaykh 'Abd al-'Azīz bin Bāz and Shaykh 'Abd Allāh bin Ḥumayd – held high judicial positions even though they were both blind. They constitute juridical and moral precedents demonstrating that physical disability does not negate judicial eligibility if the requirements of integrity, intellectual capacity, and the ability to uphold justice are met.

An examination of the case of Shaykh 'Abd al-'Azīz bin Bāz, a blind *qāḍī* in al-Kharj (1357–1371H). Shaykh 'Abd al-'Azīz bin Bāz lost his sight completely at a young age (1350H), but in 1357H was appointed by King 'Abd al-'Azīz Āl Sa'ūd as a judge in the al-Kharj region, on the recommendation of Shaykh Muḥammad bin Ibrāhīm Āl al-Shaykh, the Mufti of the Kingdom. Official documents of the Kingdom of Saudi Arabia, namely the Council of Ministers (2007), as cited in Masīrah bin Bāz, explain that “he was appointed judge of al-Kharj by order of King 'Abd al-'Azīz in 1357H at the age of 27, despite having completely lost his sight a few years earlier.” As a blind judge, Ibn Bāz showed a judicial model based on *ahliyyah al-'aql* and *al-'adālah*, rather than on physical ability. Ibn Bāz organized the court system with the help of an official scribe, applied case recording, and was known for his sharp deductive skills and legal thoroughness. It is reported that Ibn Bāz carefully examined the evidence and testimony, such that people accepted and carried out his verdicts voluntarily without coercion. This fact shows that in *al-taṭbīq al-maqāṣidī* (the application of legal purposes) in real practice, judges with disabilities are considered legitimate as long as they are able to guarantee substantive justice. This model predates the practice of modern legal inclusion as set out in CRPD Article 13, which affirms the right of persons with disabilities to effective access to justice.

Historical parallels can be drawn with Shaykh 'Abd Allāh bin Ḥumayd (1912–1981) as another monumental figure in Saudi Arabia's legal history. He lost his sight at a young age but went on to pursue a judicial career to the highest level, including: (1) Head of the Council of *al-Qaḍā' al-A'lā* (Supreme Judicial Council); (2) Imam of the Grand Mosque; (3) Mufti of the Kingdom (before Shaykh Ibn Bāz). The biographical source *A'lām Mu'āṣirūn – al-Shaykh 'Abd Allāh bin Ḥumayd* explains that “he was blind but had inner clarity that made him able to understand matters and make decisions with wisdom and sharpness of reason.” His decisions are known to be fair, consistent, and accepted by the wider community without resistance (Al-Ḥumayd, 1984). Thus, the Saudi judicial system has demonstrated functional recognition of the *ahliyyah* of blind individuals, long before the concept of reasonable accommodation was formalized by the CRPD (2006).

The comparative juridical analysis of *Nizām al-Qadā'* with the Convention on the Rights of Persons with Disabilities establishes the principle of *ahliyyah shar'iyah* without mentioning physical aspects. The interpretation of the law (based on the practice of Ibn Bāz and Ibn Ḥumayd) shows that *ahliyyah al-'aql wa al-'adālah* is the core criterion. The assessment of ability is carried out through scientific competence and moral integrity, not physical condition. The CRPD's Article 13 provides that: "States shall ensure effective access to justice for persons with disabilities, including through appropriate accommodations." This principle is compatible with the rules of *al-mashaqqah tajlib al-taysir* and *raf' al-ḥaraj* in Islamic law. The CRPD and *maqāsid al-sharī'ah* both reject discrimination based on physical conditions, and it can be concluded that the Saudi system is a concrete example of the integration of classical *fiqh* with modern *maqāsid* and the principles of the CRPD. The cases of Ibn Bāz and Ibn Ḥumayd demonstrate the re-evaluation of judges' conditions within the framework of *maqāsid al-sharī'ah* and modern positive law. An inclusive Islamic legal framework, integrating *maqāsidī* and human rights principles, can be formulated as follows:

**Table 2. Integration of Maqāsidī Principles and the CRPD**

Dimensions	Maqāsidī Principles	CRPD and Human Rights Principles	Implementation (Saudi)
Ethical–Theological	<i>Al-'adl, al-karāmah, ḥifz al-'aql</i>	Human dignity, equality before law	<i>Al-ahliyyah al-kāmilah</i> and <i>al-adālah</i>
Normative–Legal	<i>Ahliyyah al-'aql wa al-adālah</i>	Legal capacity & non-discrimination	<i>Nizām al-Qadā'</i> (Articles 31-34): <i>al-ahliyyah al-syar'iyah</i>
Structural–Institutional	<i>Raf' al-ḥaraj</i> (removal of difficulties)	Reasonable accommodation	Assistive technology, clerks, administrative adjustments
Social–Public Justice	<i>Al-maṣlahah al-'āmmah</i>	Participatory justice	Participation of judges with disabilities (Ibn Bāz & Ibn Ḥumayd)

Sources: (Al-Ḥumayd, 1984; *Al-Lajnah al-Dā'imah lil Buḥūth al-'Ilmiyyah wal Iftā'*, 1982; Masud, 1984; Raihan & Muzainah, 2024)

This framework affirms that substantive justice can only be achieved if Islamic law and modern positive law complement each other in ensuring equal access to public office. Based on this projection, it is determined that the points of convergence and divergence between *fiqh*, Saudi Arabia's positive law, and the CRPD are identified through the existence of three main relationships as follows: First, consensus: mental competence as a fundamental requirement, with all legal systems (classical Islam, modern Saudi, and the CRPD) agreeing that mental competence is an absolute requirement for judges: (1) In *fiqh*: "*Man faqada 'aqlahu lā taṣṣu qaḍā'uhu.*" (Ibn Qudāmah, *al-Mughnī*); (2) In Saudi law: *al-ahliyyah al-shar'iyah* includes thinking skills and moral responsibility; (3) In CRPD Article 12: every individual is considered to have the same legal capacity as long as they possess rational capacity that can be facilitated. The *maqāsidī* point of convergence is *ḥifz al-'aql* as the basis of the legitimacy of universal law.

Second, the convergence in the form of recognition of the capacity of persons with physical disabilities in both *fiqh* (especially the Maliki and Hanbali madhhabs), the Saudi Arabian legal system, and the CRPD shows a shared recognition of the capacity of persons with physical disabilities, provided that they are able to uphold substantive justice: (1) The Hanbali madhhab: "*fa idhā baqiya 'aqluhu wa dīnatuhu, fa-lā yu'zal bi 'arīḍin jismī;*" (2) *Nizām al-Qadā'* Articles 31–35: does not require physical perfection; the practice of Ibn Bāz and Ibn Ḥumayd is historical evidence; (3) CRPD Article 13: the right to access justice without discrimination based on disability. The point of convergence is emphasized by rational ability and moral integrity as the basis of legitimacy, not physical condition. Third, the divergence of *maqāsidī* positions classical jurisprudence as providing individual dispensation, whereas modern law makes it the responsibility of the state and judicial institutions. However, from the perspective of *maqāsid*, the two models can be harmonized: *rukhsah shar'iyah* (individual convenience) can be transformed into *taysir mu'assasī* (institutional convenience); this transformation represents the essence of *maqāsidī* reform in contemporary law.

Based on the description of consensus, convergence, and divergence, the comparative results give rise to three main implications for Islamic judicial law reform, including normative reform, which contains functional *ahliyyah* clauses (rational and moral ability) as the basis for feasibility, replacing the paradigm of physical perfection; institutional reform, which contains the provision of technological and regulatory facilities that ensure the participation of judges with disabilities; and epistemological reform, which contains the view that the study of judicial jurisprudence needs to move from *fiqh al-shurūṭ* (fiqh of formal requirements) to *fiqh al-maqāṣid* (fiqh of legal purposes), which emphasizes the values of *'adl*, *karāmah*, and *maṣlahah*.

This research brings significant theoretical, methodological, empirical, and practical novelties in the realm of Islamic judicial studies and comparative legal philosophy. The description of these novelties is as follows: (1) Theoretical novelty, integrating the theory of *maqāṣid al-sharī'ah* with the concept of reasonable accommodation under the CRPD, thereby creating a new ethical-normative framework for inclusive Islamic law and affirming that *al-mashaqqah tajlib al-taysir* is not only a rule of worship, but also a principle of institutional equity; (2) Methodological and empirical novelty, combining the analysis of four-madhab *fiqh*, Saudi positive law, and international human rights law in one comparative *maqāṣidī* framework, and treating the factual cases of Ibn Bāz and Ibn Ḥumayd as primary empirical *fiqh* data, not merely scholarly biography; (3) Practical novelty, offering a *maqāṣid-based* framework of judicial capability with three pillars: normative (justice and dignity as the legal basis), functional (assessment based on rational ability, not physical conditions), and structural (the state's obligation to provide institutional accommodation). This research confirms that *maqāṣid al-sharī'ah* is not only an ethical theory, but also a living jurisprudential methodology, capable of bridging the classical jurisprudential tradition, modern Saudi practice, and international law toward a just, inclusive, and dignified Islamic justice system.

## Conclusion

Physical disability, especially blindness, cannot be used as an automatic basis for denying judicial validity in Islamic jurisprudence or modern legal standards, because the mapping of the four schools shows a consensus that *salāmah al-'aql* (mental prowess) and *al-'adālah* (moral integrity) are fundamental requirements of *ahliyyah al-qaḍā'*, while sensory requirements are more appropriately understood as *wasīlah* (instruments) to ensure the accuracy of proof and procedural order, which can be fulfilled through institutional design. By operationalizing *maqāṣid* according to Ibn 'Āshūr and the approach to the actualization of *maqāṣid* by Kamali, especially the orientation toward *karāmah*, *ḥifẓ al-'aql*, and *raf' al-ḥaraj*, this article shows that the reformulation of judges' requirements toward a functional capacity-based model is not a deviation from *Sharī'ah*, but an actualization of the goals of justice and *maṣlahah*. These findings are reinforced by a reading of law in books versus law in action in the Saudi context: *Nizām al-Qaḍā'* and the precedent of the appointment of blind judicial figures (Ibn Bāz and Ibn Ḥumayd) demonstrate a practical compatibility between Islamic legal traditions and institutional support, while the CRPD affirms the obligation of reasonable accommodation as a standard of non-discrimination in access to justice. Therefore, the main contribution of this study is to present a coherent comparative argument for reframing the qualifications of judges in Muslim jurisdictions from a test of physical perfection to a substantive competency test with reasonable accommodation, so that the modern Islamic judiciary can be inclusive without compromising the independence, prudence, and quality of judgments.

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## Conflict of Interest

The authors declare that there are no conflicts of interest.

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