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Research Article

## LEGITIMACY AND LEGITIMATION: A COMPARATIVE ANALYSIS OF ISLAMIC LAW AND EUROPEAN STANDARDS THROUGH THE LENS OF SDG 16

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### ABSTRACT

**Background:** This study examines legitimacy and legitimation under Islamic law (Shari'ah) and how they relate to social justice and the Sustainable Development Goals (SDGs). In Islamic jurisprudence, legitimacy flows from divine sovereignty expressed through the Qur'an, Sunnah, and scholarly consensus (ijmā'). This includes legal validity, moral authority, and spiritual accountability. Legitimation, by contrast, is a socio-legal process. Authority and institutions gain communal recognition through ijtiḥād, fatwas, and social practices. Understanding this relationship is crucial. It helps explain how Islamic law preserves justice, promotes accountability, and sustains institutional legitimacy within changing socio-political contexts. Building on this conceptual foundation, the study adopts a systematic methodology to examine these dynamics in greater detail.

**Methods:** The study employs a qualitative, doctrinal, and comparative legal research methodology. Primary Islamic sources—the Qur'an, Hadith, and classical fiqh manuals—are analysed alongside modern constitutions, international legal frameworks, and institutional reports. The *maqāṣid al-sharī'ah* (higher objectives of Islamic law) framework guides the analysis, emphasising justice, dignity, and social welfare. Comparative perspectives are drawn from the European Convention on Human Rights (ECHR), the Council of Europe's principles, and the United Nations SDG 16 (Peace, Justice, and Strong Institutions) to identify areas of convergence, divergence, and mutual reinforcement. This comprehensive approach enables the study to produce findings relevant to both Islamic and international legal frameworks, as elaborated in the results and conclusions.

**Results and Conclusions:** Findings reveal that legitimacy in Islamic law provides a transcendental and normative foundation rooted in divine command and moral accountability, while legitimation functions as its operational dimension through communal validation and interpretative flexibility. This duality enables Islamic law to preserve doctrinal consistency while accommodating evolving social realities. Interpreted through the *maqāṣid al-sharī'ah*, Islamic notions of legitimacy and justice align closely with SDGs 5 (Gender Equality), 10 (Reduced Inequalities), and 16, demonstrating Islam's intrinsic commitment to fairness, institutional integrity, and social inclusion. The study concludes that distinguishing between textual legitimacy and contextual legitimation enhances the coherence and adaptability of Islamic legal processes. Integrating *maqāṣid*-based reasoning into global justice and governance frameworks complements international norms of accountability, transparency, and participatory governance. This synthesis reinforces Islam's enduring relevance to contemporary legal and ethical discourse, offering a model of legitimacy that is both divinely grounded and socially responsive.

## 1 INTRODUCTION

Legitimacy and legitimation are foundational concepts that shape the authority, acceptance, and functionality of any legal system. In Islamic law (*Sharī'ah*), these notions are grounded not only in jurisprudential reasoning but also in divine revelation and moral accountability. Classical scholars such as al-Ghazālī and al-Juwaynī emphasised that legitimate authority must align with divine intent and uphold ethical order, thereby linking legal validity with spiritual integrity.<sup>1</sup> In this context, legitimacy refers to the rightful authority of a law, institution, or ruler in accordance with the Qur'an, Sunnah, and established jurisprudential principles, while legitimation encompasses the processes—such as *fatwas*, *ijmā'* (consensus), *ijtihad* (independent reasoning), and social acceptance—through which that authority gains recognition and practical validity.<sup>2</sup>

1 Abū Ḥamid Al-Ghazālī, *Al-Mustaṣfā min 'Ilm Al-Uṣūl* (Dar al-Kutub al-'Ilmiyyah 1997) [in Arabic]; 'Abd al-Malik Al-Juwaynī, *Al-Ghiyāthī* (Dar al-Minhaj 2011) [in Arabic].

2 Wael B Hallaq, *Authority, Continuity, and Change in Islamic Law* (CUP 2001) 45-7.

Together, these concepts ensure that Islamic law remains both theologically grounded and socially responsive.

Historically, legitimacy in Islamic thought has been associated with moral governance, justice, and the preservation of social order, while legitimation has been expressed through interpretive traditions and communal validation.<sup>3</sup> In contemporary Muslim societies, these concepts face renewed scrutiny amid constitutional reforms, governance challenges, and global calls for social justice. As Fadel notes, debates over Shari'ah's legitimacy increasingly revolve around reconciling classical doctrines with pluralist, democratic, and human rights-based frameworks.<sup>4</sup> This tension between divine authority and social legitimacy is particularly salient in post-colonial legal orders and transnational contexts where Islamic law is invoked to affirm, reform, or contest state power.<sup>5</sup>

Despite a rich corpus of Islamic jurisprudential scholarship, a conceptual gap remains in distinguishing legitimacy as a theological-legal foundation from legitimation as a dynamic socio-legal process. Few studies effectively bridge fiqh-based conceptions of authority with modern political theories such as Weberian or legal-rational legitimacy.<sup>6</sup> Moreover, limited attention has been paid to how Islamic constructs of legitimacy interact with contemporary global frameworks such as the European Convention on Human Rights<sup>7</sup> (ECHR), the Council of Europe's principles,<sup>8</sup> and the United Nations Sustainable Development Goals<sup>9</sup> (SDGs)—particularly Goal 16 (Peace, Justice, and Strong Institutions). These instruments promote justice, accountability, and institutional integrity—values deeply embedded in the maqāṣid al-shari'ah, which seek to preserve faith, life, intellect, lineage, and property.

Framing legitimacy and legitimation within Islamic law through the lens of the SDGs—especially Goals 5 (Gender Equality), 10 (Reduced Inequalities), and 16—offers new insights into how Islamic jurisprudence can support global aspirations for sustainable justice and social cohesion.<sup>10</sup> Drawing upon classical scholars such as Al-Māwardī, Ibn

3 Abū al-Ḥasan Al-Māwardī, *Al-Aḥkam As-Sultaniyyah: The laws of Islamic Governance* (Dar Ul Thaqaḥ 2018); Aḥmad ibn 'Abd al-Ḥalīm Ibn Taymiyyah, *Al-Siyāsah al-Shar'iyyah fī Islāḥ al-Rā'i wa al-Ra'iyyah: The Political Shariyah on Reforming the Ruler and the Ruled* (Dar ul Fiqh 2005).

4 Mohammad Fadel, 'Political Legitimacy, Democracy and Islamic Law: The Place of Self-Government in Islamic Political Thought' (2018) 2(1) Journal of Islamic Ethics 59, doi:10.1163/24685542-12340015.

5 Tariq Ramadan, *Radical Reform: Islamic Ethics and Liberation* (OUP 2009).

6 Wael Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* (Columbia UP 2013).

7 Council of Europe, *European Convention on Human Rights* (Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols) (ECtHR 2013) <[https://www.echr.coe.int/documents/d/echr/convention\\_eng](https://www.echr.coe.int/documents/d/echr/convention_eng)> accessed 10 September 2025.

8 European Commission for Democracy Through Law (Venice Commission), *Rule of Law Checklist* (18 March 2016) <[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)007-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)007-e)> accessed 10 September 2025.

9 Transforming Our World: The 2030 Agenda for Sustainable Development (adopted 25 September 2015 UNGA Res 70/1) <<https://digitallibrary.un.org/record/3923923?ln=en>> accessed 10 September 2025.

10 *ibid*, goals 5, 10, 16.

Taymiyyah, and Al-Ghazālī, alongside modern constitutional experiences in Muslim-majority states, this study demonstrates that legitimacy safeguards rights and moral order, while legitimization ensures adaptability and participatory governance.

This paper argues that strengthening legitimacy and legitimation in Islamic law requires doctrinal clarity, inclusive participation, and institutional reform aligned with both Shari‘ah objectives and international development priorities. Integrating *maqāṣid*-based reasoning with global human rights and governance frameworks enriches transnational legal discourse by providing a moral and ethical foundation for justice and legitimacy. In doing so, Islamic jurisprudence can contribute meaningfully to equitable governance, inclusive justice, and the realisation of the Sustainable Development Goals.

## 2 METHODOLOGY

This study adopts a qualitative legal research methodology integrating doctrinal, comparative, and content-analytical approaches to examine legitimacy and legitimation under Islamic law (Shari‘ah) and their implications for social justice and the Sustainable Development Goals (SDGs). The doctrinal method is used to analyse primary Islamic legal sources—Qur‘ān, Sunnah, *ijmā‘*, *qiyās*, and classical juristic writings—alongside international legal instruments such as the European Convention on Human Rights (ECHR), the Council of Europe’s principles, and SDG 16.<sup>11</sup> Qualitative content analysis complements doctrinal inquiry by enabling systematic examination of primary texts and secondary literature.<sup>12</sup> Core Islamic sources include al-Ghazālī’s *al-Mustaṣfā*, Ibn Taymiyyah’s *al-Siyāsah al-Shar‘iyyah*, and al-Māwardī’s *al-Aḥkām al-Sulṭāniyyah*. Secondary materials comprise scholarly analyses, fatwas, judicial decisions, and international policy documents relevant to justice, equality, and institutional governance.<sup>13</sup>

The comparative legal method identifies convergences and divergences between Islamic jurisprudence and international legal frameworks on legitimacy, justice, and governance. Attention is given to the alignment between *maqāṣid al-shari‘ah* and global legal objectives such as human dignity, equality, and social order.<sup>14</sup> Analytically, the study proceeds in two stages: first, conceptual differentiation between legitimacy as a theological-legal foundation and legitimation as a socio-legal process; second, thematic analysis focusing on governance, social justice, accountability, and institutional reform. These themes are mapped onto SDG 5, SDG 10, and SDG 16.<sup>15</sup>

11 Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (3rd edn, Islamic Texts Society 2003).

12 Monique Hennink, Inge Hutter, and Ajay Bailey, *Qualitative Research Methods* (SAGE Publications Ltd 2020).

13 Wael Hallaq, *An Introduction to Islamic Law* (CUP 2009); Fadel (n 4).

14 M Cherif Bassiouni, *The Shari‘ah and Islamic Criminal Justice in Time of War and Peace* (CUP 2014).

15 Transforming Our World (n 9).

Methodological rigor is ensured through iterative coding, triangulation across sources, and transparent analytical procedures.<sup>16</sup> Key concepts—including *ḥākimiyyah*, *ʿadl*, *shūrā*, and *maṣlahah*—are systematically analysed to trace continuity and transformation in Islamic legal reasoning.<sup>17</sup> Ethical considerations include respect for doctrinal diversity, contextual sensitivity, and avoidance of reductionist interpretations.<sup>18</sup> Overall, this integrated methodology enables a nuanced examination of how Islamic conceptions of legitimacy and legitimation can contribute to social justice, institutional accountability, and sustainable peace within both Islamic and international legal frameworks.

### 3 LITERATURE REVIEW

#### 3.1. Overview of Legitimacy under Islamic Law

Legitimacy in Islamic law (Shariʿah) denotes the rightful basis of authority, law, or governance as grounded in divine revelation. Unlike secular legal systems, which derive legitimacy from constitutional consent or legal positivism, Islamic legitimacy is theological, rooted in the sovereignty of God (*ḥākimiyyat Allāh*).<sup>19</sup> As the Qurʾan declares, “Judgment belongs to Allah alone,”<sup>20</sup> classical jurists understood this verse as denying ultimate law-making authority to human institutions. Legitimacy in Islamic law is, therefore, inseparable from moral accountability and conformity with the divine will, functioning as both a legal and an ethical imperative.

According to Al-Ghazālī, legitimacy arises where human action aligns with the higher objectives (*maqāṣid*) of Shariʿah—the preservation of faith, life, intellect, lineage, and property.<sup>21</sup> These objectives ensure that Islamic law operates as a moral-legal system rather than a purely coercive order. Contemporary scholars such as Mohammad Hashim Kamali similarly argue that legitimacy serves both as divine authorisation and an evaluative standard for justice in governance and legislation.<sup>22</sup> Where governance violates these objectives—through corruption, tyranny, or in disregard of due process—it forfeits legitimacy, even if it enjoys political stability.<sup>23</sup>

Historically, legitimacy under Shariʿah has been most contested in matters of political authority (*imāmah* or *khilāfah*). Al-Māwardī and Ibn Taymiyyah emphasised that rulers

16 Luísa Pinto, ‘A Qualitative Analysis of Corporate Social Responsibility in Saudi Arabia’s Service Sector: Practices and Company Performance’ (2023) 15(12) Sustainability 9284, doi:10.3390/su15129284.

17 Klaus Krippendorff, *Content Analysis: An Introduction to Its Methodology* (Sage 2013).

18 Margrit Schreier, *Qualitative Content Analysis in Practice* (Sage 2012).

19 Kamali (n 11) 19-25, 287-92.

20 Qurʾan 12:40.

21 Al-Ghazālī (n 1).

22 Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Islamic Texts Society 1991) 87-92.

23 *ibid* 105.

must uphold justice (‘adl) and divine law to retain legitimacy.<sup>24</sup> Ibn Taymiyyah further maintained that unjust rulers lose their right to obedience, as Shari‘ah binds both rulers and subjects alike. These principles resonate in modern constitutional frameworks of Muslim-majority states that designate Shari‘ah as a source of legislation, such as Egypt and Pakistan.<sup>25</sup> However, the legitimacy of such systems is often questioned when legal pluralism or executive dominance undermines the maqāṣid objectives. Modern scholarship conceptualises Islamic legitimacy as both deontological—derived from divine command—and instrumental—concerned with realising justice and welfare.<sup>26</sup> This duality allows legitimacy to remain principled yet adaptive, mediated through ijihād, ijma‘, and societal acceptance.<sup>27</sup> From a comparative perspective, Islamic legitimacy parallels international doctrines of the rule of law, which emphasise predictability, transparency, and moral coherence, as articulated by the European Court of Human Rights in *The Sunday Times v United Kingdom* (1979).<sup>28</sup> However, the Islamic framework uniquely grounds these principles in a divine moral order rather than secular rationality.<sup>29</sup>

### 3.2. Legitimation under Islamic Law

The concept of legitimation in Islamic law (Shari‘ah) refers to the process by which authority, actions, institutions, or norms acquire recognition as legitimate in accordance with divine revelation and juristic principles. Unlike secular frameworks, in which legitimation may rest on social contracts, legal positivism, or state sovereignty, Islamic legitimation is theological, ethical, and communal. It begins with the foundational Qur’anic principle: “*Al-ḥukm lillāh*” (“Judgment belongs to Allah”) (Qur’an 12:40),<sup>30</sup> affirming that no law or institution possesses inherent validity unless it conforms to the Qur’an and Sunnah.<sup>31</sup>

Shari‘ah serves as the overarching framework of legitimacy by categorising human actions into obligatory (farḍ), recommended (mustahabb), permissible (mubāḥ), disliked (makrūh), and forbidden (ḥarām).<sup>32</sup> A ruler, institution, or policy gains legitimacy if it advances the objectives of Shari‘ah (maqāṣid al-shari‘ah): the protection of faith (dīn),

24 Al-Māwardī (n 3); Ibn Taymiyyah (n 3).

25 Constitution of the Arab Republic of Egypt (effective 18 January 2014) art 2 <[https://www.constituteproject.org/constitution/Egypt\\_2014](https://www.constituteproject.org/constitution/Egypt_2014)> accessed 10 September 2025; Constitution of the Islamic Republic of Pakistan (effective 14 August 1973) art 227 <[https://www.constituteproject.org/constitution/Pakistan\\_2018](https://www.constituteproject.org/constitution/Pakistan_2018)> accessed 10 September 2025.

26 Fadel (n 4).

27 Hallaq, *Authority, Continuity, and Change* (n 2).

28 *The Sunday Times v United Kingdom* App no 6538/74 (ECtHR, 26 April 1979) <<https://hudoc.echr.coe.int/eng?i=001-57584>> accessed 10 September 2025.

29 Kamali (n 22) 110-4.

30 Qur’an 12:40.

31 Kamali (n 22) 89-92.

32 Al-Ghazālī (n 1).

life (nafs), intellect ('aql), progeny (nasl), and property (māl).<sup>33</sup> Any law or policy contradicting these objectives is deemed illegitimate, regardless of political endorsement or public approval. Legitimacy is further reinforced by *ijmā'* (scholarly consensus) and communal acceptance, reflecting both juristic reasoning and social recognition.<sup>34</sup>

Legitimation operates through a multi-sourced legal framework comprising the Qur'an, Sunnah, *ijmā'*, and *qiyās* (analogical reasoning).<sup>35</sup> This structure ensures that legitimacy is neither arbitrary nor purely political but anchored in ethical objectivity and procedural discipline. For example, commercial transactions are legitimate only when free from *ribā* (usury) and *gharar* (excessive uncertainty), while governance attains legitimacy through justice ('adl), consultation (*shūrā*), and public welfare (*maṣlaḥah*).<sup>36</sup> Legitimation is therefore both procedural—through adherence to *uṣūl al-fiqh*—and substantive, through conformity with *maqāṣid al-sharī'ah*.

The implications of legitimation extend deeply into governance and social justice. The Qur'an commands justice and trust in authority: "*Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice.*"<sup>37</sup> Authority is thus a divine trust (*amānah*), and its legitimacy depends on its just exercise.<sup>38</sup> Ibn Taymiyyah stressed that power devoid of justice loses legitimacy, even if maintained by force.<sup>39</sup> Islamic legitimacy is therefore dynamic, requiring continuous ethical conformity rather than mere formal authority.<sup>40</sup>

This conception resonates with contemporary international legal frameworks. The European Convention on Human Rights (ECHR) guarantees fair trial (Article 6), non-discrimination (Article 14), and the rule of law as foundations of legitimate governance.<sup>41</sup> Similarly, the Council of Europe's Venice Commission Rule of Law Checklist highlights legality, legal certainty, prevention of abuse of power, and equality before the law as core criteria of legitimacy.<sup>42</sup> These principles align closely with *maqāṣid*-based jurisprudence, where justice ('adl), accountability (*muḥāsabah*), and human dignity (*karāmah al-insān*) are central objectives.

Likewise, United Nations Sustainable Development Goal 16 underscores accountability, transparency, and access to justice as prerequisites for peaceful and inclusive societies.<sup>43</sup>

33 Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought 2008) 25-33, doi:10.2307/j.ctvkc67tg.

34 Hallaq, *Authority, Continuity, and Change* (n 2) 45-50.

35 Kamali (n 22) 133-6.

36 Al-Ghazālī (n 1) 115-9.

37 Qur'an 4:58.

38 Fadel (n 4).

39 Ibn Taymiyyah (n 3).

40 MA Shaban, *Islamic History: A New Interpretation* (CUP 1971) 112-4.

41 Council of Europe, *ECHR* (n 7) arts 6, 14.

42 Venice Commission, *Rule of Law Checklist* (n 8).

43 Auda (n 33) 42-8.



Islamic law complements these aims by grounding them in a divine moral order.<sup>44</sup> While international law often frames legitimacy procedurally, Islamic law integrates procedural integrity with spiritual and ethical purpose, offering a holistic understanding of legitimacy as both institutional and moral.<sup>45</sup>

Accordingly, legitimation under Islamic law constitutes a comprehensive theological and practical framework defining what is valid, binding, and enforceable across governance, contracts, and institutions. Its emphasis on justice and ethical accountability provides an enduring foundation for social legitimacy.<sup>46</sup> When harmonised with global frameworks such as the ECHR and SDG 16, Islamic jurisprudence strengthens the universal pursuit of just, peaceful, and legitimate institutions. Legitimation (taṣḥīḥ or tathbīt) in Islamic jurisprudence refers to the processes through which authority, norms, or institutions are validated and socially recognised within the Muslim community. While legitimacy defines the divine rightfulness of authority, legitimation concerns its procedural, interpretive, and communal realisation.<sup>47</sup> It operates through juristic reasoning, institutional mechanisms, and public endorsement. The Qur'an and Sunnah provide the foundational criteria for legitimation, while ijtihād and qiyās facilitate their application to changing circumstances. As Khaled Abou El Fadl argues, this renders Islamic legitimation inherently deliberative, requiring ethical reasoning rather than mechanical application of texts.<sup>48</sup> Historically, the 'ulamā' served as custodians of legitimation, issuing fatāwā and mediating between divine norms and social realities.<sup>49</sup>

Communal recognition (ijmā' al-ummah) further reinforces legitimation, institutionalising participation through shūrā (consultation).<sup>50</sup> The Constitution of Medina exemplifies this principle by embedding consultative governance within a pluralistic community, a precedent often cited as an early form of participatory legitimation.<sup>51</sup> Contemporary scholars such as Rachid Ghannouchi and Tariq Ramadan argue that democratic mechanisms can function as modern expressions of shūrā, provided they remain within Shari'ah constraints.<sup>52</sup> Legitimation, however, remains normatively bounded. As Abou El Fadl and Seyyed Hossein Nasr emphasise, majority approval cannot override divine injunctions.<sup>53</sup> This tension underlies modern Islamic constitutional

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44 Azizah Mohd and others, 'Child Labour under Islamic Law (the Shari'ah): An Overview' (2018) 23(2) *Al-Shajarah* 295.

45 Transforming Our World (n 9) goal 16.

46 Mashood A Baderin, *International Human Rights and Islamic Law* (OUP 2003) 59-63.

47 Fadel (n 4).

48 Khaled Abou El Fadl, *The Authoritative and Authoritarian in Islamic Discourses* (Dar Taiba 2004).

49 Hallaq, *Authority, Continuity, and Change* (n 2) 87-93.

50 Qur'an 42:38.

51 Muhammad Qasim Zaman, *The Ulama in Contemporary Islam* (Princeton UP 2002).

52 Rachid Ghannouchi, *Public Freedoms in the Islamic State* (Yale UP 2022); Ramadan (n 5).

53 Abou El Fadl (n 48); Seyyed Hossein Nasr, *Islam in the Modern World: Challenged by the West, Threatened by Fundamentalism, Keeping Faith with Tradition* (HarperOne 2012).



debates, evident in divergent models ranging from Iran's wilāyat al-faqīh to secular-leaning systems such as Turkey.<sup>54</sup> These variations illustrate that legitimization is historically adaptable yet substantively constrained by Shari'ah principles.

In contemporary practice, legitimization extends to Islamic finance, constitutional review, and human rights discourse. Shari'ah Supervisory Boards legitimise financial instruments by certifying compliance with prohibitions against ribā and gharar,<sup>55</sup> thereby performing a role analogous to that of constitutional courts in secular systems.<sup>56</sup> Nonetheless, legitimization is not just procedural but moral. The Qur'an commands justice and trust in authority,<sup>57</sup> rendering any system illegitimate if it perpetuates injustice or violates human dignity, a principle echoed in the Cairo Declaration on Human Rights in Islam (1990).<sup>58</sup> Table 1 shows sources and functions of legitimization in Islamic Law.<sup>59</sup>

**Table 1. Sources and Functions of Legitimation in Islamic Law**

Sources	Functions of Legitimation
<b>Qur'an</b>	Primary source of laws; provides divine legitimacy for actions and rulings.
<b>Sunnah</b>	Prophet's practices legitimise interpretations and applications of Qur'anic principles.
<b>Ijma (Consensus)</b>	Scholarly consensus over time legitimises practices not explicitly mentioned in Qur'an/Sunnah
<b>Qiyas (Analogy)</b>	Enables legitimization of new issues based on analogies with established rulings
<b>Maslahah (Public interest)</b>	Legitimizes decisions based on the preservation of welfare and core objectives of Shariah

54 Hallaq, *The Impossible State* (n 6).

55 Auda (n 33) 52-9.

56 ibid 89-94.

57 Qur'an 4:58.

58 Cairo Declaration on Human Rights in Islam (adopted 5 August 1990) <<https://hrlibrary.umn.edu/instate/cairodeclaration.html>> accessed 10 September 2025.

59 Source: Al-Ghazālī (n 1); Ibn Taymiyyah (n 3); Kamali (n 11); Mahmoud A El-Gamal, *Islamic Finance: Law, Economics, and Practice* (CUP 2006).

### 3.3. Understanding Authority Moral Responsibility Under Islamic Law

The distinction between legitimacy and legitimation is central to understanding authority under Islamic law. Legitimacy is ontological, rooted in divine law, while legitimation is epistemic and procedural, realised through interpretation, consensus, and social practice.<sup>60</sup> Kamali describes legitimacy as the theological core of authority, with legitimation functioning as its social translation.<sup>61</sup>

In governance, legitimacy requires adherence to Shari'ah and justice. The Qur'an (4:59) conditions obedience to rulers on their conformity with divine law,<sup>62</sup> a principle that Ibn Taymiyyah interpreted as conditional obedience based on justice.<sup>63</sup> Legitimation occurs through mechanisms such as bay'ah, consultative governance, and community acceptance.<sup>64</sup> Prophetic traditions emphasising reciprocal moral responsibility between rulers and the ruled reinforce this ethical foundation of authority. In Islamic finance, legitimacy demands Shari'ah compliance, while legitimation is achieved through institutional oversight and public trust.<sup>65</sup> Scholarly interpretation here functions analogously to judicial review, ensuring ethical accountability.<sup>66</sup>

Modern Muslim societies face crises of legitimacy when Shari'ah is instrumentalised for political ends.<sup>67</sup> Wael Hallaq argues that postcolonial governance structures have fragmented Islamic legitimacy by subordinating divine law to bureaucratic state power.<sup>68</sup> In contrast, Jasser Auda proposes maqāṣid-based reform as a means of restoring authentic legitimation by aligning governance with justice, welfare, and dignity.<sup>69</sup> This approach aligns with international standards articulated in SDG 16, the ECHR, and the Venice Commission.

### 3.4. Pursuit of Legitimacy through Modernisation and National Sovereignty

The abolition of the Ottoman Caliphate in 1924 marked a critical rupture in Islamic political legitimacy, creating a vacuum that was subsequently filled by competing religious, national, and ideological claims.<sup>70</sup> Islamist movements such as the Muslim Brotherhood and Jamaat-e-Islami framed legitimacy around Shari'ah and public welfare, challenging

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60 Hamidullah Muhammad, *The First Written Constitution in the World: An Important Document of the Time of the Holy Prophet* (Sh Muhammad Ashraf 1981).

61 Kamali (n 11).

62 Abou El Fadl (n 48) 112; Nasr (n 53).

63 Ibn Taymiyyah (n 3).

64 El-Gamal (n 59).

65 ibid 72-4.

66 Qur'an 4:58.

67 Kamali (n 22) 136-8.

68 Hallaq, *The Impossible State* (n 6).

69 Auda (n 33).

70 John L Esposito and John O Voll, *Islam and Democracy* (OUP 2001) 89-92.

secular nationalist regimes that grounded authority in Western constitutionalism.<sup>71</sup> Conversely, states such as Turkey, Egypt, and Tunisia pursued legitimacy through modernisation and national sovereignty, often marginalising traditional 'ulamā' authority.<sup>72</sup> A central debate concerns whether democratic institutions can be legitimate under Islamic law. Scholars such as Fadel and Abou El Fadl argue that *shūrā* is compatible with democracy,<sup>73</sup> allowing legitimacy to derive from both divine command and public consent within Shari'ah limits.<sup>74</sup> In contrast, thinkers like Qutb and Maududi emphasise *ḥākimiyyah* as exclusive divine sovereignty, viewing extensive human legislation as doctrinally problematic.<sup>75</sup>

The role of the 'ulamā' remains pivotal. In Saudi Arabia, legitimacy is anchored in a religious-political alliance institutionalised through clerical authority,<sup>76</sup> while Iran's *wilāyat al-faqīh* fuses religious and political power under juristic guardianship.<sup>77</sup> Both models have been criticised for limiting pluralism and democratic accountability.<sup>78</sup> International human rights jurisprudence, particularly under Article 9 of the ECHR, underscores that religious authority must operate within frameworks of dignity, equality, and non-discrimination.<sup>79</sup> Claims of legitimacy by extremist movements invoking literalist interpretations of *ḥākimiyyah* have been overwhelmingly rejected by mainstream scholars due to the absence of *ijmā'* and legitimate leadership.<sup>80</sup> These cases illustrate the dangers of detaching legitimation from its ethical, juristic, and communal foundations. Reformist scholars advocate a reconciliatory model in which democracy serves to realise the *maqāṣid al-Shari'ah*, including justice, dignity, and public welfare.<sup>81</sup> This approach aligns closely with SDG 16's emphasis on peace, justice, and strong institutions,<sup>82</sup> signalling a shift toward inclusive and ethically grounded governance.

71 Noah Feldman, *The Fall and Rise of the Islamic State* (Princeton UP 2008).

72 Sayyid Qutb, *Milestones* (Islamic Book Service 2006).

73 Mohammad Fadel, 'Public Reason as a Strategy for Principled Reconciliation: The Case of Islamic Law and International Human Rights Law' (2007) 8(1) *Chicago Journal of International Law* 7; Abou El Fadl (n 48).

74 Abdullahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a* (Harvard UP 2008); Hallaq, *The Impossible State* (n 6).

75 Qutb (n 72); Syed Abul A'la Maududi, *The Islamic Law and Constitution* (Islamic Publications Ltd 1990).

76 Abou El Fadl (n 48).

77 Maududi (n 75).

78 Madawi Al-Rasheed, *Muted Modernists: The Struggle over Divine Politics in Saudi Arabia* (Hurst 2015).

79 Hamid Dabashi, *Theology of Discontent: The Ideological Foundation of the Islamic Revolution in Iran* (Transaction Publishers 2006).

80 Khaled Abou El Fadl, *The Great Theft: Wrestling Islam from the Extremists* (HarperOne 2005) 45-58.

81 *Kokkinakis v Greece* App no 14307/88 (ECtHR, 25 May 1993) <<https://hudoc.echr.coe.int/eng?i=001-57827>> accessed 10 September 2025.

82 Andrew F March, *Islam and Liberal Citizenship: The Search for an Overlapping Consensus* (OUP 2011).

### 3.5. Consequences of Legitimacy and Legitimation for Social Justice and the SDGs

The distinction between legitimacy and legitimation has significant implications for social justice and sustainable development. Legitimacy (*mashrū'īyyah*) provides the divine normative foundation of authority, while legitimation (*tashrī'īyyah*) translates that foundation into juristic, institutional, and communal practice.<sup>83</sup> Together, they align Islamic legal ethics with the objectives of the SDGs, particularly Goals 5, 10, and 16.<sup>84</sup>

Classical scholars such as Al-Ghazālī and Ibn Taymiyyah maintained that rulers retain legitimacy only when they uphold justice, protect welfare, and adhere to Shari'ah.<sup>85</sup> Legitimation operationalises these principles through *ijtihād*, *fatwā*, and communal recognition, ensuring contextual responsiveness without sacrificing authenticity.<sup>86</sup> Internationally, Islamic legitimacy complements frameworks such as the ECHR and the Council of Europe's rule of law principles, which emphasise accountability, fairness, and dignity. SDG 16 similarly resonates with Qur'ānic imperatives of justice and trust in governance.<sup>87</sup> Moreover, Islamic legitimacy inherently encompasses distributive justice and social inclusion, reinforcing SDG 5 and SDG 10.<sup>88</sup> Reformist scholars argue that *maqāṣid*-based interpretation supports gender equity,<sup>89</sup> equality before the law, and protection of human dignity.<sup>90</sup> In sum, legitimacy anchors governance in divine justice, while legitimation ensures participatory, ethical, and adaptive institutions. This synthesis—rooted in Shari'ah yet open to global norms—offers a coherent framework for peace, justice, and strong institutions. By engaging international legal standards alongside Islamic jurisprudence, legitimacy and legitimation emerge as mutually reinforcing foundations of equitable and sustainable governance.<sup>91</sup> Table 2 shows elements and explanations of legitimacy and legitimation.<sup>92</sup>

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83 Ghannouchi (n 52).

84 Transforming Our World (n 9) goals 5, 10, 16.

85 Al-Ghazālī (n 1); Ibn Taymiyyah (n 3).

86 Kamali (n 11).

87 Qur'an 4:58.

88 Mohammad Hashim Kamali, *The Dignity of Man: An Islamic Perspective* (Islamic Texts Society 2002).

89 Abdullahi Ahmed An-Naim, *Decolonizing Human Rights* (CUP 2021).

90 Yusuff Jelili Amuda, 'Enhancing National Progress and Sustainable Economic Development among *Al-Majiri* Children in Northern Nigeria' (2021) 7(9) *Heliyon* 2-5, doi:10.1016/j.heliyon.2021.e08066.

91 Baderin (n 46).

92 Source: Al-Ghazālī (n 1); El-Gamal (n 59); Esposito and Voll (n 70); Fadel (n 4); Kamali (n 11); Zaman (n 51).

**Table 2. Elements and Explanations of Legitimacy and Legitimation**

Elements	Explanation
<b>Sovereignty of Allah</b>	Only Allah is the true lawgiver; legitimacy comes from divine law
<b>Conformity with Shariah</b>	Actions or institutions must align with Qur'an, Sunnah, Ijma, Qiyas
<b>Maqasid al-Shariah</b>	Legitimacy judged by how well objectives of Shariah are fulfilled
<b>Public Acceptance (Ijma)</b>	Legitimacy enhanced through scholarly consensus and communal support
<b>Justice and Accountability</b>	Rulers and institutions must be just and accountable to retain legitimacy

3.6. Islamic Approaches to Legitimacy versus Social Justice  
and their Relevance to International Frameworks

Islamic approaches to legitimacy and social justice are rooted in theological, moral, and legal traditions that prioritise divine justice, human dignity, and communal welfare. These principles derive authority from the Qur'an, Sunnah, and the juristic framework of *maqāṣid al-sharī'ah* (the higher objectives of Islamic law). Within this paradigm, legitimacy (*shar'ī legitimacy*) and social justice are inseparable: authority is considered legitimate only when it upholds justice, equity, and the rights of individuals in accordance with divine mandates. The Qur'an commands believers to “render trusts to whom they are due and judge with justice,”<sup>93</sup> emphasising accountability and moral responsibility as the foundations of governance. Classical scholars such as Al-Ghazālī and Al-Shāṭibī identified justice as a central purpose of the law, with the *maqāṣid*—the preservation of religion, life, intellect, progeny, and property—constituting its core objectives.<sup>94</sup> This framework reflects a comprehensive vision of legitimacy that extends beyond procedural legality to encompass moral integrity and social welfare.

Contemporary Muslim jurists and reformist scholars increasingly argue that these foundational principles are compatible with universal human rights norms when interpreted through contextual and purposive methodologies. Abdullahi An-Na'im contends that Islamic norms, when approached dynamically, can support democratic governance, human dignity, and social inclusion without abandoning their religious

93 Qur'an 4:58.  
94 Al-Ghazālī (n 1); Abū Ishāq Al-Shāṭibī, *Al-Muwāfaqāt fī Uṣūl al-Sharī'ah* (Dar al-Kutub al-'Ilmiyyah 2004).

foundations.<sup>95</sup> In this sense, legitimacy in Islamic jurisprudence is both spiritually anchored in divine authority and social validated through justice, public welfare, and the well-being of the governed community.

In comparison, the European Convention on Human Rights (ECHR) and the Council of Europe's legal framework are secular in origin but share commitments to justice, equality, and institutional integrity. Adopted in 1950, the ECHR enshrines civil and political rights, including the right to life (Article 2), the prohibition of torture (Article 3), the right to a fair trial (Article 6), and respect for private and family life (Article 8).<sup>96</sup> These rights are enforceable through the European Court of Human Rights, providing individuals with direct remedies against state violations. Complementary instruments, including the European Social Charter (1961) and Council of Europe recommendations, promote democratic governance, social protection, and equality before the law.<sup>97</sup> These frameworks articulate a model of legitimacy grounded in the rule of law, procedural fairness, and the protection of rights.

The United Nations Sustainable Development Goal 16 (SDG 16) introduces a developmental perspective by linking peace, justice, and strong institutions to sustainable development. As part of the 2030 Agenda, SDG 16 promotes inclusive societies, access to justice, transparency, and accountable institutions.<sup>98</sup> Unlike Islamic law's divine grounding or the ECHR's judicial enforcement, SDG 16 functions as a policy-oriented framework, encouraging governance reforms and institutional capacity-building. It situates legitimacy within a broader socio-economic context, recognising that justice depends on legal norms and participation, inclusion, and development.

Despite differences in origin and structure, significant convergence exists between Islamic law and these international frameworks. Both emphasise justice, dignity, and public welfare as foundational values. The *maqāṣid al-sharī'ah*'s focus on preserving life, intellect, and property parallels the ECHR's protection of fundamental rights and SDG 16's emphasis on safety and access to justice.<sup>99</sup> Islamic procedural safeguards—such as evidentiary standards, judicial ethics, and due process—share conceptual similarities with fair trial guarantees under the ECHR. Likewise, the Qur'ānic principle of *amānah* (trust and accountability) closely aligns with SDG 16's focus on transparency, anti-corruption, and institutional integrity.<sup>100</sup> These shared values provide a basis for cross-normative dialogue and mutual reinforcement. Nevertheless, areas of tension remain. A principal divergence concerns the

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95 An-Na'im, *Islam and the Secular State* (n 74).

96 Council of Europe, *ECHR* (n 7).

97 Statute of the Council of Europe (adopted 5 May 1949) ETS 1; European Social Charter (adopted 18 October 1961) ETS 35.

98 Transforming Our World (n 9) goal 16.

99 Yusuf Al-Qaradawi, *Fiqh al-Maqāṣid: Understanding the Objectives of the Sharia* (Dar al-Shuruq 2008) [in Arabic].

100 Kamali (n 11) 456-9.

source of rights: international human rights law is secular and universalist, whereas Islamic legitimacy is grounded in divine revelation and juristic interpretation.<sup>101</sup> Conflicts may arise where literalist readings of Shari'ah appear inconsistent with certain ECHR standards, particularly regarding gender equality, corporal punishment, or personal freedoms. Reformist scholars such as Khaled Abou El Fadl advocate ethical and contextual interpretations that reaffirm the compatibility of Shari'ah with universal human rights norms.<sup>102</sup> Another challenge lies in universality versus contextualism: while international frameworks emphasise uniform standards, Islamic jurisprudence allows culturally contingent applications of justice, arguing that universality should accommodate diversity in form and implementation.<sup>103</sup> Institutional enforcement further distinguishes these frameworks. The ECHR operates through a supranational judicial mechanism with binding authority, whereas Islamic legal systems and SDG-based approaches rely primarily on domestic institutions, moral persuasion, and social consensus.<sup>104</sup> This structural difference highlights challenges in ensuring consistent protection of rights and due process.

To bridge these gaps, several strategies have been proposed. First, *maqāṣid*-based reasoning offers a robust interpretive tool for harmonising Islamic law with international justice frameworks by emphasising ethical purpose and public welfare (*maṣlaḥah*).<sup>105</sup> Second, a relational conception of rights—integrating individual and communal dimensions—can contextualise universal norms within Islamic social ethics. Third, engagement with SDG 16's governance agenda provides practical pathways for reform, including strengthening judicial independence, improving access to justice, and enhancing accountability, all of which resonate with Islamic principles of *'adl* (justice) and *amānah* (trust).<sup>106</sup>

Accordingly, Islamic law, the ECHR, the Council of Europe's principles, and SDG 16 represent distinct yet convergent approaches to legitimacy and social justice. While their philosophical foundations differ—divine command, secular rationalism, and developmental pragmatism—all seek to uphold human dignity, fairness, and accountability. A purposive, *maqāṣid*-oriented interpretation of Islamic law, combined with the procedural and institutional strengths of international frameworks, offers a compelling model for legitimate, just, and sustainable governance in an interconnected world.<sup>107</sup>

101 Wael Hallaq, *The Origins and Evolution of Islamic Law* (CUP 2005).

102 Abou El Fadl (n 80).

103 Abdullahi An-Na'im, 'Human Rights in the Muslim World: Socio-Political Conditions and Theoretical Considerations' (1990) 3 Harvard Human Rights Journal 13.

104 Guidelines of the Committee of Ministers of the Council of Europe on Public Ethics (adopted 11 March 2020) <<https://rm.coe.int/16809a59e7>> accessed 10 September 2025.

105 An-Na'im, *Islam and the Secular State* (n 74) 87-92.

106 Transforming our World (n 9).

107 *ibid*



### 3.7. Legitimacy in Influencing Global/ Transnational Legal Discussions

The concept of legitimacy in Islamic law provides a rich moral and jurisprudential framework that can influence global and transnational legal discourse, particularly in governance, human rights, peacebuilding, and institutional ethics. Islamic legitimacy (*sharʿi mashrūʿiyyah*) integrates moral, legal, and social dimensions, viewing authority as a trust (*amānah*) accountable to both God and society. This approach extends legitimacy beyond procedural legality to encompass ethical responsibility, thereby enriching debates on the rule of law and the moral foundations of legal systems.

Central to Islamic legitimacy are justice (*ʿadl*) and public welfare (*maṣlaḥah*). Authority is legitimate only as far as it serves these objectives, reflecting the Qurʾānic command to “enjoin what is right and forbid what is wrong.”<sup>108</sup> This conception emphasises that legality without justice lacks moral authority, a perspective that can inform international debates on governance, humanitarian intervention, and peace agreements.<sup>109</sup> Islamic law thus encourages a value-based understanding of power, accountability, and compliance.

The *maqāṣid al-sharīʿah* further provides a purposive framework aligned with contemporary global legal theory’s emphasis on teleological reasoning. By prioritising the protection of life, religion, intellect, lineage, and property,<sup>110</sup> the *maqāṣid* resonate with universal human rights principles, the Sustainable Development Goals,<sup>111</sup> and humanitarian norms. In transnational policymaking—such as economic justice, environmental ethics, and post-conflict reconstruction—*maqāṣid* reasoning offers a moral vocabulary that bridges cultural and legal divides.

Institutionally, Islamic jurisprudence emphasises consultation (*shūrā*), accountability (*muḥāsabah*), and stewardship (*khilāfah*).<sup>112</sup> These principles support participatory governance and ethical restraint on authority, informing global discussions on institutional accountability and reform. The concept of *khilāfah*, understood as stewardship rather than domination, also contributes to global discourses on environmental responsibility and sustainable governance.

Islamic legitimacy further underscores the intrinsic link between justice and peace (*salām*), a theme echoed in international instruments such as the European Social Charter and SDG 16. Peace, in Islamic thought, is contingent upon fairness, reconciliation, and the protection of rights.<sup>113</sup> This relational understanding of

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108 Qurʾān 3:110.

109 Kamali (n 11) 389-95.

110 Al-Shāṭibī (n 94); Auda (n 33).

111 Fayez Alanazi and Mamdouh Alenezi, ‘Driving the Future: Leveraging Digital Transformation for Sustainable Transportation’ (2024) 8(3) Journal of Infrastructure, Policy and Development 3085, doi:10.24294/jipd.v8i3.3085.

112 Hallaq, *The Impossible State* (n 6) 55-61.

113 European Social Charter (n 97); Transforming Our World (n 9) goal 16.

legitimacy can enhance transitional justice and peacebuilding frameworks by emphasising moral restoration alongside institutional recognition.

Moreover, Islamic legal theory's historical engagement with pluralism (*ta'addudiyyah*)—through concepts such as *'urf* (custom) and legal accommodation—demonstrates that legitimacy can be plural and dialogical without moral relativism.<sup>114</sup> This insight is valuable in transnational legal pluralism, where multiple normative orders coexist. In contexts where international law is criticised as Eurocentric or detached from local moral frameworks, Islamic legitimacy can enhance normative inclusivity by grounding legality in justice and ethical accountability rather than power or procedure alone.<sup>115</sup> Consequently, Islamic legal thought offers a constructive contribution to reforming global governance toward a more participatory, ethical, and culturally resonant legal order.

In sum, Islamic concepts of legitimacy—centred on justice, accountability, consultation, and public welfare—can meaningfully enrich global legal discourse. Rather than imposing religious norms, they provide ethical insights that complement secular frameworks, helping to shape a more just, legitimate, and humane transnational legal system.

## 4 RESULTS AND DISCUSSION OF THE FINDINGS

The findings of this study demonstrate that legitimacy (*mashrū' iyyah*) in Islamic law is not merely a sociopolitical or procedural construct, but a profoundly theological and normative concept grounded in divine sovereignty (*ḥākimiyyah*). The Qur'an unequivocally affirms that ultimate authority belongs exclusively to God—“*the command belongs to none but Allah*” (Qur'an 12:40)—and prescribes obedience to those in authority as far as such authority conforms to divine commands (Qur'an 4:59). Consequently, legitimacy in Islam originates from Shari'ah and remains perpetually conditional upon compliance with its ethical and legal imperatives. This foundational premise fundamentally distinguishes Islamic legitimacy from secular models, which derive authority from social contract theory, democratic consent, or positivist conceptions of state sovereignty.<sup>116</sup>

In Western legal thought, as articulated by scholars like Max Weber and Hans Kelsen, legitimacy is often grounded in formal legality, institutional authority, or popular consent. By contrast, Islamic jurisprudence conditions legitimacy on conformity with Shari'ah and moral accountability before God. Classical jurists such as al-Ghazali and Ibn Taymiyyah conceptualised governance as a divinely mandated trust (*amānah*), whose preservation depends upon justice (*'adl*) and the realisation of the *maqāṣid al-shari'ah*—namely, the protection of religion, life, intellect, progeny, and property. Al-Ghazali emphasised that the

114 An-Na'im, *Islam and the Secular State* (n 74) 113-5.

115 Feldman (n 71) 34-40.

116 Ibn Taymiyyah (n 3).

ruler's foremost obligation is the attainment of public welfare (*maṣlaḥah*) and the prevention of corruption (*mafsadah*), while Ibn Taymiyyah asserted that political authority is indispensable for enforcing justice and restraining oppression. His oft-cited dictum—that “God upholds the just state even if it is unbelieving and does not uphold the unjust state even if it is Muslim”—encapsulates the ethical primacy of justice over mere confessional identity.

This moral orientation transforms legitimacy from procedural to ethical, binding rulers to divine accountability beyond human consent. As Kamali further observes, legitimacy in Islam is inseparable from justice, accountability, and public welfare, rendering Shari‘ah compliance both a legal criterion and a moral test of governance<sup>117</sup>. Accordingly, legitimacy in Islamic thought is neither absolute nor self-perpetuating; it is conditional and revocable. Tyranny, corruption, or systematic violations of human dignity signify a breakdown of legitimate authority.<sup>118</sup> Ibn Khaldūn’s analysis of political decay reinforces this conclusion, identifying moral failure and the erosion of social cohesion (‘*aṣabiyyah*’) as primary causes of dynastic decline.<sup>119</sup> Thus, legitimacy in Islam performs a dual theological and sociological function: it anchors authority in divine law while preserving moral coherence within the polity.

In contrast, *legitimation* (*taṣrī‘iyyah*) emerges as a socio-legal process through which theoretical authority acquires practical recognition. While legitimacy is derived from divine law, legitimation is mediated through human agency, manifesting in mechanisms such as *bay‘ah* (oath of allegiance), *ijmā‘* (consensus), *ijtihād* (independent reasoning), and *fatwā* (juridical opinion). These instruments institutionalise the relationship between ruler and ruled, ensuring that authority remains responsive to communal needs and contextual realities. Historically, even rulers claiming divine legitimacy depended upon the endorsement of the ‘*ulamā*’ and public acceptance. The *bay‘ah* accorded to the Rightly Guided Caliphs exemplifies the centrality of communal recognition in legitimating authority.<sup>120</sup>

In contemporary governance, legitimation operates through institutional mechanisms such as Shari‘ah advisory boards, constitutional references to Islam, and the consultative roles of national and transnational fiqh academies.<sup>121</sup> These structures help sustain public trust while facilitating legal adaptation to modern contexts. The relationship between legitimacy and legitimation thus reflects a dynamic equilibrium: legitimacy provides the normative foundation, while legitimation ensures functionality and continuity. This dual framework reconciles divine authority with social agency, safeguarding moral order while enabling inclusivity and adaptability. Jurisprudentially, it reflects a *maqāṣidī* vision of law—stable in principles yet flexible in application.<sup>122</sup>

117 Kamali, *The Dignity of Man* (n 88) 82-4.

118 Ibn Taymiyyah (n 3).

119 Ibn Khaldūn, *The Muqaddimah: An Introduction to History* (Princeton UP 1989) 123-5.

120 Hallaq, *The Impossible State* (n 6) 96-8.

121 El-Gamal (n 59) 57-9.

122 Auda (n 33) 91-5.

When examined through the prism of the Sustainable Development Goals (SDGs), Islamic legitimacy strongly reinforces SDG 16, which emphasises peace, justice, and strong institutions. By grounding authority in justice, accountability, and ethical governance, Islamic legitimacy aligns substantively with international standards of good governance.<sup>123</sup> Legitimation mechanisms further complement SDG 5 (gender equality) and SDG 10 (Reduced Inequalities) by promoting consultation (*shūrā*), participatory decision-making, and ethical inclusion, consistent with the Qur'anic principle of mutual consultation (Qur'an 42:38). In this convergence, Islamic jurisprudence and the SDG agenda reveal shared commitments to fairness, accountability, and social inclusion.

Conversely, failures in legitimacy or legitimation often precipitate governance crises in Muslim-majority societies. Violations of Shari'ah norms undermine moral authority, while the erosion of participatory processes weakens public trust. This dual failure fosters political instability, social alienation, and institutional decay, particularly in contexts marked by authoritarianism, corruption, or the instrumentalisation of religion.<sup>124</sup> Reintegrating legitimacy and legitimation within an Islamic ethical framework thus offers a corrective pathway toward sustainable governance reform.

In sum, the findings confirm that legitimacy and legitimation in Islamic law are complementary rather than interchangeable. Legitimacy provides the divine and moral foundation of authority, while legitimation secures its social recognition and operational viability. Together, they establish a principled yet participatory model of governance that harmonises Shari'ah ethics with global aspirations for justice and sustainable development. As Fayeze Alanazi observes, integrating Islamic jurisprudential principles with SDG priorities enhances institutional accountability and reinforces Islam's relevance within global legal and governance discourses.<sup>125</sup>

## 5 IMPLICATIONS OF THE STUDY, POLICY RELEVANCE AND PRACTICAL IMPACT

The study yields significant theoretical implications for Islamic legal scholarship by clarifying the conceptual distinction and functional interdependence between legitimacy and legitimation. Recognising legitimacy as a Shari'ah-based normative foundation and legitimation as a socio-political process enriches analytical approaches to governance, authority, and social order in Muslim societies.

From a social justice perspective, the findings demonstrate that legitimacy promotes equity, accountability, and ethical restraint, while legitimation enhances inclusivity, participation, and public trust. Integrating justice (*'adl*) and public welfare (*maṣlaḥah*)

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123 Transforming Our World (n 9).

124 An-Na'im, *Islam and the Secular State* (n 74) 115-8.

125 Fayeze Alanazi, 'Islamic Jurisprudence, Sustainable Development Goals and Institutional Accountability' (2022) *Journal of Islamic Governance* 45.

with participatory mechanisms strengthens both the moral grounding and societal acceptance of governance structures, thereby addressing systemic injustices and empowering marginalised communities.

In relation to the SDGs, the study confirms strong convergence between Islamic jurisprudential principles and global development objectives, particularly SDG 16. Legitimation mechanisms further advance SDG 5 and SDG 10 by fostering inclusive consultation and ethical participation. These findings position Islamic law as a credible faith-based partner in sustainable development, capable of lending moral legitimacy to governance reforms.

At the policy level, the study suggests that governments in Muslim societies should avoid reliance on coercive authority or political expediency. Instead, governance must be anchored in Shari'ah-compliant principles and sustained through transparent, participatory, and accountable processes. In practice, the findings encourage structured collaboration among Islamic scholars, policymakers, and development practitioners to ensure that reforms are both religiously authentic and socially responsive.

Building on the theme of *Legitimacy and Legitimation under Islamic Law*, the study explicitly demonstrates that grounding governance reforms in Shari'ah-based legitimacy—while operationalising legitimation through inclusive, transparent, and accountable institutional processes—can enhance public trust and social compliance in Muslim-majority and plural legal systems. By linking normative Islamic principles such as justice (*'adl*), public interest (*maṣlaḥah*), and human dignity (*karāmah*) with participatory governance mechanisms, the findings offer policymakers a coherent framework for designing reforms that are both morally authoritative and socially responsive.

Beyond its theoretical contributions, this research holds clear policy relevance for governance, legal reform, and development practice in Muslim-majority and plural legal systems. By distinguishing legitimacy as a Shari'ah-based moral foundation from legitimation as a participatory and institutional process, the study provides policymakers with a structured framework for designing governance reforms that are both ethically grounded and socially credible. This framework offers practical guidance for strengthening institutional trust, particularly in contexts where formal legality exists, but public confidence in authority remains weak.

For legislators and judicial actors, the findings underscore the importance of embedding Shari'ah objectives (*maqāṣid al-shari'ah*)—such as justice, welfare, and accountability—into constitutional design, statutory interpretation, and judicial reasoning. This can enhance the substantive legitimacy of legal systems while ensuring compatibility with international human rights standards and SDG 16 commitments. For executive institutions, the study highlights the policy value of institutionalising consultative mechanisms (*shūrā*), transparency, and ethical oversight to sustain legitimation and prevent governance breakdown.

In the development and international policy sphere, the research provides a faith-sensitive pathway for integrating Islamic legal and moral principles into the implementation of the Sustainable Development Goals. Instruments such as *zakāt*, *waqf*, and Shari'ah-compliant governance structures can be operationalised as legitimate policy tools for poverty reduction, social protection, gender equity, and access to justice, thereby enhancing local ownership and policy effectiveness. More broadly, the study contributes to global governance debates by offering an Islamic jurisprudential model that complements secular frameworks, promotes legal pluralism, and supports culturally resonant approaches to justice, accountability, and sustainable development.

Overall, the study affirms that Islamic legal thought—through its integrated conception of legitimacy and legitimation—offers a robust ethical framework capable of contributing meaningfully to contemporary debates on governance, justice, and sustainable development at both national and global levels. Finally, integrating Islamic legitimacy with international frameworks enhances global policy coherence. Aligning *maqāṣid al-sharī'ah* with SDG targets enables the deployment of Islamic instruments—such as *zakāt*, *waqf*, and *qard ḥasan*—as sustainable mechanisms for poverty alleviation, education, gender equity, and environmental stewardship, while preserving community trust and religious authenticity.

## 6 CONCLUSIONS

This study establishes that legitimacy and legitimation in Islamic law constitute an integrated framework for ethical governance and social justice. Rooted in divine sovereignty, legitimacy anchors authority in Shari'ah compliance and moral accountability, while legitimation translates these norms into socially responsive and participatory institutions. Together, they reconcile normative permanence with contextual adaptability, offering a holistic governance model that is both principled and inclusive. Comparatively, Islamic legitimacy is substantive and moral, grounded in justice and *maqāṣid al-sharī'ah*, whereas European frameworks emphasise procedural legality, democracy, and consent. Islamic legitimation relies on *ijtihād*, *bay'ah*, and *shūrā*, in contrast to electoral and constitutional mechanisms in European systems. Within the SDG framework, Islamic interpretations increasingly regard development goals as extensions of *maṣlaḥah*, integrating them through Shari'ah governance and participatory institutions. Practically, the study informs legal and institutional design by showing how Islamic legal concepts can be aligned with the Sustainable Development Goals, particularly those related to justice, strong institutions, reduced inequalities, and inclusive development. It provides guidance for lawmakers, regulators, and development practitioners on integrating Islamic legitimacy norms into policy formulation, dispute resolution, and institutional accountability, thereby enabling context-sensitive implementation of the SDGs. In doing so, the research strengthens applied decision-making by demonstrating how Islamic law can function not

merely as a source of ethical theory but as a viable framework for advancing social justice and sustainable development in contemporary governance settings.

To strengthen the role of Islamic legitimacy and legitimation in advancing social justice and the Sustainable Development Goals, the study suggests a set of mutually reinforcing measures. First, it calls for a dynamic maqāṣid-based interpretation by qualified scholars capable of addressing contemporary governance challenges in a manner consistent with SDG 16 and evolving international human rights standards. Second, it emphasises the need for transparent and accountable decision-making in fatwas, judicial rulings, and governance processes to enhance public trust and institutional integrity. Third, the study highlights the importance of inter-madhhab dialogue and scholarly pluralism to broaden consensus and reinforce inclusive moral authority. Fourth, it underscores the need for legal codification and reform of Shari‘ah-based systems to ensure clarity, accessibility, and justice, in line with SDG 16.3. Fifth, the institutionalisation of shūrā is proposed as a participatory governance mechanism compatible with SDG 16.7. Finally, the study underlines the role of public education and media engagement in promoting awareness of the ethical foundations and flexibility of Islamic law, thereby supporting access to information and civic participation.

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## АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

## ЛЕГІТИМНІСТЬ ТА ЛЕГІТИМАЦІЯ: ПОРІВНЯЛЬНИЙ АНАЛІЗ ІСЛАМСЬКОГО ПРАВА ТА ЄВРОПЕЙСЬКИХ СТАНДАРТІВ КРІЗЬ ПРИЗМУ ЦСР 16

**Закі Махмед Омар Чаннак\* та Юсуфф Джелілі Амуда**

### АНОТАЦІЯ

**Вступ.** Це дослідження розглядає легітимність та легітимацію згідно з ісламським правом (шаріатом) та їх зв'язок із соціальною справедливістю та Цілями сталого

розвитку (ЦСР). В ісламській юриспруденції легітимність впливає з божественного суверенітету, вираженого через Коран, Сунну та науковий консенсус (іджма), що охоплює юридичну чинність, моральний авторитет та духовну відповідальність. Легітимація, навпаки, є соціально-правовим процесом. Влада та інституції отримують суспільне визнання через іджтихад, фетви та соціальні практики. Розуміння цього взаємозв'язку є надзвичайно важливим. Воно допомагає пояснити, як ісламське право забезпечує доступ до правосуддя, сприяє підзвітності та підтримує інституційну легітимність у мінливих соціально-політичних контекстах. З огляду на цю концептуальну основу, у дослідженні було застосовано методологію системного підходу для детальнішого вивчення цих динамічних процесів.

**Методи.** У дослідженні використовується якісна, доктринальна та порівняльно-правова методологія дослідження. Первинні ісламські джерела – Коран, хадиси та класичні посібники з фікху – аналізуються разом із сучасними конституціями, міжнародно-правовими межами та інституційними звітами. В основу аналізу покладено концепцію макасід аш-шаріат (вищі цілі ісламського права), що наголошує на справедливості, гідності та соціальному благополуччі. Порівняльні перспективи взяті з Європейської конвенції з прав людини (ЕКПЛ), принципів Ради Європи та Цілей сталого розвитку Організації Об'єднаних Націй 16 (Мир, справедливість та сильні інституції) для визначення подібності, розбіжності та взаємного підсилення. Цей комплексний підхід дозволяє дослідженню отримати висновки, що стосуються як ісламських, так і міжнародно-правових меж, як детально описано в результатах та висновках.

**Результати та висновки.** Результати дослідження показують, що легітимність в ісламському праві забезпечує трансцендентальну та нормативну базу, засновану на божественному велінні та моральній відповідальності, тоді як легітимація функціонує як її операційний вимір через спільне підтвердження та інтерпретаційну гнучкість. Ця дуалістичність дозволяє ісламському праву зберігати доктринальну узгодженість, водночас враховуючи мінливі соціальні реалії. Інтерпретовані за допомогою макасід аш-шаріат, ісламські поняття легітимності та справедливості тісно узгоджуються з Цілями сталого розвитку 5 (Гендерна рівність), 10 (Скорочення нерівності) та 16, демонструючи закладене в ісламі прагнення до справедливості, інституційної цілісності та соціальній інтеграції. У дослідженні було зроблено висновок, що розмежування між текстовою легітимністю та контекстуальною легітимацією підвищує узгодженість та адаптивність ісламських правових процесів. Інтеграція міркування, заснованого на макасідах, у глобальні системи правосуддя та управління доповнює міжнародні норми підзвітності, прозорості та партисипативного управління. Цей синтез підсилює незмінну актуальність ісламу для сучасного правового та етичного дискурсу, пропонуючи модель легітимності, яка є одночасно божественно обґрунтованою та зорієнтованою на суспільні потреби.

**Ключові слова.** Легітимність, легітимація, ісламське право (шаріат), ісламська юриспруденція (фікх), юридична влада.

## ABSTRACT IN ARABIC

مقال بحثي

# الشرعية وإضفاء الشرعية: تحليل مقارن بين الشريعة الإسلامية والمعايير الأوروبية من منظور الهدف السادس عشر من أهداف التنمية المستدامة

زكي محمد عمر شنق\* ويوسف جليلي أمودا

### الملخص

**الخلفية:** تبحث هذه الدراسة في مفهومي الشرعية وإضفاء الشرعية في ظل الشريعة الإسلامية، وعلاقتها بالعدالة الاجتماعية وأهداف التنمية المستدامة. ففي الفقه الإسلامي هناك إجماع فقهي على أن الإرادة الإلهية هي مصدر الشرعية في الإسلام، كما دَلَّ عليها كل من القرآن والسنة، وهي تشمل الصلاحية القانونية والتوافق الأخلاقي والروحي مع الإرادة الإلهية. في المقابل، إضفاء الشرعية هي عملية قانونية واجتماعية تكتسب بموجبها السلطة والمؤسسات الاعتراف والقبول داخل المجتمع الإسلامي عبر الاجتهاد والفتاوى والممارسات الاجتماعية. ووفقاً لهذه المفاهيم (الشرعية وإضفاء الشرعية)، يعد فهم العلاقة بينها أمراً بالغ الأهمية، فهو يساعد في توضيح دور الشريعة الإسلامية في تكريس العدالة، وتعزيز المساواة، واستدامة الشرعية المؤسسية في كافة الظروف الاجتماعية والسياسية المتغيرة.

**المنهجية:** تستخدم الدراسة منهجية بحثية قانونية نوعية وصفية ومقارنة، حيث يتم تحليل المصادر الإسلامية الأساسية - القرآن والحديث والكتب الفقهية الكلاسيكية - جنباً إلى جنب مع الدساتير الحديثة والأطر القانونية الدولية والتقارير المؤسسية. وتجدر الإشارة إلى أن هذا التحليل يلتزم بمقاصد الشريعة (الأهداف العليا للشريعة الإسلامية)، مع التركيز على العدالة والكرامة والرفاه الاجتماعي. أما جوانب ومبادئ المجلس الأوروبي (ECHR) المقارنة، فهي تركز على الاتفاقية الأوروبية لحقوق الإنسان وهدف التنمية المستدامة رقم 16 للأمم المتحدة (السلام والعدالة والمؤسسات القوية) لتحديد أوجه الشبه وأوجه الاختلاف وتعزيز الفائدة المتبادلة للدراسة المقارنة.

**النتائج والاستنتاجات:** تظهر النتائج أن الشرعية في الشريعة الإسلامية توفر مبدأً سامياً ومعياريًا للشرعية. كبعد تشغيلي لها. من متجذرًا في الأمر الإلهي والمساءلة الأخلاقية، بينما تعمل إضفاء من الإسلامي القانون تُمكن الازدواجية خلال المصادقة المجتمعية عليها والمرونة في التفسير. وهذه الاجتماعية. وفي ضوء مقاصد التطورات مراعات (الفكري) مع العقائدي الانسجام الحفاظ على الشريعة، نجد بأن المفاهيم الإسلامية للشرعية والعدالة تتوافق بشكل وثيق مع أهداف التنمية المستدامة (5) (المساواة بين الجنسين) و (10) (الحد من أوجه عدم المساوات) و (16)، مما يدل على التزام الإسلام الجوهرى بالإنصاف والنزاهة المؤسسية والاندماج الاجتماعي. وتخلص الدراسة إلى أن التمييز بين الشرعية النصية والشرعية الإجرائية يعزز من تماسك العمليات القانونية الإسلامية وقدرتها على التكيف. كما أن دمج التفكير القائم على مقاصد الشريعة في أطر العدالة والحوكمة العالمية يكمل المعايير الدولية للمساءلة والشفافية والحوكمة التشاركية. وفي نهاية المطاف، إن هذا المزيج يعزز من أهمية الإسلام المستمرة في الخطاب القانوني والأخلاقي المعاصر، ويقدم نموذجًا للشرعية قائمًا على أسس إلهية وملبياً لاحتياجات للمجتمع في الوقت نفسه.