

# **Determining the Tactics for Implementing the Strategies of Formulating the Islamic Judicial Governance System from the Perspective of Leadership and Judicial Structure**

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## **Abstract**

This study aims to explicate the jurisprudential foundations of judicial governance in Islam and to extract its principal policy propositions based on Imamiyyah (Shi'a) jurisprudence. In this framework, seven macro-level propositions—structural transparency, merit-based selection of judicial leaders, prioritization of macro-level policymaking alongside the delegation of executive affairs, oversight and management of resources, institutional coherence, equitable distribution of financial and human resources, and systematic cultivation of qualified judicial personnel—are analyzed as the essential pillars of sustainable justice. The findings indicate that each of these principles is firmly rooted in authoritative jurisprudential maxims such as *hifz al-nizām* (preservation of order), *adā' al-amānāt* (fulfilling trusts), *nafy al-sabil* (preventing domination), *lā qadar* (no harm), and *mā lā yatimm al-wājib illā bihi fa-huwa wājib* (that without which an obligation cannot be fulfilled is itself obligatory). Textual analysis of Qur'anic verses and Prophetic and Imami narrations further demonstrates that the realization of judicial justice is unattainable without institutionalizing these propositions. Imamiyyah jurisprudence—grounded in the principles of authority (*wilāyah*), justice, and order—possesses the capacity to articulate a comprehensive model of Islamic judicial governance that is simultaneously rooted in religious legitimacy and responsive to the administrative demands of the contemporary era.

**Keywords:** Imamiyyah jurisprudence, judicial governance, Islamic justice, judicial policymaking, Islamic judicial system

## **Extended Abstract**

The present study offers a comprehensive doctrinal and analytical exploration of the macro-policy propositions that define and structure the Islamic judicial system, with particular emphasis on the jurisprudential foundations articulated within Imāmī (Shi'a) legal theory. Rooted in Qur'anic injunctions, prophetic practice, and the jurisprudence of the Imams, the Islamic conception of judicial governance (*hukm wa-qadā*) is neither merely a technical administrative system nor a derivative of secular statecraft. Rather, it constitutes an extension of divine authority (*wilāyah*) and a mechanism for realizing '*adl*'—the Qur'anic ideal of justice as a social and existential order. The study therefore seeks to identify and formulate seven macro-policy propositions that, taken together, constitute the foundational architecture of a legitimate, efficient, and ethically coherent Islamic judicial order. These seven propositions include: structural transparency, meritocratic selection of judicial leaders, concentration on macro-level judicial policymaking coupled with delegated execution, oversight and stewardship of judicial resources, institutional coherence and

reduction of structural complexity, equitable distribution of resources and personnel, and the cultivation of morally and professionally qualified judicial human capital.

These propositions are not administrative recommendations borrowed from modern public policy, but jurisprudentially grounded norms derived from authoritative Imāmī legal doctrines such as *hifz al-nizām* (preservation of systemic order), *adā’ al-amānāt* (fulfilment of trusts), *lā ḍarar wa-lā dirār* (prohibition of harm), *nafy al-sabīl* (prevention of illegitimate domination), and the principle that “whatever is necessary for fulfilling a religiously mandated obligation becomes obligatory itself” (*mā lā yatimm al-wājib illā bihi fa-huwa wājib*). Through an integrated jurisprudential analysis, the study demonstrates that these seven macro-principles form the backbone of any attempt to systematize judicial governance under Islamic law in a manner that is both normatively legitimate and operationally functional.

The extended theoretical section of this work begins with a rigorous definition of core conceptual categories: governance, justice, adjudication, wilāyah, policy-making, and judicial macro-propositions. In Islamic thought, *hukm* and *hukm-rānī* (governance) are grounded in divine sovereignty—“*in al-hukmu illā li-llāh*” (Q 12:40)—and thus differ fundamentally from secular theories of state legitimacy. Justice (‘*adl*) is conceptualized not merely as fairness but as “placing things in their proper place,” an idea attributed to Imam ‘Alī and foundational to Islamic ethics and law. Adjudication (*qadā’*) is framed as a sacred trust and a branch of the Imamate, not simply a governmental function. Indeed, according to Imam al-Ṣādiq, adjudication is a direct extension of the Imam’s authority; in the age of occultation, this authority devolves upon the qualified jurist (*al-faqīh al-jāmi‘ li-l-sharā’it*). Consequently, judicial governance must reflect not only administrative efficiency but fidelity to the objectives of Shari‘a (*maqāṣid al-sharī‘ah*): the protection of rights, the realization of justice, and the prevention of corruption.

Within this conceptual framework, the study situates the seven macro-policy propositions as follows:

The first proposition—structural transparency—is both a jurisprudential mandate and a governance necessity. The Qur’ān strongly condemns the concealment of truth, and Imāmī fiqh holds that judgments must be issued on the basis of clarity, *bayyina*, and accountability. The study argues that transparency in contemporary judicial governance includes clear chains of authority, publicly accessible judicial reasoning, and open administrative procedures. In the absence of transparency, suspicion, corruption, and arbitrariness emerge—conditions explicitly prohibited under Islamic legal norms.

The second proposition—the meritocratic selection of judicial leaders—derives directly from the Qur’anic criteria of *quwwah* (competence) and *amānah* (trustworthiness). Imam ‘Alī’s letter to Mālik al-Ashtar provides the earliest and clearest Islamic articulation of merit-based selection, emphasizing scholarly capacity, moral integrity, emotional stability, and independence from political influence. The study demonstrates that political patronage in judicial appointments is categorically incompatible with Imāmī jurisprudence, as such appointments violate the requirements of justice, betray public trust, and corrupt the institutional foundations of adjudication.

The third proposition—focusing judicial leadership on macro-policy formation while delegating routine execution—reflects the pattern established by the Prophet and the Imams, who set judicial norms and principles but delegated day-to-day adjudication to qualified deputies. This principle is further supported by legal maxims emphasizing the necessity of delegation for the fulfillment of communal obligations and the avoidance of undue concentration of power. The study argues that modern judicial systems cannot function effectively unless strategic decision-making is separated from operational administration, thereby ensuring both oversight and efficiency.

The fourth proposition—control and proper management of judicial resources—is essential to ensuring judicial independence. Islamic law prohibits the misuse, politicization, or inequitable allocation of public funds. Based on Qur’anic mandates and the teachings of Imam ‘Alī, the study argues that judicial leaders must exercise autonomous control over budgets, staffing, physical infrastructure, and technological resources to ensure that justice is not compromised by external financial pressures or political constraints.

The fifth proposition—structural coherence and reduction of complexity—addresses the jurisprudential requirement of *nizām* (order). Disorder, bureaucratic redundancy, and overlapping jurisdictions are categorized as forms of systemic wrongdoing that impede the realization of justice. Drawing from Qur’anic metaphors of unity (“like a solid structure,” Q 61:4) and jurisprudential emphases on coherence, the study posits that simplifying judicial procedures, clarifying responsibilities, and harmonizing jurisprudential interpretation are indispensable for a functional judicial system.

The sixth proposition—equitable distribution of judicial resources and personnel—derives from the Qur’anic prohibition against the concentration of wealth and power among elites and from the Imāmī emphasis on distributive justice. The study shows that imbalance in judicial capabilities across regions creates structural injustice. Therefore, allocating judges, budgets, and legal infrastructure based on need rather than privilege is a jurisprudential obligation and a governance necessity.

The seventh proposition—training and cultivation of highly qualified judicial personnel—is treated as a foundational requirement for the establishment of a just judiciary. The prophetic tradition that “judges are three: two in the fire and one in paradise” underscores the gravity of judicial error and the urgent need for rigorous moral and intellectual formation. The study argues that judicial training must include deep jurisprudential education, ethical formation, and practical case-analysis skills. Without such formation, no judicial system can sustain its legitimacy, regardless of structural reforms.

Having elaborated these seven macro-policy propositions individually, the extended abstract situates them within the broader framework of Imāmī political theology and legal theory. It demonstrates that these propositions collectively operationalize the Imāmī conception of *wilāyat al-‘adl*—the guardianship of justice—which is the essence of legitimate governance in Islam. They further reflect a sophisticated jurisprudential logic capable of informing modern institutional design without compromising religious legitimacy.

The final section synthesizes the findings to argue that the seven propositions not only constitute the theoretical foundation of the Islamic judicial system but also provide a practical blueprint for contemporary judicial reform in Muslim societies. The integration of divine legitimacy with administrative efficiency offers a model of judicial governance capable of addressing both spiritual and practical dimensions of justice. Crucially, the study emphasizes that the implementation of these propositions requires not merely structural reform but a transformation of institutional culture, judicial ethics, and leadership philosophy.

In conclusion, the extended abstract argues that the Islamic judicial system, as reconstructed through the seven macro-policy propositions, possesses an internally coherent, jurisprudentially sound, and normatively rich model of judicial governance. This model bridges classical fiqh and modern governance theory, grounding policy in divine principles while addressing contemporary challenges. The study thus contributes to both Islamic legal scholarship and comparative judicial governance by demonstrating how a religiously anchored system can articulate a comprehensive and operational framework for sustainable, legitimate, and just judicial administration.

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