

# **Determining the Tactics for Implementing the Strategies of Formulating the Islamic Judicial Governance System from the Perspective of Policymaking and Decision-Making**

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## **Abstract**

This research aims to explain the jurisprudential and velayat-based principles of the eight policies and decision-making principles in the Islamic judicial system, through a comparative analysis of the foundations of justice in Imami jurisprudence. The results show that justice, from the perspective of Imami jurisprudence, is not merely a moral command but a structural system of velayat that encompasses both the content and the form of the judicial process. Based on jurisprudential principles such as the negation of hardship and distress, negation of coercion, the principle of "no harm," prioritization of the more important over the less important, and the obligation of judicial decisions, each of these propositions carries legal obligations and social wisdom. The present study emphasizes that the acceptance of legitimate claims, the use of alternative dispute resolution methods, the independence of the judiciary, simplicity and speed in proceedings, proportionality between the ruling and the subject matter, procedural justice, the alignment of the case's importance with its precision, and institutional transparency are the fundamental pillars of sustainable justice in the Islamic judicial system. Furthermore, it has been shown that exceptions arising from public interests or the necessity of confidentiality are only legitimate within the framework of the supervision of the Guardian Jurist. As a result, the Islamic judicial system in Imami jurisprudence provides a comprehensive model of velayat-based, rational, and accountable judicial governance that institutionalizes justice in behavior, structure, and decision-making.

**Keywords** :Imami Jurisprudence, Judicial Policy-Making, Procedural Justice, Judicial Independence, Institutional Transparency.

## **Extended Abstract**

This research aims to explain the jurisprudential and velayat-based principles behind the eight major principles of policy-making and decision-making in the Islamic judicial system. The study conducts a comparative analysis of the foundations of justice in Shia jurisprudence (Imami Fiqh (and their practical implications in Iran's legal system. The study underscores how justice, in the view of Imami jurisprudence, is not merely a moral imperative but a structural, velayat-based principle that influences both the content and form of judicial proceedings.

The research delves into the concept of justice within the framework of Imami jurisprudence, emphasizing that it extends beyond the theoretical and reaches into the practical realms of legal and judicial systems. The research highlights the relationship between jurisprudential principles and their application in the Islamic judicial system, particularly regarding policy decisions related to judicial independence, transparency, and procedural fairness.

The study is based on foundational jurisprudential rules such as the prohibition of hardship (Nafi' Asar wa Haraj), the prohibition of harming others (Ladarrar), the principle of prioritizing more important issues over less important ones (Taqdim al-Ahm A'la al-Muhim), and the obligatory nature of judicial proceedings (Wujub al-Qada'). These principles form the basis for understanding how justice is realized in both judicial and legal contexts.

One key finding of the study is the need for the judiciary's independence within the Islamic context. The research highlights how judicial independence is not simply a theoretical concept but a necessity to preserve the integrity of the justice system. This independence is vital in ensuring the judiciary's ability to act impartially and without external influence. As such, the research stresses that judicial independence is a foundational pillar of the Islamic judicial system, ensuring that justice is maintained even when faced with political or social pressures.

Furthermore, the study explores the importance of efficiency and simplicity in the judicial process. In Imami jurisprudence, there is a strong emphasis on ensuring that judicial proceedings are not only fair but also efficient. The need for speed in handling cases is recognized, particularly in matters where delay could cause harm or loss of rights. This efficiency is also connected to the principle of proportionality, ensuring that judicial decisions align with the significance of the issue at hand.

The study also emphasizes the role of transparency in the judicial system. Transparency is seen as an essential component of maintaining the public's trust in the judiciary and ensuring that legal processes are fair and accessible. The research argues that transparency in judicial proceedings promotes public confidence in the fairness of decisions, particularly in the context of a democratic society where citizens are entitled to a transparent and accountable system of justice.

The research further explores the concept of alternative dispute resolution methods in the Islamic legal context. Imami jurisprudence encourages the use of peaceful methods to resolve disputes and reduce the burden on formal court systems. This approach underscores the Islamic emphasis on reconciliation and the prevention of

conflict through amicable and non-coercive means. This policy aligns with broader goals of reducing the use of force and maintaining social harmony.

In addition, the study critically examines the relationship between judicial independence and the oversight role of the velayat (Islamic guardianship). The research argues that while the velayat, specifically the office of the Supreme Leader in Iran, plays an oversight role in ensuring the judiciary's adherence to Islamic principles, such oversight must not infringe upon the judiciary's independence. The study indicates that the legitimacy of exceptions based on public interests or confidentiality requirements, such as those stemming from national security concerns, can only be justified within the bounds of oversight by the velayat. This relationship balances the need for judicial independence with the necessity of governance and state interests.

One of the critical findings of this study is the importance of aligning the Iranian judicial system with the foundational principles of Islamic justice. The research demonstrates that the Iranian judicial system, influenced by Imami jurisprudence, provides a model of governance that is not only just but also rational and responsive to the needs of the society. The study concludes that the Iranian legal system, while maintaining its roots in traditional Islamic justice, must continue to evolve by integrating modern legal principles and adapting to the contemporary challenges faced by the society.

The study ultimately suggests that further reforms are needed to clarify the boundaries between these principles and ensure that the judicial process remains fair, efficient, and transparent. Additionally, the research calls for the development of clearer legislative frameworks that would enhance the judicial system's independence and improve its ability to handle complex legal issues efficiently. In particular, the study recommends that policymakers focus on refining the legal structures that govern judicial decisions and create mechanisms for ensuring accountability without compromising judicial independence.

In conclusion, the research underscores the importance of a balanced approach to policy-making and decision-making in the Islamic judicial system. By integrating foundational jurisprudential principles with modern policy frameworks, the Iranian judicial system can continue to evolve while remaining true to its Islamic roots. Through these efforts, the judicial system can ensure the realization of justice in both form and substance, providing a model of governance that is not only just but also responsive to the needs of contemporary society.

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