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## ***Book Reviews***

**Legal Capacity (Al-Ahliyyah) between the Shari‘ah and Developmental Psychology.** By Mahfuth Khamis Amafua. Kuala Lumpur: International Islamic University Press, 2008, pp. 97. ISBN: 978-983-3855-30-8.

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When is a child considered of legal age? What are the criteria on which he/she is considered to be of such legal age with all that it entails – rights, responsibilities and liabilities? This is the crux of the book, under review, by Amafua. The book comprises of three chapters. The first chapter deals with legal capacity from the Muslim jurists’ perspectives. Beginning with the definition of legal capacity, in which he uses al-Ghazālī’s definition of “the state in which an individual possesses ability or capability both physically and mentally and becomes liable to execute duties and responsibilities imposed on him and her” (p.1), the author further expounds the different categories of *al-ahliyyah*, i.e., the capacity for acquisition and the capacity for execution. In the first chapter, the author examines the concept of legal capacity in the context of positive law and developmental psychology. Finally, in the third chapter, the author attempts to compare the perspectives. The use of the term ‘attempts’ here is deliberate. The premise of the book is interesting, unfortunately, the comparison falls short of expectation. The last chapter is especially frustrating to read. Instead of focusing on the analytical comparisons between the perspectives of developmental psychologists and Muslim jurists on the legal capacity of children, the last chapter meanders and begins to sound more like preaching about the social ills and the importance of the family institution in establishing a moral society. As a developmental psychologist, this

reviewer also believes that relying solely on Piaget and Erikson to frame the psychology of development is out-dated. Latest research has shown in many ways the mistaken assumptions made by Piaget on children's ability to reason cognitively. For example, Piaget grossly underestimated children's reasoning abilities. Since age is a major theme in this book, this particular criticism of Piaget should have been addressed and not used merely as something that is universally accepted by psychologists.

Many studies have been conducted looking at children's ability to become witnesses in court, and also at children's ability to empathise and understand other people's perspectives; both aspects, the author argues are necessary in determining *al-ahliyyah*. Loftus, Brainerd, Ceci, Bull, Carson and Memon are just some of the developmental psychologists who have been actively engaged in studying children's role in the legal setting, especially as eye-witnesses, since the 1990's. In the past two decades, there have also been cases of minors who were tried as adults, and not juveniles, and developmental psychologists played a key role in the preliminary hearings in deciding whether they should be tried as adults or juveniles. It would have strengthened the author's arguments if he had analysed these cases and discussed the premises brought forth in court for or against those below 18 years old to be tried as adults. Heckel and Schumaker's *Children Who Murder: A Psychological Perspective* (2001, Westport, CT: Praeger Publishers) and Myer's *Boys Among Men: Trying and Sentencing Juveniles As Adults* (2005, Westport, CT: Praeger Publishers) are two books that perhaps could have been used in analysing the concept of *al-ahliyyah* vis-a-vis contemporary psychological findings.

The language of the book is lucid and can be easily understood by those not involved in either law or psychology, and as such, this book is a good introduction to thinking about the link between Shari'ah and developmental psychology.

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