

# Analysis of Judicial Governance Strategies from the Perspective of Shia Jurisprudence for Formulating Judicial Governance Tactics

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## Abstract

This study aims to elucidate the jurisprudential foundations of judicial governance in Imāmī (Shi'a) law and to align them with twenty-five macro-level policy principles governing the administration of the judicial system. Employing a descriptive-analytical methodology and drawing upon Qur'anic sources, Prophetic and Imamic narrations, and classical and contemporary works of Imāmī jurisprudence, the research identifies twelve overarching principles of judicial governance, including transparency, independence, meritocracy, accountability, coordinated participation, institutional coherence, emphasis on macro-level policymaking, financial autonomy, and an overarching discourse of justice. Comparative analysis demonstrates that all twenty-five policy principles—across the four domains of governance, adjudication, budgeting, and financial provision—are rooted in these jurisprudential foundations. In effect, global experiences in judicial governance reflect structural parallels to the normative teachings of Imāmī fiqh. Accordingly, achieving sustainable justice within an Islamic system requires policymaking grounded in these foundational principles to enable effective system-building and legislation. The findings indicate that Imāmī jurisprudence possesses both the theoretical depth and practical capacity to articulate a comprehensive model of "Islamic Judicial Governance." This model preserves the authenticity of religious doctrine while responding to contemporary managerial and institutional demands, thereby transforming justice into a sustainable, transparent, and people-centered system.

**Keywords:** Imāmī jurisprudence, judicial governance, justice, judicial policymaking, Islamic system-building

## Extended Abstract

Judicial governance occupies a central position in Islamic political and legal philosophy, particularly within Imāmī (Shi'a) jurisprudence, where the administration of justice is regarded not merely as a technical or bureaucratic function but as a manifestation of divine will and a mechanism for preserving social order, safeguarding rights, and ensuring moral equilibrium within the community. This study offers a comprehensive and analytically grounded reconstruction of the *foundational principles of judicial governance* as articulated in Imāmī fiqh, demonstrating that these principles—rooted in Qur'anic teachings, Prophetic and Imamic traditions, and classical juridical reasoning—constitute a coherent

normative framework capable of informing contemporary judicial policy and institutional design. The article argues that these foundational principles are not abstract moral ideals but legally binding directives (*ahkām waq'iyya*) that shape the structure, function, and legitimacy of any judicial system claiming fidelity to Islamic law.

The study begins by situating judicial governance in its theological and jurisprudential context. In Imāmī thought, the judiciary derives its legitimacy from God, mediated through the Prophet, the Imams, and during the occultation, the qualified jurist (*al-faqīh al-jāmi‘ li-sharā’iṭ*). This vertical chain of legitimacy differentiates Islamic judicial governance from secular frameworks and embeds judicial decision-making within an epistemic and moral universe centered on divine justice. The Qur'an commands believers to “judge with justice” and condemns the concealment of truth, thereby framing judicial action as a sacred trust (*amānah*) integral to the preservation of social harmony and divine order. Consequently, judicial governance is inextricably linked to the higher objectives of the Shari‘a (*maqāṣid al-shari‘ah*), including the protection of religion, life, intellect, lineage, and property.

Drawing on these foundations, the study identifies a set of overarching principles that collectively constitute the architecture of Islamic judicial governance. The first principle is **structural clarity and rule coherence**, which requires that judicial structures be organized in a manner that prevents confusion, redundancy, and procedural disorder. The Imāmī commitment to clarity (*bayān*), accessibility of norms, and avoidance of harm (*lā darar*) demands that judicial regulations be transparent, internally consistent, and intelligible to the public. Any structural ambiguity that results in unpredictable outcomes or denies individuals their procedural rights is deemed contrary to Islamic legal theory and undermines the legitimacy of the judicial system.

The second foundational principle is **specialization and competence**, emphasizing that judicial authority must be vested exclusively in individuals who possess the necessary legal knowledge, moral integrity, and psychological stability. According to Imāmī fiqh, adjudication is reserved for those who have mastered jurisprudential reasoning (*ijtihād*) or who act under the supervision of a qualified jurist in delegated

matters. The Imams warn of the dangers of appointing unqualified judges, describing such appointments as a form of injustice and corruption. This study highlights that specialization is not merely a functional requirement but a religious obligation, as judicial error resulting from incompetence inflicts harm, violates rights, and breaches the divine trust.

The third principle is **judicial independence**, which encompasses both decisional independence and institutional autonomy. Imāmī jurists maintain that a judge must be free from political, economic, or personal pressures that could influence judicial outcomes. Independence is grounded in the jurisprudential maxim that fulfilling obligations requires securing their preconditions; thus, if impartial adjudication is obligatory, all measures necessary to protect judicial neutrality—including financial independence, protection from interference, and insulation from coercive relationships—are likewise obligatory. The study argues that modern interpretations of judicial independence align closely with Imāmī jurisprudential reasoning, illustrating the adaptability of traditional principles to contemporary legal norms.

A fourth principle identified in the text is **promotion and accessibility of justice**. Islamic law insists that justice must not be merely theoretical; it must be implemented efficiently, equitably, and without undue delay. The maxim *islāh dhāt al-bayn* (reconciliation among people) and the obligation to remove hardship from individuals require that judicial procedures be accessible, affordable, and designed to minimize suffering. The study highlights how historical Islamic courts, marketplaces supervised by judges, and the practice of open adjudication demonstrate the emphasis placed on ensuring public access to justice. In contemporary application, this principle demands investment in judicial infrastructure, reduction of procedural barriers, and development of alternative dispute resolution mechanisms aligned with Islamic ethics.

The fifth principle is **absence of contradiction and systemic coherence**. Imāmī fiqh treats inconsistency in judgments, contradictory rulings, or procedural fragmentation as forms of injustice that violate the Qur'anic command for uniformity in governance. This principle necessitates codification of judicial procedures, harmonization across courts, and uniform interpretive methodologies rooted in juristic precedent. A judicial system plagued by contradictory

interpretations or jurisdictional overlap risks delegitimizing itself by failing to provide predictable and fair outcomes.

The sixth foundational principle is **efficiency, timeliness, and procedural minimalism**. Islamic legal sources repeatedly emphasize the obligation to avoid unnecessary delay in adjudication, as postponement may harm litigants, obscure evidence, and encourage injustice. Imāmī jurists argue that judges must employ expedited procedures where appropriate and avoid excessive formalism that burdens litigants. This study connects classical teachings on avoiding delay with contemporary administrative practices, proposing that case management systems, digital court services, and streamlined procedures can be seen as modern instantiations of the Islamic duty to “facilitate, not complicate.”

The seventh principle is **rationality as a source of legitimacy**, reflecting the Imāmī jurisprudential position that reason (*'aql*) is an independent source of law. Rationality ensures that judicial decisions remain consistent with universal principles of justice, logic, and ethical coherence. It also provides the methodological foundation for adapting Islamic jurisprudence to contemporary legal challenges without compromising scriptural fidelity. This principle foregrounds the intellectual dimension of judicial governance and enables dynamic interpretation responsive to evolving social contexts.

The eighth principle concerns **systemic functionality and alignment with governance purposes**. Judicial institutions must be structured to fulfill their divinely mandated purposes: resolving disputes, protecting rights, and upholding moral order. Structures that hinder these functions violate the jurisprudential principle of *hifz al-nizām* (preservation of order). The study argues that judicial systems must be constantly evaluated to ensure alignment with their core objectives, necessitating periodic institutional reforms consistent with Islamic norms.

The ninth foundational principle is **moral governance of judicial personnel**, emphasizing ethical accountability, integrity, and piety (*taqwā*). Imāmī sources describe judges as occupying positions of immense spiritual responsibility, with moral failure equated to betrayal of God and the community. The ethical requirements for judges are higher than those for ordinary citizens, reflecting the gravity of their task. The study links these moral requirements to modern concepts

of judicial ethics, proposing that Islamic ethical frameworks could enrich contemporary judicial conduct codes.

The final principle explored is **reference to the rule of law and bounded authority**. Even though judicial officials operate under divine legitimacy, their authority is circumscribed by legal text, rational principles, and procedural norms. Imāmī jurisprudence strongly rejects arbitrary rule and insists that all governance—including judicial authority—must operate within defined legal parameters. This principle mirrors modern commitments to constitutionalism, legality, and procedural fairness.

Taken together, these principles create a detailed, multidimensional blueprint for judicial governance that is simultaneously rooted in Islamic revelation and compatible with contemporary administrative needs. The study concludes that Islamic judicial governance, far from being archaic or symbolic, offers a sophisticated normative framework capable of guiding institutional reform, supporting judicial professionalism, and promoting social justice. Its relevance extends beyond Islamic contexts, offering comparative insights into the relationships between law, morality, authority, and governance.

## References

The Holy Qur'an.

Abadiyeh-Haji, M., & Samimi, M. (2024). "Judicial Security from the Perspective of Fiqh and Law." *Journal of Islamic Jurisprudence and Law*, 18(49), 31–62. Qom: University of Islamic Teachings.

Bahrāni, Sayyid Hāshim b. Sulaymān. (1404 AH). *Al-Burhān fī Tafsīr al-Qur'ān*. Qom: Dār al-Iḥyā' al-'Arabī.

Bahrāni, Yūsuf b. Ahmad. (1415 AH). *Al-Hadā'i q al-Nādirah fī Aḥkām al-'Itrah al-Tāhirah* (Vols. 1–25). Qom: Al al-Bayt Institute for Revival of Heritage.

Bahrami, S. A. (2020). *Foundations of Administrative Justice in Islamic Jurisprudence*. Tehran: SAMT Publishing.

Jazāyerī, Ja'far. (2015). *A Jurisprudential Commentary on the Foundations of Adjudication in Islam*. Qom: Research Institute of the Juridical System.

Jafari-Langroudi, M. J. (2018). *Legal Terminology (Terminology of Law)*. Tehran: Ganj-e Danesh.

Ḩurr al-‘Āmilī, Muḥammad b. al-Ḥasan. (1414 AH). *Wasā’il al-Shī‘a ilā Tahṣīl Masā’il al-Sharī‘a* (Vol. 18). Qom: Al al-Bayt Institute for Revival of Heritage.

Muhaqqiq al-Hillī, Najm al-Dīn Ja‘far b. al-Ḥasan. (1410 AH). *Sharā‘i‘ al-Islām fī Masā’il al-Halāl wa-l-Harām* (Vol. 4). Qom: Maktabat al-Imām al-Ṣādiq (a).

Khomeini, R. (1984 / 1363 SH). *Tahrīr al-Wasīlah* (Vol. 1). Qom: Institute for Compilation and Publication of Imam Khomeini’s Works.

Khoei, Sayyid Abolqāsem. (1410 AH). *Mabānī Takmilat al-Minhāj*. Qom: Dār al-Zahrā‘.

Rahdārpour, S., & Moazen-Zādegan, M. (2018). “The Principle of Legal Transparency in Iranian Law and Its Comparison with European Jurisprudence.” *Public Law Studies Quarterly*, 23(81), 193–220. Tehran: University of Tehran.

Shahīd Thānī (Zayn al-Dīn al-‘Āmilī). (1410 AH). *Al-Masālik fī Sharh al-Sharā‘i‘* (Vol. 2). Qom: Al al-Bayt Institute for Revival of Heritage.

Shaykh Anṣārī, Murtazā b. Muḥammad-Amīn. (1409 AH). *Farā‘id al-Uṣūl (al-Rasā‘il)*. Qom: Maktabat al-Murtadāwiyah.

Ṭabarsī, Faḍl b. Ḥasan. (1412 AH). *Majma‘ al-Bayān fī Tafsīr al-Qur’ān*. Tehran: Dār al-Ma‘rifah.

Ṭūsī, Muḥammad b. al-Ḥasan (Shaykh Ṭūsī). (1417 AH). *Al-Nihāyah fī Mujarrad al-Fiqh wa-l-Fatāwā*. Qom: Dār al-Kutub al-Islāmiyyah.

Ṭabāṭabā’ī, Sayyid Muḥammad-Husayn. (1995 / 1374 SH). *Al-Mīzān fī Tafsīr al-Qur’ān* (Vols. 18–19). Qom: Islamic Publications Office.

Fathi, H. (2023). “Mechanisms for Securing Judicial Safety in the Islamic Political System.” *Fiqh and Ijtihad Quarterly*, 8(1), 107–132. Qom: Research Institute for Islamic Jurisprudence.

Fasihi, H. (2023). *The Islamic Judicial System: Jurisprudential Foundations and Social Functions*. Qom: Imam Sadiq (a) Educational Institute.

Kulaynī, Muḥammad b. Ya‘qūb. (1407 AH). *Al-Kāfi* (Vols. 1–8). Tehran: Dār al-Kutub al-Islāmiyyah.

Muhaqqiq al-Karakī, ‘Alī b. Ḥusayn. (1410 AH). *Jāmi‘ al-Maqāṣid fī Sharh al-Qawā‘id*. Qom: Dār al-Ma‘rifah.

Majlisī, Muhammad Bāqir. (1403 AH). *Biḥār al-Anwār al-Jāmi‘ah li-Durar Akhbār al-A‘imma al-Āthār* (Vols. 1–110). Qom: Dār Ihyā’ al-Turāth al-‘Arabī.

Mohammadi, G. (2021). *Judicial Fiqh and Judicial Policy in the Thought of Imam ‘Alī (a)*. Qom: Imam Khomeini Educational and Research Institute.

Motahhari, M. (1995 / 1374 SH). *Divine Justice (‘Adl-e Elāhī)* (Vol. 2). Tehran: Sadra Publishing.

Najafī, Muhammad Ḥasan (Şāhīb al-Jawāhir). (n.d.). *Jawāhir al-Kalām fī Sharḥ Sharā‘i‘ al-Islām* (Vols. 40–41). Qom: Dār al-Kutub al-Islāmiyyah.

Narāqī, Aḥmad. (1408 AH). ‘Awā‘id al-Ayyām fī Bayān Qawā‘id al-Āḥkām. Qom: Maktabat Āyatullāh al-Mar‘ashī al-Najafī.

*Nizām-i Qadā‘ī-yi Amīr al-Mu‘minīn ‘Alī (a)*. (2023 / 1402 SH). Qom: Islamic and Human Sciences Research Center.

Nahj al-Balāgha, compiled by al-Sharīf al-Raḍī b. Ḥusayn. (1406 AH). Qom: Dār al-Hijrah.

Hedayatpanāh, A. (2022). *Fiqh of Governance and Judicial Justice*. Qom: Baqir al-‘Ulūm University.

Yousfian, H. (2021). *A Jurisprudential Analysis of Judicial Independence in Imāmī Fiqh*. Qom: Seminary Research Center.