

# The Foundations Of Judicial Policy Related To The Judicial System: Through Umar Bin Al-Khaṭṭab's Correspondence To His Judges And Governors

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## Abstract

Umar bin Al-Khaṭṭab (RA) took unique pains to deliver effective and speedy justice for the people. He was the first to establish a successful system of judicial administration, where Justice was administered under the principles of Islam. This study aims to identify the foundations of judicial policy related to the judicial system, its nature, and its objectives by examining the correspondence between the Commander of the Faithful Umar Bin Al-Khaṭṭab (RA) and his judges. As well as tracing the broad lines of his judicial policy, shedding light on his method of jurisprudence and looking into the fields of legal policy through the administration of the judicial system based on the principles of rulings and their applications in reality.

The "inductive and descriptive" research methodology was utilized in this study, in which the original sources of Umar's statements and actions were examined, their contents were extrapolated, and their implications were illustrated. The findings of the study demonstrated that the correspondence (letters) of Umar Bin Al-Khaṭṭab (RA) included the most significant foundations of judicial policy.

**Keywords:** the foundations of politics, judicial policy, Umar Bin Al-Khaṭṭab, the judicial system.

## Preface:

Umar Bin Al-Khaṭṭab (RA) took special pains to provide effective and speedy justice for the people. He established a successful system of judicial administration. Where Justice was administered under the principles of Islam. Umar was the first ruler in history to separate the judiciary from the executive. He issued 'Farmans' laying down the principles for the administration of justice such as treating the people equally, pondering over the precedents

and analogous cases, and then deciding by analogy (Iqbal, 2017).

The most significant underpinnings of judicial policy were revealed in Umar's correspondence with his judges. The horizons of *ijtihad* that Umar demonstrated, in which he looked into the consistency of the Prophet's instructions in word and meaning, and on the other hand, the clarity of readiness to use human experience and intelligence guided by the Qur'an and Sunnah in knowing the potentials of the human soul, its impulses, and its potential for good and evil in it.

His letters revealed a distinctive and methodical Islamic approach to developing the legal system.

As in his letters, Umar's recommendation to his judges demonstrates the institutional structure of the legal system during the Rightly Guided Caliphate as well as the degree of development of the supervisory system that the Caliph employed over judges as the highest judicial authority given his general jurisdiction and his unique eligibility to exercise that role. Although the notion of judicial independence was not taken into consideration in these directives, this deficiency had its reasons and circumstances.

This study was limited to the foundations of the legal policy related to the judicial system only without dealing with the processes and provisions, which will be the subject of another research because of the quantity, variety, and character of those foundations.

### **Study importance:**

The importance of this research lies in the following:

**First:** This study examines the legal principles of Umar Bin Al-Khattab (RA), the second Caliph of the Islamic state, whose jurisprudence was characterized by the profundity of thought and intelligence as attested by the Prophet (PBUH) and the companions. In his ruling and correspondence, Umar demonstrates his capacity to pass legislation, impart knowledge, and inspire people.

**Second:** There is an urgent need to recall, understand and disseminate the legal foundations of judicial policy in all fields, especially those foundations that were established at the peak of the era of the Rightly Guided Caliphate. Which was the era of the nation's unity and the establishment of its political, judicial, and

doctrinal system, due to its knowledgeable legacy that can only be acquired by reference to it. Hence, this study was necessary to exhibit the Islamic judicial system and judicial policy in Islamic legislation.

**Third:** Most of the researchers dealt with the letters of Umar Bin Al-Khattab in terms of hadith or general jurisprudence studies, and few studies dealt with the issue of the judicial aspect. While this study is characterized by addressing the foundations of Sharia policy and judicial principles.

### **Study Objectives:**

The current study aims to:

1. Extracting the foundations of the judicial policy related to the judicial system from the correspondences of the Commander of the Faithful Umar Bin Al-Khattab to his judges.
2. Studying the extent to which these bases mentioned in those correspondences include the basics that must be considered in establishing the judicial system in terms of its sources and objectives.
3. Explanation of the textual legal documents for the judicial directives of Umar Bin Al-Khattab.
4. Linking the contents of the letters issued by Umar Bin Al-Khattab to his judges with some of his judgments and practical positions, as a statement of the tightness of the system and consistency of the curriculum as much as possible.

### **Problem Statement and Questions:**

The problem of the study is illustrated by raising the following question: What are the features of the judicial policy in Islamic legislation at the stage of the Rightly-Guided Caliphate that can be

extracted from the letters of Umar Bin Al-Khattab to the judges working under his jurisdiction during the period of his caliphate, concerning the judicial system?

### Previous Studies:

Numerous hadith scholars, academics, and fundamentalists have been interested in the legal politics and jurisprudence of Caliph Umar Bin Al-Khaṭṭab (RA) particularly his famous letter to Abū Mūsā Al-Ash'ari. which, with its reference to the beginnings of legislation, is regarded as one of the most significant sources of the foundations and principles of judicial policy. They were also interested in proving its significance in terms of its implications and the in-depth rules it contained. Similarly, various books have discussed the essence of this letter and Umar's other letters, guidance, and decisions concerning the foundations of legislation, the judiciary and its principles, the outlines of politics, and the ethics of responsibility in public affairs.

Among the most important previous studies were the following:

1. The Judiciary Letter of the Commander of the Faithful Umar Bin Al-Khaṭṭab (RA) by Ahmed Sahnoun. It is an investigation of the text of the letter and its narrations and the differences between them. It also includes explanations, critics and all forms of scientific research aspects.
2. The moral and institutional dimension of justice through Umar Bin Al-Khaṭṭab's letter to Abū Mūsā Al-Ash'Arī in the judiciary, by Al-Ḥasani Al-Ghabri. It was published in an issue (11-12) of Al-Mishkat magazine issued by Al-Zaytoonah University in Tunisia, in 2013-2014. The researcher traced the aspects of justice in the principles of the

Islamic judiciary, and his purpose was not to mention or explain these principles, but rather to shed light on politics Judicial and the judicial system the same as the main purpose of this research.

3. The jurisprudential system of Umar Bin Al-Khaṭṭab: A comparative jurisprudential study. It was conducted by Muhammad Tawfiq Suleiman Musa as a requirement for the completion of a master's thesis at An-Najah National University in Palestine. The researcher cited Umar's letter to Abū Mūsā Al-Ash'Arī and added to it more evidence concerning the judiciary during his tenure that was related by the predecessors. Despite its high calibre, the research focused more on elucidating and dissecting the letter's language than, in our opinion, it did on revealing judicial concepts and underpinnings.
4. Jurisprudence rules and legal purposes extracted from Umar's judicial letter, by Aziz Muhammad Ali Al-Khatri, published in the Journal of the Faculty of Sharia and Law of Al-Azhar University, Dakahlia Branch, Vol. 21, No. 5, 2019, pages (4033-4080). It is a study that was written in the style of recent books on jurisprudence foundations. The researcher listed the sources of the legal principles mentioned in the letter, which were derived from evidence found in the Qur'an and the Sunnah. Additionally, he clarified their lexicon and general meanings. In terms of the purpose and subtracting technique, it is somewhat more similar to the jurisprudence books.
5. The judiciary in the era of Umar bin Al-Khaṭṭab, authored by Nasser bin Aqeel Al-Tarifi. It is a book consisting of two parts, the origin of which is a doctoral

thesis. The first edition of it was published in 1986. It is a precious book in which the author chronicles the emergence of the institution of the judiciary and the crystallization of the judicial system in the era of Umar, may God be pleased with him. And he included in it many of the judiciary's investigations, its partial issues, and the narrations reported on the authority of Umar, but the purpose of the book was not to abstract the principles and raise the level of theorizing and setting rules.

After reviewing the previous studies, we believe that there is a need to study the principles that represent the foundations of the judicial policy contained in the general correspondence of Umar and his letters to his judges. As well as citing his judges in some cases, if any, in a way that illuminates as much as possible the nature of the Islamic judicial system at that stage and helps in imagining the institutional form of the judicial system.

### **Study Approach and Data Collection**

This research was based on the "inductive descriptive" method. where all of their contents were extrapolated after reviewing the original sources and narrations of Umar's statements and actions. The researchers gathered and analyzed the writings, retrieved the meanings of the terms, and then categorized the information from the written texts using formulations that attempted to be more in line with the lexicon and lingo of modern law.

Each narration was cited along with its original source, and the ambiguous ones were clarified. The researchers also connected the Qur'anic verses to their respective locations in the Noble Qur'an and each narrative to the information that was mentioned in the research on prophetic

hadiths. Since the chains of narrations reported on Umar Bin Al- Khattab's (RA) authority in the judiciary deal with both the historical aspect, which scholars have typically been lenient in and the legislative aspect, which requires some emphasis in research to prove it or not, we did not adopt a purely modern approach. The researchers point out that what was mentioned in Umar's letters is always supported by firm foundations, even if some of its vocabularies are not proven from the point of view of the chain of transmission.

### **Study Limitation:**

The research is limited to identifying the legal foundations in written texts, specifically Umar Bin Al- Khattab's letters and writings. And what distinguishes it is the specificity of the authored text because Umar (RA) knows that what he composes will be proven, preserved, and conveyed. This acts as a foundational statement and demonstrates the writer's degree of stability and principled news. This alone is a sufficient justification for the study to focus on it. Some jurists first believed that the written covenant between the Caliph and the judge, along with his instructions, was preferable in terms of Shari'a (Ibn Al-Rafa, 2009).

### **Study Plan:**

This research consists of three main chapters, the first chapter contains the introduction, study importance and problem, and the methodology applied in this research. Chapter two consists of an introductory to Umar's most important letter to Abū Mūsā Al-Ash'Arī (RA) in particular, the importance of this letter, and important concepts and definitions. Where the second chapter includes four main sections which are:

1. Ensuring the right of litigation for all.

2. The rule of law, legal authority, and the equality of people before it.
3. The effectiveness of the judicial system and the ease of its procedures.
4. The purpose of the judiciary is to achieve truth and establish justice.
5. The conclusion contains the most important findings.

## Chapter One

### Umar's letter to Abū Mūsā Al-Ash'Arī (RA)

The foundations of judicial policy that we seek to examine in this research include several correspondences, the most important of which is a letter sent by Umar Ibn Al-Khattab to Abū Mūsā Al-Ash'Arī (RA) when the latter was a judge. The following is the most important letter sent by Umar (RA). As for the other principles mentioned in this section, they will be cited consequently.

The office of judge is one of the positions that directly fall under the caliphate. It is an institution that serves the purpose of settling lawsuits and resolving disputes. However, it follows the guidelines of the Sunnah and the religious precepts outlined in the Qur'an. Umar was the first person who appointed judges in the cities (Ibn Jozī, 2014). He appointed several judges, and on appointing Abū Mūsā, he wrote him the famous letter that contains all the laws that govern the office of judges and is the basis of them.

He says in it "Now, judging (the judicial system) is a confirmed obligation and a way to be followed. Understand the depositions that are made before you, and enforce the clear right, for it is useless to consider a plea that is not valid. Consider all the people equal before you in your court and your attention, so that the noble will not expect you to be partial and the humble will not

despair of justice from you. The claimant must produce evidence; from the defendant, an oath may be exacted. Compromise is permissible among Muslims, but not any agreement through which something is forbidden would be permitted, or something permitted forbidden. If you gave judgment yesterday, and today upon reconsideration come to the correct opinion, you should not feel prevented by your first judgment from retracting; for justice is primaeval, and it is better to retract than to persist in worthlessness. Use your brain about matters that perplex you and to which neither Qur'an nor Sunnah seems to apply.

Study similar cases and evaluate the situation through analogy with those similar cases. If a person brings a claim, which he may or may not be able to prove, set a time limit for him. If he brings proof within the time limit, you should allow his claim, otherwise, you are permitted to give judgment against him. This is the better way to forestall or clear up any possible doubt. All Muslims are acceptable as witnesses against each other, except such as have received a punishment provided for by the religious law, such as are proven to have given false witness, and such as are suspected (of partiality) on (the ground of) client status or relationship, for God, praised be He, forgives because of oaths and postpones (punishment) in face of the evidence." (Al-Daraqutni, 2004; Al-Bayhaqi, 2003; Serjeant, 1984; Fatima, 2021; Sahnoun, 1992).

### The importance of Umar's letter to Abū Mūsā Al-Ash'Arī

The letter of Umar Ibn Al-Khattab (RA) received great attention from scholars because of the depth of the foundations and principles contained in it. Al-Sarakhsi pointed out that "What Umar wrote to Abū Mūsā can be regarded as a book of "The Policy of the Judiciary and the Judgment administration" (Al-Sarakhsi, 1993, 16/60). Ibn

al-Samnani added “This speech does not come except a man of the scholar of *ijtihad*, because he has compiled matters in *ijtihad* and judgment. And if every jurist on earth attempt to say the same, he would not be able to do so, because regardless of the shortness of the letter, the statement of its words and meanings is deep” (Ibn Al-Samnani, 1984, pp. 1479-1480).

Al-Kasani said: “As for the etiquette of the judiciary, they are many, and the origin is the letter of our master Umar, may God be pleased with him, to Abū Mūsā Al-Ash‘Arī, may Allah have mercy on him. Muhammad, may Allah have mercy on him, named him: *Risalat al-Siyasa*” (Al-Kasani, 1986, p. 7/9). Al-Qarafi said: “In this letter, he collected most of the principles and rulings of the judiciary” (Al-Qarafi, 1994, p. 10/72). The Sheikh of Islam Ibn Taymiyyah said: “And Umar’s famous letter in the judiciary to Abū Mūsā Al-Ash‘Arī was circulated by the jurists, and they built rulings by reference to it and relied on what was in it of jurisprudence and the principles of jurisprudence...” (Ibn Taymiyyah, 1986, p. 6/71).

Ibn Al-Qayyim, may God have mercy on him, said: “This is a great message, which the scholars received with acceptance, and they built upon it the principles of judgment and testimony. The ruler and the mufti are the ones most in need of contemplation and understanding of it” (Ibn Qayyim al-Jawziyya, 1423 AH, p. 2/163).

### **The concept of foundations and judicial policy:**

**Foundations** (‘Uss) in the Arabic language is the plural form of the word (‘us) which mean the origin of the thing. (Ibn Fares, 1979 AD, p. 1/14).

**Policy**, (*siasa*) in the Arabic language is derived from the verb (*sasa*), which means taking over the affairs of the presidency, leadership,

administration, and governance fairly (Al-Zubaidi, n.d., p. 16/157).

Idiomatically, Ibn Qayyim al-Jawzia reported on the authority of Ibn Aqil al-Hanbali that who defined politics as “Whatever acts in which people are closer to righteousness and farther from corruption.” Then he added to the definition, even if the Messenger of Allah (PBUH) did not legislate it. (Ibn Qayyim Al-Jawziyyah, 1423 AH, p. 6/51).

Therefore, we may consider politics as a matter of a flexible nature carried out by those with public authority to look after the affairs and interests of the people and take care of them in a way that achieves the public and private interests (Saada, 2010, p. 37).

**Judgment /Jurisdiction** قضاء (qadā), in the Arabic language, means judgment, obligation, and inevitable. In explaining its meaning Ibn Faris said: “The two letters “q” qāf, the dād “d”, and the defective letter are a sound origin that indicates the accuracy, perfection and enforcement of an order. Allah Almighty said: { So He formed the heaven into seven heavens in two days } [Fussilat: 12] meaning: He completed their creation with perfection.

**Judgment** القضاء is pronounced as “qadā” (ḥukm), Allah Almighty said: “{ فَاقْضِ مَا أَنْتَ قَاضٍ }” { So decree whatever you desire to decree, } [Taha: 72] which means to judge (v); however, the word judge (n) is stemmed from Judgment. So, a judge is a person who has the authority to give an opinion or a final decision. Death is also called qadā, because It is a matter that is enforced and applies to Adam's son and other creatures.” (Ibn Faris, 1979, pg. 5/99).

In terminology: The Hanafi school define it as “resolving disputes” (Ibn al-Shinah, 1973, p.

218), or as “to judge fairly between people” (Al-Kasani, 1986, p. 7/2).

According to the Maliki school, it is defined as “notifying the enforcement of a legal ruling” (Ibn Farhoun, 1986, pg. 1/119), and this definition was approved by Alaa al-Din al-Tarabulsi from the Hanafi school (Al-Tarabulsi, n.d., p. 7).

Where Shafi’s school define it as an “Obligation made by the person authorized to issue a legal ruling” (Al-Ramli, 1984, p. 8/235). According to the Hanbalis: “the obligation and the settlement of disputes” (Al-Hijjawi, n.d., p. 4/363), or it is “the clarification of the legal ruling and its obligation, and resolving arguments” (Al-Bahouti, n.d., p. 704).

Contemporaries defined it as: “resolving disputes under the Shari’a with an obligatory statement from an authorized person” (Sa’ada, 2010, p. 33). Accordingly, judicial policy means a set of principles and foundations governing the judiciary, its tools and mechanisms that guarantee the achievement of its goals.

The judicial system, *Nizām* in the Arabic language is derived from *nazzam*, *nizām* which is composition, consistency, and straightforwardness of method (Al-Azhari, 2001, pg. 14/280). As for the judicial system, or the judicial administration, it is a new contemporary term, which has been defined by Al-Zuhaili, as “a set of rules and provisions that lead to the protection of public rights, the settlement of disputes and the cessation of disputes” (Al-Zuhaili, 1980, p. 18). This definition is criticized for considering the provisions as part of the regulation, i.e. the regulation was limited to the rules and provisions.

The judicial system is: “a set of rules, principles and legal procedures regulating the judicial

process and its pillars aimed at achieving its goals.”

## Chapter Two

### The Foundations of Judicial Policy Related to the Judicial System

#### Through the correspondence of Umar Bin Al- Khaṭṭab to his judges and governors

Due to their nature and influence, judicial systems are a crucial component of the stability and construction of the state as well as the protection of individual rights and obligations. Wherever nations and peoples were eager to establish a legal system that would permit litigants to use it to resolve disputes.

This section deals with some foundations and principles that were deduced from Umar’s letter, regarding the statement of the judiciary’s ruling and its status in the Sharia, its overall goal, and its position in the legal dispute.

#### The first principle: Guaranteeing the right to litigation for all “to do justice between people is an obligation.”

In his letter to Abū Mūsā Al-Ash‘ Arī (RA), Umar bin Al-Khaṭṭab confirmed that “Judging (the judicial system) is a confirmed obligation and a way to be followed”. Umar’s statement indicates two issues which are:

- A. A statement of what the judge relies upon his judgments. These two great references are the Qur’an and the Sunnah, so the rulings on this meaning are what corresponds to the abrogation (*naskh*), and the decisive obligation is the total rulings that Allah Almighty has made in his book (Ibn Qayyim Al-

Jawziyah, 1423 AH, p. 2/163), (Al-Sarakhsi, 1993, 16/60).

- B. The exercise of the judiciary itself is an obligation *fard*, and it is a sufficiency obligation or *fard al-kifāya* that must be carried out by a group of qualified people for it, according to the words of Imam Ahmad, may Allah have mercy on him: “People must have a ruler, otherwise, their rights will be violated” (Ibn Qudamah, 1997 AD, p. 14/5; Al-Balkhi, 1310 AH, p. 3/306).

Considering the judiciary as an obligation, which would guarantee the right of litigation to every convicted person. The right to litigation is defined as “the authority to resort to the judiciary for assistance in determining or protecting the right” (Najib, 1982, p. 124).

Umar bin al-Khaṭṭab gave a speech and said: “By Allah, I do not send my workers to strike you or seize your wealth; rather I send them to you to teach you your religion and Sunnah, whoever has done to him something other than that, let him refer it to me, for by the One in Whose hand is my soul, I shall surely grant him retaliation. `Amr bin al-`As stood up and said: O Ameer al Mu`mineen, do you think if one of the Muslims was in charge of some people and he disciplined one of them, would you allow that one to settle the score with him? He said: Yes, by the One in Whose hand is the soul of `Umar, I would not certainly allow him to settle the score with him. I saw the Messenger of Allah (ﷺ) do that concerning himself” (Al-Sijistani, 2009, p. 4537).

Hence, we realize that the Rightly Guided Caliph was aware of the need for a judicial system and conveyed this concept by launching the most stringent tiers of rules to describe it. However, the application of the maxim “Whatever a duty cannot be fulfilled without it is an obligation” is the driving force behind such a significant

improvement. In addition, the Sharia stipulated that the highest obligations and objectives, as well as the most significant priorities, should be created and upheld. These included protecting people's interests, resolving their disputes, obtaining justice, and establishing the principles of justice.

We believe that laying this foundation directly establishes the authority of Sharia in resolving disputes and applying its provisions in the realities of the lives of the litigants, making Sharia a reference to end the dispute with its justice, equality and comprehensiveness.

Although it did not provide the details of those procedures, it established what governs those procedures by guaranteeing and facilitating the right of litigation to ensure the validity of application in various circumstances and times. Thus, people become closer to the law, and righteousness is farther from corruption. This can only be achieved by the existence of a judicial system that people can resort to.

### **The second principle: Establishing the principle of the rule of law and the equality of people before it.**

Umar stated in his letter to Abū Mūsā Al-Ash‘Arī (RA that: “Consider all the people equal before you in your court and your attention so that the noble will not expect you to be partial and the humble will not despair of justice from you.” And he said in his letter to Muawiyah when he was the governor of Syria: “admit the man of inferior status (da’if) so that his tongue may be loosened and his heart emboldened, and Look after the stranger, for when he is long detained he will abandon his suit and go back to his people” (Al-Dhabi, 1947, pg. 1/75).

Umar, may God be pleased with him, decides that settlement between opponents, in general, is all



people regardless of their different creeds, races and religions because settlement here is not a settlement in the judgments of the hereafter, but rather in the details of the litigation council, such as hearing, acceptance and consideration (Al-Sarakhsi, 1993, pg. 16/61). This principle, which all world constitutions are proud of, is the title of progress and the goal of people's advancement and its national and international legislation, Islam has known it since its early days and established it as an authentic principle that it is not permissible to deviate from.

The plaintiffs differ in allegiance because some of them are from different tribes, regions, ethnicities, and religions, as well as in positions and abilities connected to knowledge, status, power, and money. If we consider the judge's human nature, his decisions may be influenced by desire, fear, love, or hatred. However, the Commander of the Faithful Umar relied on the clarity of the value of justice in the Qur'an and the Sunnah in his instructions to his judges, bringing their attention to the fact that obtaining it was the intended objective.

And that it should serve as the primary motivating factor throughout the entire litigation process, even in the apparent body of the Judicial Council, such as the judge's position among the two council opponents and the language of speech. The judge should give a weak person more attention if it is assumed that there is a disparity between the two opponents that causes one of them to feel resentful or afraid of the other because the latter is strong or foreign to the country so he feels equal with his opponent in the form of appearing before the judge.

The Islamic Sharia has established a universal principle, which is that all people are equal before the Sharia, and they are required to submit to its rulings, with no preference for one over the other. Based on this principle, the Prophet (PBUH) did

not rule out that the hand of his daughter Fatimah (RA) would be cut off if she had stolen (Bukhari, 1423 AH, No. 3475), and Umar (RA) lashed his brother-in-law Qudama bin Mazoon al-Jamahi when he drank wine, and he is above that a ruler from the people Politics (Al-Sanani, 1403 AH, p. 9/240).

Based on the foregoing, when we look at this basis in the words of the Commander of the Faithful Umar Ibn Al-Khattab, may God be pleased with him, we find ourselves in front of a very early formulation of the principle of the rule of law, which requires that all people are subject to the law to the same degree, without privileges or exceptions. While we find in our time that there are privileges for those with authority and power, some personalities, bodies, or institutions enjoy immunity from unjust considerations.

We find that the soldiers of some superpowers are prevented from being prosecuted even if they have committed full-fledged crimes according to international courts. And other immunities are not required by the nature of the tasks, and we find that Islam approved some necessary immunities such as the immunity of ambassadors and messengers, and the prevention of immunity based on strength or immunity.

Establishing the principle of "the rule of law and the equality of people before it" encourages everyone to take legal action against it and to abide by its rule voluntarily as long as they desire justice. Whoever deviates from this goal is compelled to submit to the authority of the law and its rulings, so justice spreads, souls settle, nations rise, and rights are protected.

### **The third principle: The effectiveness of the judicial system and the ease of its procedures**

Umar said in his letter to Abū Mūsā Al-Ash‘Arī: “Understand the depositions that are made before you, enforce the clear right for it is useless to consider a plea that is not valid.” And in his letter to Muawiyah in Sham, he wrote: “Look after the stranger, for when he is long detained he will abandon his suit and go back to his people, what invalidates his right is he who does not perform his duty”

The content of these recommendations can also be expressed as “forced execution” of the judiciary, “enforcement of the judiciary,” “carrying out judiciary,” or other expressions that refer to the nature of the judicial ruling; It is a call for obligation and speed enforcement.

This part of Umar’s letter to Abū Mūsā demonstrates clear evidence that enforcement of the law is the essence of the judicial ruling because the verdict loses its significance and value if it is not put into practice (Ibn Qayyim al-Jawziyya, 1423 AH, p. 2/167), and his letter to Muawiyah contained several indications:

- A. A clear indication of the necessity of facilitating and expediting the litigation procedures, if extending the period will delay and obstruct the interests of the right holder
- B. Considering the procrastinating judge as a partner to the unjust adversary in preventing the right of the oppressed based on the letter which says, “what invalidates his right is he who does not perform his duty.”
- C. Establishing the principle of judicial execution, which in the modern state has become one of the most important judicial institutions, the “Execution Court” or “Enforcement Law” and others.

### **The fourth principle: The purpose of the judiciary is to establish justice and fairness**

In his letter to Abū Mūsā, Umar asked him to: “Understand the depositions that are made before you, for it is useless to consider a plea that is not valid.” Allah Almighty said: “when you judge between people, a judge with fairness.”

What is meant by this basis is that the Islamic judiciary is not an institution that aims at a momentary bypassing of disputes, postponing harm, or resolving disputes. Rather, the purpose of performing the function of the judiciary and appointing judges is the moral and cultural foundation of the message carried by the just judicial ruling, which calls for the obligation to act with truth and justice and urges the enforcement and establishment of the right.

Wakee mentioned that one of Umar’s judges in Basra, Abū Maryam al-Hanafī, Iyas bin Subaih, two men rushed to him arguing over a dinar, one of them claimed it over the other, and he reconciled between them by giving the dinar from his money, so Umar wrote to him: “He said: “I did not direct you to judge between people with your money, but I directed you to judge between them fairly.” (Al- Dhabī, 1947, p. 1/173) .This indicates that the judiciary, despite the need to pay attention to details and what happens in people's daily lives, with this realism is always linked to the sublime divine message. The goal of it is a permanent reform and a call, not a temporary or superficial solution to a limited dispute.

### **Conclusion:**

The research concluded that:

1. The letters of the Commander of the Faithful, Umar Ibn Al-Khattab, may God be pleased with him, to his judges included

some distinctive judicial principles, which clarify the features of the Islamic judicial system.

2. The warnings of the Commander of the Faithful, Umar Ibn Al-Khattab, on the foundations of the legal policy related to the judicial system, were balanced in terms of their number, and no aspect of the judicial system emerged in them over another, which indicates that the features of the judicial system were equal in their importance and pillar for its construction and its establishment in a perfect manner.
3. Umar's directives to his judges were characterized by a degree of seriousness and firmness, especially when exercising the supervisory role over the judges' performance and their detailed judgments.
4. In Islam, litigation is a guaranteed right, justice is the final goal of the judiciary, and people are equal before the law.
5. The principle of judicial independence was not explicitly mentioned in the correspondence. The reason may be that it is a tangible and known reality at that stage.

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