



## General Authority and its Role in Achieving National Belonging The Judiciary as a Model

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### Abstract

This research addresses an important and highly relevant issue: the matter of national belonging in all its forms and the impact of rulings related to the supreme leadership in enhancing, solidifying, and empowering national belonging. The research is titled: "General Authority and its Role in Achieving National Belonging—The Judiciary as a Model".

The researcher has divided the study into an introduction and two chapters. The introduction outlines the objectives of the research, the reasons for selecting this topic, and the research methodology and structure. The first chapter discusses the concept of general authority and supreme leadership (Imamah). The second chapter delves into the rulings of supreme leadership that contribute to achieving national belonging.

The study examines the rulings related to the authority of the supreme leader (Imam) and their role in fostering national belonging. The researcher employs an inductive analytical approach to explain the relationship between judicial rulings and the achievement of national belonging.

Several important conclusions were reached, the most significant being: the means in Sharia are closely linked to the objectives of the Lawgiver, and the media plays a critical role in combating intellectual extremism. Moreover, the rulings of the judiciary and related matters have the greatest impact on achieving, deepening, solidifying, and enhancing national belonging.

**Keywords:** National Belonging, General Authority, Judiciary.

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### Introduction

Indeed, all praise is due to Allah. We praise Him, seek His help, and ask for His forgiveness. We seek refuge in Allah from the evils of our own selves. Whomever Allah guides, none can misguide, and whomever He misguides, none can guide. I bear witness that there is no deity worthy of worship except Allah alone, without partner, and I bear witness that Muhammad is His servant and messenger, peace and blessings be upon him. To proceed:

It is well-established in Islamic law that the Wise Lawgiver has prescribed rulings with specific purposes and objectives intended to be achieved through these rulings. Allah, the Exalted, did not legislate His rulings in vain, nor did He impose obligations on His servants without purpose—exalted is He above such. One of the key objectives is to safeguard both society and individuals from the spread of extremism and deviation within the community, as these lead to dire consequences for societal stability. For this reason, Islamic law, in its divine wisdom, has paid utmost attention to this matter, outlining the correct path for shaping the mindset of individuals within the Islamic nation. There can be no rectification for the Ummah, nor indeed for the entire world, except by adhering to this methodology. Allah, the Exalted, says: "But whoever turns away from My remembrance, he will certainly have a miserable life". taha:124 .

I have titled this research: "General Authority and its Role in Achieving National Belonging – The Judiciary as a Model" to reflect the themes I have mentioned. In this study, I will, by the will of Allah, shed light on the role of judicial authority in fostering national belonging, attempting to analyze this relationship appropriately.

#### First: Research Problem

The core problem of this research lies in answering several key questions :

1. What is the relationship between judicial rulings and the achievement of national belonging ?
2. What is the impact of the supreme leadership (Imamah) on both individuals and society?

#### Second: Research Objectives

1. To clarify the relationship between judicial rulings and national belonging .
2. To explain the judicial rulings that influence the achievement of national belonging.

#### Third: Importance of the Research

The significance of this research stems from several factors :

1. Its relevance to a critical subject—national belonging .
2. Highlighting the impact of judicial rulings on the realization of national belonging.

#### Fourth: Research Methodology

In this research, I followed the inductive analytical method. I began by studying judicial rulings, then analyzed their effects on achieving national belonging.

#### Fifth: Research Structure

This research is divided into an introduction, two chapters, and a conclusion :

**-Introduction: Includes an overview, research objectives, significance, problem, methodology, and structure .**

-Chapter One: General Authority and Judiciary

- Section One: The concept of general authority

- Section Two: The concept of the judiciary

-Chapter Two: Judicial Rulings and their Impact on National Belonging

- Section One: The ruling on appointing judges

- Section Two: The impact of appointing judges on national belonging

- Section Three: The integrity of the judiciary and its effect on intellectual security

- Section Four: Judicial independence and its role in fostering national belonging

- Section Five: Political stability

- Conclusion: Summarizes the main findings of the research .
- References: List of sources and references.

## **Chapter One: The Concept of General Authority and the Judiciary**

### **Section One: The Concept of General Authority**

General authority refers to the power vested in the caliph and those who serve under him, such as governors and judges. To hold general authority, certain conditions must be met: the individual must be Muslim, free, of legal age, mentally sound, male, knowledgeable, and just, with comprehensive qualifications and competence.

- Knowledge here refers to the understanding necessary to engage in lawful governance of public matters.
- Justice in this context signifies moral uprightness, avoiding sinful behavior.

-Competence means the ability to enforce legal penalties, have insight into warfare, and the capability to lead people effectively. This also includes sound senses like hearing, sight, and speech, which enable the individual to perform duties properly. Sensory integrity is meant to ensure that one's opinions and reasoning remain unaffected. Furthermore, the individual must be physically fit to perform tasks that require swift movement and agility, free from impairments that would hinder the fulfillment of responsibilities.

Additionally, the individual must exhibit courage and valor, enabling them to protect the state and wage jihad against enemies. They must also possess sound judgment, equipping them to manage public affairs, govern effectively, lead in times of war and peace, and enforce laws without excessive leniency.<sup>(1)</sup>

General authority is a legitimate power granted to its holder, enabling them to oversee the affairs of those under their charge. This involves safeguarding their interests, providing for their needs, and making decisions that serve their welfare. The people are required to obey and submit to this authority, adhere to the collective leadership, and it is forbidden to rebel against it. <sup>(2)</sup> ..

### **Section Two: The Concept of the Judiciary**

In linguistic terms, the word "judiciary" refers to the act of rendering a decision or making a ruling. This is reflected in the Quranic verse: "And if not for a word that preceded from your Lord, the matter would have been decided between them .meaning that the ruling between them would have been settled. Similarly, the expression "the judge has ruled between the disputants" indicates that the judge has made a final decision in their case.

The term qadā also applies to situations where someone fulfills an obligation, such as when a person is said to have "paid off a debt," meaning they have made a firm decision to fulfill the obligation and have completed it, severing any outstanding responsibilities. In essence, anything that is firmly established and concluded can be said to be decided.<sup>(3)</sup> .(The term "judiciary also conveys the meaning of finality and obligation, as it involves decisively settling disputes and eliminating the possibility of further conflict. It obligates both parties involved in the dispute to abide by the judgment made by the court, ensuring that the ruling is enforced with authority and finality. This definitive resolution of disagreements is central to

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(1) The Kuwaiti Encyclopedia of Jurisprudence 6/190

(2)Ghamz Uyun al-Basair fi Sharh al-Ashbah wa al-Naza'ir (1/455(

(3)Al-Sihah Taj al-Lugha wa Sihah al-Arabiyyah by Abu Nasr Ismail bin Hammad al-Jawhari al-Farabi 5/1892 - Investigation: Ahmad Abd al-Ghafur Attar - Published by Dar al-Ilm Lil-Malayin - Beirut - Fourth Edition - Year 1407 AH - 1987 AD.

the role of the judiciary, as it imposes mandatory compliance on the disputing parties based on the judgment rendered.<sup>(1)</sup> .

The term "judiciary" also connotes the completion, precision, and execution of an action. This is reflected in the Quranic verse: "And He completed them as seven heavens in two days" [Qur'an, 41:12], where indicates the act of perfecting and bringing something to fulfillment.

<sup>(2)</sup> In Islamic law (Sharī'a), the judiciary is defined as the obligation imposed on others through evidence or confession. It is also commonly understood as the process of settling disputes and resolving conflicts, ensuring that justice is served by establishing the truth, whether through the presentation of evidence or the admission of responsibility by the parties involved<sup>(3)</sup> . .

The judiciary is also defined as the resolution of disputes or an obligatory statement issued by a public authority. Additionally, it is described as the judgment rendered by a judge during a legal proceeding, meaning that when two individuals are in dispute, and the judge issues a ruling based on evidence and legal proofs, this ruling is considered judicial action<sup>(5)(4)</sup> .

## **Section Two: Legal Provisions Related to the Judiciary and Their Impact on National Belonging**

### **First Subtopic: The Ruling on the Appointment of Judges**

In Islamic Sharia, judiciary is classified as a communal obligation. This implies that a group of individuals within the community is required to undertake the responsibilities and duties of the judiciary. If no one fulfills this role, the entire community incurs sin. However, if a portion of the community undertakes the task, the obligation is lifted from the rest.

**This ruling is based on clear Islamic evidence, such as the Quranic verse:**

**"Indeed, Allah commands you to render trusts to whom they are due, and when you judge between people to judge with justice" [Surah An-Nisa, 58.]**

And His saying, the Most High :

"O David! We have made you a vicegerent on earth. So judge between people in truth and do not follow desire, for it will lead you astray from the path of Allah. Indeed, those who go astray from the path of Allah will have a severe punishment for having forgotten the Day of Reckoning." [38:26 ]

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Majmal al-Lughah by Ibn Faris by Ahmad bin Faris bin Zakariya al-Qazwini al-Razi, Abu al-Hussein 1/263 - Study and investigation: Zuhair Abdul Mohsen Sultan - Publishing House: Al-Risalah Foundation - Beirut - Second Edition - 1406 AH - 1986 AD

(2)Majmal al-Lughah by Ibn Faris by Ahmad bin Faris bin Zakariya al-Qazwini al-Razi, Abu al-Hussein 1/263 - Study and investigation: Zuhair Abdul Mohsen Sultan - Publishing House: Al-Risalah Foundation - Beirut - Second Edition - 1406 AH - 1986 AD, - Dictionary of Language Standards by Abu al-Hussein Ahmad bin Faris bin Zakariya al-Qazwini al-Razi 5/99 - T: Abdul Salam Muhammad Harun - Published by Dar al-Fikr - Year 1399 AH - 1979 AD.

(3)Anis Al-Fuqaha fi Ta'rifat Al-Alfaz Al-Tawwalah Bayn Al-Fuqaha by Qasim bin Abdullah bin Amir Ali Al-Qunawi Al-Rumi Al-Hanafi, p. 84 - Translated by: Yahya Hassan Murad - Published by Dar Al-Kotob Al-Ilmiyyah - Published by: 2004 CE - 1424 AH, Encyclopedia of Kashf Istilahat Al-Funun Wa Al-Ulum by Muhammad bin Ali bin Al-Qadi Muhammad Hamid bin Muhammad Al-Hanafi Al-Thanawi 2/1323 - Introduction: Dr. Rafiq Al-Ajam - Investigation: Dr. Ali Dahrouj - Published by Maktabat Lubnan Nasheroon - Beirut - 1st edition - 1996 CE..

(4)Dustur Al-Ulama = Jami' Al-Ulum Fi Istilahat Al-Funun by Judge Abdul Nabi bin Abdul Rasool Al-Ahmad Al-Nakri 3/45 - Translated by: Hassan Hani Fahs - Published by Dar Al-Kotob Al-Ilmiyyah - Lebanon / Beirut - Published by: First, 1421 AH - 2000 AD

(5)Al-Kulliyat, a dictionary of linguistic terms and differences by Ayoub bin Musa Al-Hussaini Al-Quraimi Al-Kafwi, Abu Al-Baqa Al-Hanafi, p. 705 - T: Adnan Darwish - Muhammad Al-Masry - Published by Al-Risala Foundation - Beirut..

And His saying :

"And judge between them by what Allah has revealed, and do not follow their desires, and beware lest they tempt you away from some of what Allah has revealed to you. But if they turn away, then know that Allah only intends to afflict them for some of their sins. And indeed, many among the people are defiantly disobedient." [5:49] These verses explicitly indicate that resolving disputes is the responsibility of the ruler (the authority). It is obligatory for the ruler to undertake the task of resolving conflicts, ending disputes, restoring rights, and restraining oppressors. Since it is impossible for the ruler to personally handle all these matters due to the vastness of the state and the abundance of cases, appointing judges becomes one of his religious duties to fulfill this responsibility. The Messenger of Allah (peace and blessings be upon him) said: "If a judge rules and strives to reach a decision, and he is correct, he will have two rewards. If he rules and strives and errs, he will have one reward." This hadith indicates that the task of making judgments and resolving disputes is the responsibility of the ruler (authority), and judges act on his behalf in fulfilling this duty. It highlights the value of striving for justice, even when mistakes occur, affirming the importance of the role of judges in upholding justice.<sup>(1)</sup>..

Similarly, the Prophet Muhammad (peace and blessings be upon him) said: "There are three (types of) judges: one will be in Paradise and the other two will be in Hell. The one in Paradise is the man who knew the truth and judged according to it. The man who knew the truth but acted unjustly in his judgment will be in Hell, and the man who judged the people out of ignorance will also be in Hell".

(2)

## **Section Two: The Impact of Appointing Judges on National Belonging**

**National belonging is based on multiple pillars, the most important of which is the feeling of individuals in society being secure regarding themselves, their property, their honor, and their rights. Since the judiciary, in all its components, achieves reassurance for the souls, properties, honors, and rights, it significantly contributes to national belonging, preventing any erosion of this feeling among members of society. This psychological security is one of the most critical aspects of national belonging.**

**The presence and appointment of judges close a significant avenue of evil and corruption that can affect society due to their absence from the scene.<sup>(3)</sup> Thus, the importance of the judiciary's authority within the state becomes clear, as does the necessity for the ruler to appoint judges to secure benefits and prevent evils. For this reason, it is essential for anyone appointed to the judiciary to undertake their duties; even refusal to do so would be considered a sin.<sup>(4)</sup> And it cannot be considered a matter of obligation for him, as it is a communal duty due to the significant impact of this position on preserving society, both physically from crimes, disputes, and unrest, and morally from the ideological deviations resulting from their absence.**

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(1) Narrated by Muslim. / Book of Judgments / B Explaining the reward of the judge if he exerts himself and is correct, or is wrong 3/1342 No.: (1716.)

(2) Narrated by Abu Dawood, Al-Tirmidhi and Ibn Majah. Sunan Abu Dawood / Book of Judgments / B In the judge who makes mistakes 3/299 No.: (3573), and Sunan Al-Tirmidhi B What came from the Messenger of Allah □ in the judge 3/605 No.: (1322), Sunan Ibn Majah: Book of Rulings / B The judge exerts himself and is right 2/776 No.: (2315.)

Al-Adda Sharh Al-Umda by Abd Al-Rahman bin Ibrahim bin Ahmad Al-Maqdisi, p. 659, Dar Al-Hadith edition, Cairo, publication date: 1424 AH 2003 AD, Zad Al-Mustaqni' fi Ikhtisar Al-Muqni' by Musa bin Ahmad bin Musa bin Salem bin Issa bin Salem Al-Hijjawi Al-Maqdisi, p. 235, T: Abd Al-Rahman bin Ali bin Muhammad Al-Askar, Dar Al-Watan Publishing House, Riyadh.

(4) uhfat Al-Fuqaha' by Al-Samarkandi 3/369, Dar Al-Kutub Al-Ilmiyyah edition, Beirut - Lebanon, second edition, 1414 AH - 1994 AD, At-Tanbih fi Al-Fiqh Al-Shafi'i by Abu Ishaq Al-Shirazi, p. 251, Alam Al-Kutub edition, Al-Muhadhdhab fi Fiqh Al-Imam Al-Shafi'i by Abu Ishaq Ibrahim bin Ali bin Yusuf Al-Shirazi 3/376, Dar Al-Kutub Al-Ilmiyyah edition.

### **Section Three: The Integrity of the Judiciary and Its Impact on Achieving Intellectual Security<sup>(1)</sup>**

**Integrity:** This refers to achieving justice and fairness in all stages of litigation. In general, integrity means avoiding anything that undermines or tarnishes the process.<sup>(2)</sup>

There are many tools for ensuring integrity, such as treating both parties equally in all matters, including appearance, speech, private discussions, and attentiveness. The judge should not favor one party over the other but should maintain balance in all these aspects.<sup>(3)</sup>

**The judge must ensure equality between the two parties when they enter the courtroom, showing them equal attention, sitting between them, listening to both, and rendering a judgment based on what God has revealed<sup>(4)</sup>.**

These procedures and ethical standards that the judge must follow during litigation, which have been agreed upon by jurists in this regard, ensure the integrity and impartiality of the judge. They require complete neutrality, to the extent that the judge is prohibited from making decisions based on his own knowledge to prevent any potential bias in the judgment.

<sup>(5)</sup> .

As for the impact of these procedures on achieving intellectual security, it is evident in that trust in the judge's ruling puts both parties at ease and reassures them about the judgments issued by the judge. This not only fosters complete acceptance of these rulings but also ensures that there will be no deviation or disregard for them. Undoubtedly, the acceptance of judicial rulings and the reassurance in them are among the most important factors that contribute to building national belonging in countries, as individuals do not adopt misguided or deviant thoughts stemming from a sense of being unable to attain

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(1) Al-Muhadhdhab fi Fiqh Al-Imam Al-Shafi'i by Abu Ishaq Ibrahim bin Ali bin Yusuf Al-Shirazi 3/393-ed. Dar Al-Kotob Al-Ilmiyyah, Al-Majmu' by Al-Nawawi 20/152, Mukhtasar Al-Fiqh Al-Islami Fi Daw' Al-Qur'an Wal-Sunnah by Muhammad bin Ibrahim bin Abdullah Al-Tuwaijri p. 1008-ed. Dar Asdaa Al-Mujtama', Kingdom of Saudi Arabia- 11th ed., 1431 AH - 2010 AD.

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justice from their perspective. Therefore, the impact of judicial integrity on achieving intellectual security is clear.

#### **Subsection 4: Independence of the Judiciary and Its Impact on National Belonging**

The term "independence of the judiciary" refers to the freedom of judges to seek truth and justice without any influence from authorities, pressure from rulers, or interference from powerful individuals. Judges should not fear any reproach for their decisions, nor should the judiciary be subject to the influence of any authority or person that could divert it from its ultimate goal, which is to establish justice among people and ensure that rights are delivered to their rightful owners.<sup>(2) (1)</sup>

This means that a judge should have the freedom to issue rulings on the matters presented to them, basing their decisions on the facts in accordance with the law, free from interference, harassment, or influence from the government or its representatives. It also encompasses the avoidance of interference and influence that may arise among the judges themselves due to differences in their administrative positions or the levels of their courts. All judges are independent and do not follow one another, regardless of the rank or status of any individual. Independence is characterized by judges not being subordinate to anyone, whether that person is another judge or not.<sup>(3)</sup>

The independence of the judiciary is considered one of the most important pillars for establishing truth and justice. It is also a crucial foundation for achieving intellectual security in society through the following:

Enhancing Trust: It fosters trust between individuals in society and state institutions, ensuring that no individual would undertake any action that could jeopardize the safety and security of the state.

Building National Belonging: It cultivates a sense of national belonging among citizens towards the state and its institutions, as individuals feel that their rights are protected. In the event of any infringement on their rights by an individual or institution, an independent judiciary restores their rights.

Feeling of Security: It instills a sense of security regarding the protection of rights, preventing any violations. This effectively closes the door to those who attempt to recruit youth for groups or ideologies by exploiting their feelings of not receiving what they deserve.

When these three points are realized, it can be said that the minds of our youth and all members of society are safeguarded from deviation and extremism, preventing destructive ideas that disturb the entire community and hinder any progress. Conversely, the independence of the judiciary instills a sense of safety, guarantees rights and properties, and safeguards them. All of this serves as a starting point for building, deepening, and empowering national belonging.

#### **Conclusion**

Praise be to Allah, whose grace brings all good deeds to completion, and peace and blessings be upon the noblest of prophets and the leader of the messengers, and upon his family and companions, and those who follow his guidance until the Day of Judgment .

In conclusion, I would like to highlight the most important findings of this research:

1. Eternal Validity of Islamic Law: Islamic law possesses the means and purposes for its permanence and applicability to all times and places.
2. Purposeful Legislation: The Wise Legislator has not established His laws in vain—Exalted is He above that—but rather for objectives and purposes intended through His legislations and rulings.

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(1) Independence of the judiciary in Islamic jurisprudence - Dr. Muhammad Abdullah bin Ibrahim Al-Suhaim p. 123 - Ed. Dar Ibn al-Jawzi - First Edition - 1436 AH..

(2) The previous reference.

(3) Independence of the Judiciary, p. 77

3. Beneficial Rulings: All the rulings of Sharia are designed to fulfill the interests of those accountable, both in this world and the Hereafter.
4. Importance of Judiciary: The judiciary plays a vital role in achieving and instilling national belonging in the hearts of community members.
5. Need for National Belonging: National belonging, with its essential components, is a religious obligation and a worldly necessity; without it, life cannot be properly established, ensuring the prevalence of security and stability.

And Allah knows best. Our final supplication is: Praise be to Allah, Lord of the worlds, and may peace and blessings be upon our Prophet Muhammad, his family, and companions, and those who follow his guidance until the Day of Judgment.

### **Recommendations**

Based on this study, the following recommendations can be drawn:

1. Promotion of National Belonging: Scientific institutions and advocacy groups should focus on fostering national belonging.
2. Curriculum Inclusion: Educational programs at all levels should include a curriculum on national belonging.

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