

*Research Article***Justice in the Balance: Activating Legislative-Reality Harmony to Ensure Fair Judicial Rulings Between *Sharia* And Modern Legal Systems**Yassine Chami^{1*}, Mohamed Elmadni Elsharef², Enas Qutieshat³¹College of Law, Abu Dhabi University, United Arab Emirates²College of Law, Dhofar University, Oman³Faculty of Law, Sohar University, Oman³Tashkent State University of Law, Uzbekistan

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ABSTRACT

Achieving judicial fairness requires harmonizing legal texts with evolving societal realities. This research aims to explore the factors that enhance the fairness of judicial rulings by analyzing the interplay between abstract legal texts and practical reality. The method used involves a comparative analytical approach between modern legal systems and Islamic Sharia, supplemented by a review of judicial precedents. The results obtained indicate that legislative coherence and judicial discretion are critical for aligning rulings with justice objectives. Specifically, the study finds that rigid procedural adherence often undermines equity, whereas flexible interpretation grounded in contextual circumstances enhances fairness. Conclusions that can be drawn emphasize the necessity of developing legislative mechanisms that balance stability with equity, alongside promoting judicial transparency.

Keywords: Judicial justice; legislative harmony; judicial discretion; Islamic jurisprudence; legal interpretation; contextual circumstances; procedural formalities.

A. INTRODUCTION

Judicial justice is a cornerstone of ensuring the rule of law and fostering social stability. Fair judicial rulings reflect a legal system's commitment to the principles of justice and equity (Tyler, 1988). As legal systems evolve, achieving justice requires a framework that ensures coherence between legal texts and practical realities. Critical factors include legislative harmony, judicial consideration of contextual circumstances and discretionary authority to align rulings with overarching legislative purposes. From this perspective, this study examines the factors that elevate the fairness of judicial rulings within modern legal frameworks (Tyler, 2003).

Its theoretical significance lies in analysing judicial justice through jurisprudential and legal perspectives, enriching scholarship with an in-depth exploration of justice principles in modern statutory systems and Islamic Sharia. Theories of 'adl and maqasid are utilised to understand these principles of justice. All theories are cited in the Results and Discussion chapter to ensure coherence. In practice, the study improves judges' understanding of the factors influencing justice, thereby enhancing the quality of their rulings. Furthermore, identifying legislative and procedural gaps helps to refine judicial statutes and uphold equity.

While the principle of justice holds significant importance, various elements obstruct the realization of fairness, including inflexible textual interpretations and disregard for contextual realities. There exists a disconnect between *das solen* (the applicable legal doctrine) and *das sein* (the empirical realities). Prior investigations have failed to integrate the coherence of legislative frameworks with discretionary practices (Hirsch, Kastlelec, & Taboni, 2025). This research endeavors to rectify this deficiency by proposing a comprehensive framework. The objective of the study is to identify determinants that foster judicial fairness through a comparative analytical approach. Central inquiries include: In what ways does legislative coherence impact fairness? How can adjudicators reconcile stringent application with contextual considerations? Previous investigations have predominantly concentrated on discrete facets of the issue. Al-Sharif (2024) and Anis (2015) examine interpretative mechanisms within particular jurisdictions, whereas Aymour (2005) juxtaposes review mechanisms without adequately addressing their interaction with practical realities. In contrast, contemporary scholarship in comparative law increasingly underscores the necessity for integrated and interdisciplinary methodologies that link doctrinal analysis with empirical investigation, as evidenced by the works of Siems (2019; 2022; 2025); (Garoupa & Mathews, 2014). This progressive scholarship accentuates the rising

significance of methodological pluralism and the integration of empirical insights into legal analysis. Building upon this trajectory, the current study contributes to the literature by transcending fragmented methodologies in favor of a comprehensive comparative model that connects normative provisions with empirical realities, thereby highlighting the imperative of contextual adaptability in modern dispute resolution.

The literature review highlights the pursuit of judicial justice within Islamic and positive legal systems through various mechanisms. The studies examined five main themes.

Firstly, Al-Sharif's study emphasises the importance of accurately characterising legal facts. It asserts that this depends on judicial competence in interpreting legal texts and discerning legislative intent. The study also warns that rigid classification detached from social context may undermine fair adjudication (Al-Sharif, 2024).

Secondly, a study on interpretation in Jordanian law emphasises the need for clear regulation of interpretation mechanisms and advocates an expanded right of clarification for litigants and the court. It also stresses the importance of controlling interpretative authority to prevent it from evolving into judicial amendment, thereby safeguarding the stability of rulings and promoting transparency (Anis, 2015).

Thirdly, Radia Aymour's thesis contrasts the review of rulings in Islamic law, where judges have the authority to correct rulings without

annulling them, with the review of rulings in positive law, where review is restricted to specific exceptional procedures. This reflects a fundamental methodological difference in balancing justice and legal stability (Aymour, 2005).

Fourth, the literature emphasizes the need to align legislation with social change through flexible legal interpretation and carefully structured judicial discretion, while also maintaining safeguards against interpretive excess and review-related abuse (Siems, 2022); (Tobia, Slocum, & Nourse, 2023).

Fifth, recent comparative law scholarship, especially the work of Siems (2019; 2022; 2025), emphasizes methodological pluralism and empirical sensitivity in comparative legal inquiry, thereby offering a broader analytical framework for examining judicial fairness across distinct legal traditions.

These themes collectively affirm that achieving justice requires an integration of judicial skill development, a responsive legislative framework, and transparent review mechanisms, all while respecting the cultural specificities of each legal system. This calls for continuous dialogue between Islamic jurisprudence and modern legal philosophies to enhance fairness without compromising judicial stability.

B. RESEARCH METHODS

This research employs a comparative analytical methodology specifically chosen to

highlight the similarities and differences between Islamic Sharia law and modern statutory systems with regard to judicial fairness. This approach enables a critical evaluation of how different legal traditions balance textual rigidity with equitable outcomes. The study uses a descriptive approach to evaluate the factors that influence judicial fairness by reviewing relevant legal and jurisprudential literature. Judicial cases from Sudan and Oman were selected based on criteria relevant to judicial discretion and legislative interpretation. The focus was on rulings where contextual circumstances influenced the outcome. The scope of the study is limited to civil and commercial transactions, as these are areas where judicial discretion is most prevalent. Criminal procedural specifics are excluded unless they are directly relevant to principles of justice. Sources were selected based on their accreditation and relevance to the research questions, ensuring a robust analysis of legislative harmony with reality.

C. RESULTS AND DISCUSSION

1. Legislative Coherence and Islamic Jurisprudence

In Islamic jurisprudence, scholars have offered various definitions of 'adl (justice). One prominent definition describes it as 'the median between extremes of excess and neglect' (Azeez & Miftaudeen, 2024), while others characterise it as 'granting rights to their entitled recipients and ensuring equitable treatment among parties to

safeguard legitimate interests in a manner that eliminates oppression and dispute' (Awadh, 2025). It has also been defined as 'acting in accordance with wisdom' (Al Nashar, 1996). Justice is regarded as a religious obligation, a human virtue and a cornerstone of stable and prosperous societies (Ostřanský, 2023). The Quran emphasises this principle in multiple verses, such as:

بِالْقِسْطِ شَهَادَةً لِلَّهِ قَوَامِينَ كُونُوا أَمْثِلُوا الَّذِينَ آتَيْهَا أَيُّهَا: هُوَ أَعْدِلُوا َّ تَعْدِلُوا أَلَّا عَلَى قَوْمٍ شَتَانٌ يَجْرِمَنَّكُمْ وَلَا َّ (Quran 5 :8). ل ت قوى) أَقْرَبُ

And: أَهْلِهَا إِلَى الْأَمَانَاتِ تَوَدُّوا أَنْ يَأْمُرَكُمْ اللَّهُ تَأْمُرُوا نَعِمًا اللَّهُ إِنَّ َّ بِالْعَدْلِ تَحْكُمُوا أَنْ النَّاسِ بَيْنَ حَكْمَتُمْ وَإِذَا (Quran 4:58) . بِصَبْرًا سَمِيعًا كَانَ اللَّهُ إِنَّ َّ بِهِ يَعِظُكُمْ

The term 'adl (justice) in the Qur'an has multiple meanings, including equity (qist), moderation (wasatiyya), benevolence (khayriyya), alleviating hardship (raf' al-haraj), ease (yusr), integrity (istiqaamah) and clarity (bayyinah) (Al-Sallabi, 1994). Consequently, Islamic jurists have emphasised the importance of aligning specific rulings with the overarching objectives (maqāṣid) of Sharia, such as justice (Ngaisah, 2015; Sumarta, Burhanudin & Budiyanto, 2024). They argue that jurists must holistically integrate the universal principles and purposes of Sharia when applying its detailed rulings to real-world contexts. Misinterpretation and flawed legal reasoning can result from isolating specific rulings from their broader ethical and legal foundations, or vice versa, which undermines the coherence of judicial outcomes (Desrieux & Espinosa, 2019). It is a

well-established fact that dispensing justice is one of a judge's primary duties (Dziedziak, 2025; Asa et al., 2025). However, to fulfil this duty and elevate the fairness of their rulings, several factors must align, some pertaining to the judge themselves and some to the legislator. The most important of these are legislative coherence; the court considering contextual circumstances and the practical realities surrounding cases; evaluating the societal impact and consequences of rulings; interpreting legal texts to prioritise justice over rigid technical adherence; and granting judges discretionary authority to interpret laws equitably (Samiri et al., 2025).

When we look at the great decisions of Islamic Sharia, we see that they are all based on a system of harmony and coherence. Justice is a key goal of both the general principles and the individual rulings. In Sharia, justice ('adl) is an indivisible, absolute, and universal notion that applies to all situations, irrespective of their diversity. Muammar Al Senussi said: "Justice in Islamic legislation is not an abstract concept confined to the realm of thought or verbal philosophy disconnected from reality (Ismayawati, Ngazizah, & Abd Aziz, 2025). Instead, it is a concrete aspect integrated into the framework of Sharia's decisions and principles, founded on realistic evaluation, comprehensive analysis, intentional comprehension, and the contextualization of rights within a societal framework that denounces extremism and self-interest (Putrijanti et al., 2025).

Following this approach, Islamic jurists have construed Sharia's rules to be in line with what actually happens in the world (Prihantoro & Gillings, 2025), as shown by several Quranic and prophetic writings. Sharia's regulations strike a balance between generality and specificity, absoluteness and restriction, obligation and permissibility, and ease and mitigation to uphold justice in obligations and protect interests in all situations (Sumarta, Burhanudin, & Budiyanto, 2024); (Kamalin, Winario, & Rafiqoh, 2025). This method is a model for modern legal systems: the more coherent the laws are, with general rules that are softened by specific exceptions and unrestricted clauses that are limited by the context, the better they achieve their goals and give judges the power to make fair decisions that protect people's rights (Jaheed & Khil, 2025); (Al-Sharif, 2024).

To ensure justice, legislators in modern systems occasionally restrict individual freedoms in transactions even though such interactions are generally governed by the principle of "contracts as the law of the parties" (Nabila & Djayaputra, 2023); (Fetraningtyas & Yunanto, 2021). For instance, Sudan's Civil Transactions Act (1984), under Article 120(1), permits contracting parties to agree on liability exemption or limitation under specified conditions. However, this right is not absolute. Article 120(4) grants courts the authority to intervene if one party imposes oppressive clauses, stipulating:

"In all cases, the court may refuse to apply any

exemption or liability limitation clause if it deems such a clause to blatantly contradict the spirit of the contract, manifestly prejudice one party, nullify rights intended under the contract, violate legal provisions, or contravene public order." (Sudan, Civil Transactions Act, 1984).

Also, Sudanese law says that courts must interpret laws in a way that is consistent with the intent of the law. Article 6(1) of Sudan's Interpretation of Laws Act (1974) says:

"The provisions of any law shall be construed to achieve the objective for which it was enacted." In every instance, interpretations that fulfill this objective shall be favored.

This shows that the judge's main job is to make sure that justice is the main purpose of all laws, (Weinrib, 2023) since justice is a common goal of all laws, no matter what facts they are based on.

Modern legal systems are progressively adopting organized, logical legislation that combines general rules with exceptional exceptions to reduce the risks of rigid textual application. For instance, Sudan's Civil Transactions Act (1984) has a lot of exceptions to make sure that general rules don't always apply in ways that are unfair. These exceptions show that the lawmaker wanted to balance legal stability with fairness, making sure that justice is served even when things are complicated or changing (Sales, 2025).

Article 115 is one of these rules. It makes fake transactions (*tasarrufat sumariyya*) that are

meant to get around the law and take away its meaning void. This article is an exception to the rule that contracts are only valid if all parties agree to them and follow the rules set by law. Article 130 says that a contract can be broken if performance becomes impossible because of something outside of the parties' control. This is an exception to the general rule that contracts are binding (*al-quwwa al-mulzima lil-'aqd*). Article 161(2) is another example. It says that "ordinary negligence committed in good faith under work conditions" is not liable, which is different from Article 138, which says that "any act causing harm to others, even if unintentional" is liable.

Article 102 is another exception. It says that if the provisions of a contract are unclear, they should be read against the party that made them. It also says that interpretations that hurt the party who is following the deal are not allowed in adhesion contracts (*'uqud al-idh'an*). This is different from the rules for interpreting contracts in general. In the same way, Article 117(1) lets courts change requirements that are too hard to meet in certain situations (like *force majeure*), going against the idea that "contracts are the law of the parties" (*al-'aqd shari'at al-muta'qidin*). Article 118 gives courts even more discretion to change or throw out unfair sections in adhesion contracts, putting fairness ahead of rigid contract obligations.

The Sudanese Supreme Court has stressed how important it is to make sure that

connected legal texts are in agreement with each other. In one decision, it said:

"When multiple provisions govern a single issue, their interpretation must ensure coherence rather than nullifying one text in favor of another" (Supreme Court of Sudan, 2008).

In another judgment, it underscored:

"A legal article with multiple clauses must be interpreted holistically to achieve unity and consistency". This reflects the principle that legislation inherently self-regulates through specialization and mutual qualification

2. Contextual Realities and Judicial Flexibility

Courts cannot achieve justice without reconciling general legal provisions with the unique realities of each case. Rigid, literal interpretations of texts or contracts confined to abstract wording without regard to contextual factors risk distorting their equitable intent (Sudan Judiciary, 2004); (Stewart, 2020).

Omani law clearly says that judges must take into account the background of a case. Article 35 of Oman's Civil and Commercial facts Law (Royal Decree 67/2008) lets courts throw out counterfeit documents on their own, however judges must explain the facts and circumstances that led to these decisions.

The Sudanese Supreme Court has also warned lower courts not to blindly follow precedents without looking at the facts. It said:

"Judicial precedents should not guide decisions without examining the specific facts,

parties, customs, and environments involved" (Sudan Judiciary, 1992).

In another case, it rejected a lower court's decision because it used an old maintenance ruling without taking into account how things had changed. It said:

"Using the facts of a previous maintenance case to make a new decision is not valid because the defendant's situation may change over time" (Sudan Judiciary, 1992).

The Court also made it clear that unambiguous statutory words take precedence over precedents:

"When a clear legal provision exists, judicial precedents hold no authority except for interpretative guidance, as binding statutory text supersedes precedent."

Emphasizing the importance of considering the circumstances surrounding the facts, the Omani Ministry of Justice and Legal Affairs has decreed that the law stipulates the employee's right to a monetary allowance for their accrued reserve leave up to the date of termination of service as a general rule, not exceeding two years' entitlement; however, as an exception, the employee may obtain monetary compensation for their entire leave balance if their failure to utilize it is due to its postponement or interruption necessitated by the exigencies of the work interest. Regarding the importance of considering (AlQodsi, Jadalhaq, & El Maknouzi, 2024) the circumstances surrounding the facts in adjudication, the Sudanese Supreme Court has

held that: "In a contract vitiated by a defect in consent, the court shall take into account the gender of the party whose consent was defective, their age, social and health status, and any other circumstance that may affect the gravity of the inequity, as stipulated in Article (3/114) of the Civil Code. Pursuant to Article (1/115) relating to exploitation, it is sufficient to invalidate the contract or reduce the obligations of the exploiting party" (Ministry of Justice and Legal Affairs (Oman). "Fatwa No. 222768253). In another case concerning the court's assessment of the extent of the injury sustained by the aggrieved party, the same court held that: "In assessing the severity of the injury and the compensation due, the court should not be bound by a narrow interpretation of its meaning, such that its consideration is limited to investigating the type of injury, the length or depth of the wound, but rather should go beyond that and take into account all the moral and psychological effects resulting therefrom." (Sudan Judiciary, 1976). In its interpretation of the considered neglect that leads the custodian to lose their right to custody of the children, the same court ruled that: "The presence of the children in the street with their peers playing does not constitute evidence of considered neglect in forfeiting custody unless their presence in the streets is predominant." It also ruled in the same case that: "The soiling of children's clothes or the disheveling of their hair does not alone constitute evidence of neglect, especially at an age when children of their age participate in play." (Sudan

Judiciary, 1977). This ruling indicates that the court, in interpreting the meaning of neglect in the context of child custody, takes into account the reality that governs the nature of play in the area where the children are located. Similarly, among the judicial rulings in which the court considered the existing circumstances and the reality surrounding the debtor is the decision of the Sudanese Supreme Court in a case concerning demands to increase alimony to meet the rising cost of living, where it ruled that: "The rise in the cost of living alone does not justify the demand for an increase in alimony, but rather it must be accompanied by an increase in the defendant's income, as intended by Sharia, so that everyone with means spends according to their means" (Sudan Judiciary, 1976). In consideration of the reality, Islamic jurisprudence has permitted many rulings necessitated by necessities, including the testimony of the morally corrupt and children against each other, which is what the Sudanese Supreme Court ruled in the case of the Government of Sudan v. B.M.A.A., that: "The testimony of the morally corrupt against each other is accepted out of necessity in the absence of just witnesses, so that blood is not shed in vain and rights are not lost" (Judicial Rulings Journal, 1983). This is a matter of not requiring completion if requiring it would invalidate the principle. Because requiring the availability of just witnesses in all cases may lead to the testimony not being acted upon at all in some cases, and the availability of a witness from the morally

corrupt is better than the absence of any witness whatsoever. Just as the circumstances surrounding the facts affect their characterization at the level of civil law, they do the same in criminal matters. Therefore, the Sudanese Supreme Court decided that: "The accused cannot be held accountable for exceeding their limits in defense, or for using a degree of force greater than necessary to repel the attack, if they are in circumstances that make the average person fear for their life, and the appropriate amount of force to repel the aggression is determined by the accused in that situation". The conclusion of the foregoing is that the limits of the lawsuit are represented in the facts and the surrounding circumstances, or the actual situation, and do not extend to others; which is what the judge must base their ruling on, and therefore it is not permissible for them to include in it what is not relevant to it (Chami & Khater, 2025).

Furthermore, the Sudanese Supreme Court has held that: "It is not permissible for the judge to engage in personal interpretation or introduce anything from their own understanding that was not claimed by the plaintiff in their lawsuit. Rather, their duty is not to exceed the limits of the subject matter of the case before them, as presented by the litigants" (Sudan Judiciary, 1998). Similarly, what contributes to the fairness of judicial rulings is the court's consideration of the actual circumstances surrounding the facts. The regulation of the reality in which individuals live

represents one of the legislator's objectives in legislation. For this reason, it was necessary to interpret the laws in a way that is in line with the existing reality, without adhering to their absolute concepts in the minds to the extent that it distances judicial rulings from the meaning of justice, preventing harm, and bringing benefits. Ibn al-Qayyim said in this regard: "The Mufti and the ruler will not be able to issue fatwas or rule with justice except with two types of understanding, one of which is: understanding the reality and jurisprudence in it, and deducing the knowledge of the truth of what happened with evidence, signs, and indications until they are fully aware of it the second type: understanding what is due in reality, which is understanding God's ruling that He has ruled in His Book or through His Messenger regarding this reality" That is, understanding the true perception of the reality surrounding the issue to be discussed. In the field of interpreting contracts, for example, understanding the reality is an integral part of the competence of the court of first instance that is considering the dispute. Expressing this, the Omani Supreme Court decided that: "Obtaining an understanding of the reality in the case, evaluating the evidence and documents presented therein, weighing them, and giving preference to what it is satisfied with is within the authority of the trial judge, and it is sufficient for them to clarify the truth by which they are guided, and to base their judgment on plausible reasons that have their appreciation of considering the

reality when ruling on the facts" (Supreme Court of Oman, 2006). The Sudanese Supreme Court ruled, in considering a case concerning alimony for a divorced woman and paternity, that: "The ability of the person ordered to pay to earn, and the sufficiency of the alimony, should be taken into account when assessing the alimony. Accordingly, the court must take into consideration the state of the market in terms of rising or falling prices, and the necessary living requirements" (Sudan Judiciary, 1972). The same court also decided in a case of obedience based on the same meaning that: "The criterion that the court must apply in the legality of the marital home is its suitability to the financial situation of the husband, whether rich or poor, as a rule established by jurisprudence and followed by the judiciary). In a judicial ruling issued by the Omani Supreme Court, it overturned the ruling of the court of first instance for not considering the reality of the situation when ruling on the facts, stating: "Relying on old medical reports in proving the mental illness of a person to be placed under guardianship is considered a defect in the means of proof, and the reason for this is the possibility of their recovery the court should have requested evidence supporting the claim with an updated medical certificate certified by the official authorities, or a just testimony, and since the court did not thoroughly examine the case in terms of reviewing the patient's condition and medical reports, or the just testimony, then its ruling is flawed." (Supreme Court of Oman, 2006).

Similarly, among the judicial rulings in which the Sudanese Supreme Court considered the reality of the situation to achieve justice between the litigants is what it decided in a case concerning the payment of a sum of money, where it stated that the application of Article (82) becomes mandatory when the commitment is in Sudanese pounds, that is, in Sudanese currency, noting that: "When the judgment is issued in free currency (dollars) or its equivalent, if payment in this currency is impossible for any reason, and it is necessary to pay in the alternative way, that is, in Sudanese pounds, the valuation is done on the date of payment; because calculating at the exchange rate on the date of the creation of the obligation, or on the date of the issuance of the judgment, is manifestly unjust" (Case No. M.A/T.M/3/1997). The court decided its ruling in this case in this manner because the Sudanese pound was suffering at the time a sharp decline in its value against the dollar. Thus, it is evident that the court has taken into account the reality of the situation and based its ruling on it in the case, where it worked to specify what was stipulated in Article (82) in the sense of justice, so it did not take it in its absolute generality due to the apparent injustice it would cause to the creditor. The same court also decided in a case concerning compensation that: "When assessing compensation, the decline in the purchasing value of the currency since the date of the incident and until the payment of compensation should be taken into account" (Sudan Judiciary, 1977).

Similarly, among the legal interpretations in which the Sudanese Supreme Court considered the reality surrounding the facts is what it stated in a case related to the plaintiff's claim for special compensation, in a situation where they are unable to provide evidence of proof for all the expenses they incurred, where it decided that: "Proving special compensation does not require submitting a document for each part of the expenses. Saying this in the circumstances of Sudanese society amounts to incapacitating the plaintiff and depriving them of the special compensation altogether; because living and transportation expenses, by their nature, are matters for which it is not possible to submit a document, and acknowledging their inevitable existence is unavoidable. After that, the plaintiff submits the best evidence they have, and in the face of that, the defendant refutes those pieces of evidence, and the court, in the end, subjects all of that to the standard of reasonableness" (Case No. M.A/A.S.M/62/1979). That is, it listens to both parties and then subjects their statements to what is permissible and reasonable, and then issues its ruling. Expressing the concern for the change in the reality of the situation and its impact on changing the ruling or the fatwa in the facts, the Ministry of Justice and Legal Affairs of Oman decided in one of its fatwas that: "The fatwa of the Ministry of Justice and Legal Affairs has been established on the inadmissibility of reconsidering an opinion previously expressed by it" (Ministry of

Justice and Legal Affairs (Oman) Fatwa No. 222773674).

However, this is only the case if there are new facts that have emerged or become apparent to it later, and which were not under its consideration when expressing the opinion, and that these facts, if presented to it, would change the opinion on the matter presented.

In reference to confirming the impact of reality on judgments, legal scholars have made *istishab* (presumption of continuity) an evidence among the evidences of proof, which is based on what is real as long as no evidence of its change is established (Novari & Mahdavi, 2023); (Gozaly et al., 2025). Therefore, they defined it as: "Ruling on the establishment or denial of a matter in the present or future time based on its establishment or absence in the past time due to the absence of evidence of its change" (Hallaq, 2018).

Among the famous rules in this chapter is the rule: The original state remains as it was, and the rule: The old is left as it is,"and the rule: "What is proven in a time is judged to remain unless evidence to the contrary exists (Baderin, 2016).

In addition to what has been mentioned, what enhances the fairness of judicial rulings is that the court works to give precedence to the meaning of justice over the literal adherence to procedural laws and their imposed formalities, so that it does not adhere to them to the extent that it causes injustice and the loss of the rights of the litigants, based on a permissible and acceptable interpretation (Tang, 2024); (Dziedziak, 2025).The

failure to give precedence to procedural formalities over justice or interest is one of the interpretation methods that the Sudanese judiciary uses in its application of substantive and procedural laws alike. Among the examples of this is what the Sudanese Supreme Court referred to in considering the case of the Government of Sudan: "The general rules that our courts are guided by are that the failure to follow certain procedures does not necessarily lead to invalidity unless it is proven that the violation has led to a miscarriage of justice" (JRJ Case No. M.A/A.N.J/487/1975).

The same court also decided in another case that:"Formal procedures should not outweigh the substance, which is the achievement of justice, so as not to be a reason for its loss (JRJ Decision No. 38/1405H, 1985).

Among the judicial applications that testify to this - also - is what the same court ruled that: "Taking the procedural error that did not affect the validity of the ruling or the validity of the jurisdiction, then canceling the ruling by virtue of it and returning the case to its court to proceed with it anew harms justice and doubles the work before the courts" (Yassine et al., 2024)

It also decided in another case that: "If the court swears the denying party without request, it is a wrong procedure; but it does not affect the validity of the ruling (Supreme Court of Sudan, Decision No. 1/197). In confirmation of giving precedence to the meanings of justice over the formalities of the law and its apparent forms,

Article (21) of the Omani Civil and Commercial Procedures Law of 2002 stipulates that: "The procedure is void if the law explicitly states its invalidity, or if it is flawed by a defect that prevents the purpose of the procedure from being achieved, and no ruling of invalidity is issued despite the stipulation for it if it is proven that the purpose of the procedure has been achieved and no harm has been caused to the opponent."

However, despite the foregoing, it should be noted that the general rule in this regard is that the court adheres to the rules of pleadings and procedures established by the legislator so that they are adhered to by the court and the litigants, which is what the Sudanese Supreme Court referred to in its statement: "The duty of the court of first instance is to adhere to the rules of legitimate pleadings in the dispute and not to exceed them to confusion that loses the rulings their validity and leads to their cancellation (Sudanese Supreme Court, decision number 267/2005).

However, despite this, the court should not go so far in adhering to the procedural texts to the extent that it harms justice and the interests of the litigants, but rather it must adhere to the apparent text when this is in line with the rule of justice, and work to interpret it by diverting it from its apparent meaning based on another evidence when it becomes clear to it that acting on its appearance is contrary to the rule of justice, that is, to follow in its interpretation of procedural laws the method of interpretation that refers to the apparent text

sometimes, and to its meaning at other times, depending on what achieves the legislator's intention in legislation, in establishing justice among people, and upholding rights, and returning grievances to their owners. Every legal text whose application in practice leads to injustice and manifest oppression must be interpreted by the court in another way to avoid this outcome, which is contrary to the basic principles on which the legislation as a whole is based (Berger, 2014) because the legislator does not intend that the application of the law by the judiciary should be inconsistent with the establishment of justice, which is considered its spirit that gives it life, for the era of the school of commentary on the texts has passed without return.

On the other hand, considering the consequences of judicial rulings and their results is one of the considerations required by the fairness of judicial rulings. It is of great importance that the judge is keen to consider the outcome of the ruling that it reaches before actually applying it to the facts. If it becomes clear to them that its result leads to injustice and oppression, then they must work to interpret the legal text intended to be applied to the facts, because acting on the generality of the legal rule in this case is contrary to the rule of justice, which empties the text of its content due to its contradiction with the legislator's intention of legislation in establishing justice among people (Meyerson & Mackenzie, 2018). In this case, there is no escape from

interpreting it, such as the judge working to specify the general, or restrict the absolute, which reveals the aspect of the correlation between considering the outcome when applying general provisions to the facts and justice; as the reality testifies that there are many actions and behaviors permitted in the original may lead to many evils if the permission is acted upon in its entirety and in all cases, as is the case in sham contracts intended to circumvent the law. On the other hand, there are many actions and behaviors prohibited in their origin, may lead to a great loss of interests if the prohibition is acted upon in its entirety and in all cases, as is the case in the case of necessity. It is one of the requirements of justice in such cases and the like that the facts of the particularities are excluded from the generality of the original ruling; because acting on the generality of the ruling in such cases of particularity violates the origin of justice.

3. Comparison between Positive Laws and Islamic *Sharia* in Achieving Justice

Table Comparison between Positive Laws and Islamic *Sharia* in Achieving Justice

Element	Positive Law	Islamic <i>Sharia</i>
Primary Focus	Literal application of legal texts and formal procedures	Justice-oriented, guided by Maqasid al- <i>Sharia</i>
Flexibility in Texts	Limited flexibility,	High flexibility

	emphasis on apparent wording	through Ijtihad, considering the law's objectives
Role of Judge	Neutral applicator of law, discretion constrained	Active seeker of justice, guided discretion based on Maqasid
Ethical Considerations	Primarily legalistic, may underemphasize ethics	Justice is inherently ethical; equity is central
Contextual Circumstances	Often secondary to text	Considered essential in applying justice

Source: Prepared by Author & the Research Team

In addition to the aforementioned factors, the formulation of legal rules in a general and abstract manner to address a reality filled with variables necessitates that the legislator grants judges the necessary discretionary authority to apply legal rules fairly (Abd al-Baqi, 2002). This authority represents the intellectual process undertaken by the judge in assessing the facts of the dispute to provide a legal characterization of the given circumstances meaning the

comprehension and application of the law (Molina, 2020). In this sense, discretionary authority serves as both a means and a freedom to accommodate the conditions under which the law is applied (Otto, 2008).

In the realm of administrative law, some define discretion as the degree of freedom enjoyed by the administration in its actions while exercising its various competences. It is observed that discretionary authority typically pertains to matters that, from a practical standpoint, cannot be directly regulated by statutory provisions. Consequently, the Khartoum Court of Appeal, in its interpretation of withdrawal from a crime, ruled that: "the Penal Code does not define the concept of an attempt, and it is inappropriate to establish a general rule to define the possibility of withdrawal. Rather, the matter should be determined based on the circumstances of each case, taking into account the facts to distinguish between preparation and execution" (Yassine et al., 2024)

From this, it is understood that determining the occurrence of an attempted crime and the possibility of withdrawal falls within the discretionary power of the trial court. In essence, the definition of discretionary authority comprises three elements: the subjective element, which is the intellectual activity undertaken by the judge; the element of variable reality; and the element of law, which is characterized by generality, abstraction, and stability. This authority is granted to judges to enable them to address real-life circumstances that may render the direct

application of legal rules inappropriate in certain situations. It also provides judges with the necessary freedom to interpret legal texts in light of surrounding circumstances or to adapt legal provisions when their apparent meaning fails to provide appropriate solutions to a dispute (Al-Zuhayli, 2018).

As civil transaction legislation cannot accommodate every detail, it is impossible for judges to find direct solutions to all the specific issues that arise in everyday life in statutory provisions (Al-Obaidi, 2018; Goranov, 2021). Therefore, judges must be granted the authority to assess and the power to rule, freeing them from the rigid formalities and constraints of the law and enabling them to administer justice in line with legislative intent. This highlights the fact that the separation between legislative and judicial powers is not absolute and should not be, as the law compensates for what it fails to address explicitly through its spirit and purpose. It is the judge who breathes life into the law, ensuring that justice is served by imparting vitality to its rules (Al-Muhawas & Ahmad, 2004).

This procedure can only be realized through the delegation of discretionary power to judges, enabling them to interpret and apply the law within real-world contexts that are comprehensively understood solely by the presiding judicial authority. Recent academic discourse underscores that the conferment of discretionary power and the capacity for legal adaptation are vital for the synchronization of law

with the ongoing digital and social metamorphoses (Khater, Chami, & Albakjaji, 2025). For instance, the emergence of digital justice paradigms exemplifies the necessity of incorporating technological advancements into judicial procedures (Al Kattan, 2024), while the legal frameworks facilitating digital transformation underscore the requirement for adaptable legal structures that can respond to technological realities (Satrio et al., 2026); (Alsamaraa & Farouk, 2024). Theoretical explorations into computational legal design further corroborate the imperative of formulating legal principles that are congruent with digital contexts. Moreover, investigations in the domains of digital justice and artificial intelligence ethics accentuate the importance of adaptive legal methodologies to confront the nascent challenges posed by the digital landscape (Al Mashai, 2025).

The significance of discretionary authority lies in its ability to render legal rules a flexible instrument in the hands of judges, enabling them to develop the law, adapt to changes, and integrate new realities within the legal framework. As previously mentioned, discretionary authority is a faculty related to the judge's legal expertise, acquired capabilities, knowledge of the objectives of *legislatio* (Donoghue, 2017) awareness of legal doctrines, familiarity with real-world conditions, and accumulated judicial experience. It serves as an essential mechanism for forming judicial conviction, upon which decisions in cases are based. Through this authority, judges can

understand, interpret, and analyze legal texts to extract applicable rulings that achieve fairness and justice (Ismail et al., 2024)

It is self-evident that when a judge exercises this function, they must not contradict the law in its particular rulings or general principles. Rather, they must base their decisions on reasonable and justifiable grounds, explicitly stated in the reasoning of their judgments, allowing appellate courts to assess the soundness of the interpretations and deductions made. For this reason, the Omani Supreme Court ruled that "although the judge has full freedom to rule in a criminal case based on their conviction, this freedom does not mean that the judge may rule arbitrarily and without restriction. Rather, reason and logic must guide their judgment."

This is because straying from the proper framework of jurisprudential reasoning can amount to a violation of the law, warranting intervention by the higher court to reassess the soundness of the lower court's ruling. Similarly, the Sudanese Supreme Court, in a case concerning the assessment of appropriate compensation, ruled that discretionary matters are subject only to the court's conviction that sufficient grounds exist to justify the assessment. However, such assessments may be appealed if they contradict the law or regulations, involve an error in interpretation or application, or are based on unjustifiable reasoning (Sudan Judiciary, 1974).

The foundation of discretionary authority is based on the premise that a judge's interpretation of certain legal terms and their assessment of necessary actions in specific cases is an intellectual exercise involving reasoning, logic, and rational analysis. This process does not exist within the law itself but pertains to the mechanisms of its application and the judicial faculties necessary to address contextual changes. Discretionary authority is thus a faculty granted to judges to engage in intellectual and logical reasoning, directing legal provisions toward justice whenever required. Accordingly, its application is particularly relevant in cases of legislative gaps, ambiguity in statutory language, or where the literal application of the law would lead to unjust outcomes (Al-Jawali, Al-Ahmad, & Suleiman, 2023). Therefore, discretionary authority cannot be invoked when the law provides a clear and explicit solution to a dispute and when the judicial outcome does not contradict the principles of justice underlying the law (Asgeirsson, 2022). In this regard, a legal opinion issued by the Omani Ministry of Justice and Legal Affairs regarding the distinction between administrative errors (for which an employee is not civilly liable) and personal errors (for which they are liable) stated that "there is no universal, abstract rule that precisely delineates the distinction between administrative and personal errors committed by employees. Rather, each case must be assessed individually based on its specific circumstances, the severity of the error,

and the motives behind it (Supreme Court of Oman, 2016).

In consideration of the aforementioned points, it can be broadly articulated that the discretionary authority of a judge in the realm of interpreting legal texts for the purpose of their application to disputes is not without limitations. The judge is required to conform to established linguistic and jurisprudential interpretive frameworks, logical reasoning, and recognized judicial precedents. They are obligated to contemplate the semantics of lexicon and their syntactic configurations, internal references contained within the text under examination, and to ascertain that the interpretation is both rational and justifiable. Furthermore, the judge may draw upon extrinsic resources to enhance comprehension of the text, including legislative intent, explanatory memoranda, preparatory documents, and historical references. In addition, it is imperative for the judge to interpret the statutory provision at hand within the broader framework of related legislative provisions, considering that the law constitutes an integrated corpus that resists fragmentation.

Moreover, it is essential for judges to engage in the interpretation of legal texts with regard to the foundational principles that underpin the legislation, such as justice and the public interest. They should refrain from adhering strictly to the literal interpretation of legal texts in all scenarios but should, instead, oscillate between literal and purposive interpretations based on

what most effectively fulfills the legislative aim of realizing justice. Judges are also required to navigate the application of general and exceptional legal provisions in accordance with the specific needs of each case, implementing restrictive or expansive interpretations when warranted, and taking into account the practical ramifications of their decisions in alignment with the legislative intent (Sung, 2020).

Additionally, they should take into account customary practices, contextual circumstances, and prevailing conditions to ensure the proper application of abstract legal rules to specific disputes (Al-Omar, 2024).

D. CONCLUSION

This study has demonstrated that achieving judicial fairness is not merely a matter of applying legal texts but rather a dynamic process shaped by legislative coherence, judicial discretion, and the broader social and economic context. The findings underscore that legislative harmony and adaptability are essential for ensuring just rulings, as rigid legal interpretations may lead to outcomes that contradict the very essence of justice. A well-structured legal framework, coupled with a judiciary that remains attuned to evolving societal conditions, is crucial for bridging gaps that arise in legal applications.

Judicial discretion has emerged as a pivotal tool in this regard, allowing judges to navigate legal complexities and address unforeseen circumstances. However, its exercise must be guided by clear methodological principles

to prevent arbitrariness and ensure consistency. The study highlights that the effectiveness of judicial discretion depends on the balance between flexibility and adherence to established legal norms, ensuring that rulings reflect both the spirit and purpose of the law.

Informed by these findings, the research proposes several pivotal recommendations. Initially, legislative entities ought to undertake systematic evaluations of legal documents to uphold coherence and mitigate ambiguities that impede judicial interpretation. Furthermore, judicial education initiatives should underscore the significance of contextual analysis, equipping jurists with the competencies required to amalgamate legal reasoning with sociocultural realities. Moreover, regulatory frameworks should be strengthened to guarantee that judicial discretion is exercised judiciously and in accordance with established legal principles. The enhancement of transparency is also imperative through the methodical dissemination of judicial decisions and their foundational rationales, thereby cultivating greater public confidence in the judicial system. Ultimately, the research advocates for the integration of overarching principles of justice, inclusive of ethical and moral dimensions, into legal interpretations to harmonize statutory provisions with broader societal values (Sourdin, Li, & McNamara, 2020).

Subsequent inquiries should examine the ramifications of digital transformation on judicial discretion and assess quantitative indicators of

judicial equity across diverse jurisdictions. Additionally, comparative analyses concentrating on particular sectors, such as commercial arbitration or family law, could yield more profound insights into the pragmatic implementation of legislative-reality consonance.

In conclusion, the quest for judicial equity represents an ongoing undertaking that necessitates collaboration among legislators, jurists, and legal academics. By nurturing a legal framework that reconciles consistency with flexibility, societies can ensure that justice is not merely dispensed but authentically realized, thereby bolstering public trust in the judiciary and fostering a more just and equitable legal system.

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