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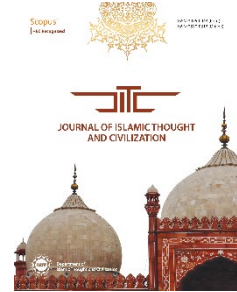
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## Imām al-Māwardī's View on the Concept of Taxation (*Kharaj*) in *al-Aḥkām Sulṭhāniyyah*

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### Abstract

Throughout the course of history, spanning centuries, taxation (*kharāj*) as sources of income of the state is significantly influential in the development of Islamic civilization. Within Islamic civilization, various principles governing the fundamental aspects of the state system, specifically in finance (fiscal and monetary) are formulated. The policy regulating state finance, with a particular focus on taxation, serves as evidence of the foundational principles of Islamic governance aimed at achieving justice and welfare for the people. The state taxation system arose due to the expansion of Islamic territories and the acquisition of spoils of war obtained by Muslims, whether through peace treaties (*fay'*) or warfare (*ghanimah*). Therefore, this research aimed to analyze the concept of taxation in Islam, with a particular focus on *al-Aḥkām as-Sulṭhāniyyah* by Imām al-Māwardī. The conclusion drawn was that the theory of taxation had several advantages; firstly, the thoughts of Imām al-Māwardī regarding taxation were forward-looking, specifically in terms of the flexibility in determining the tax object by adapting it to the conditions of the tax object and subject. Secondly, the *imām's* conceptualization of taxation remained highly contextual, making it relevant for contemporary application.

**Keywords:** fiscal policy, Islamic finance, Islamic governance, tax

### Introduction

The history of taxation in Islam began during the early reign of the Prophet in Medina when the soul or security tax (*jizyah*) was imposed on non-Muslims (*ahlu dhimma*) living under Islamic governance.<sup>1</sup> The revenue generated from *jizyah* was relatively modest due to the vast expanse of Islamic territories.<sup>2</sup> Therefore, *zakāt* became the primary source of state revenue during the reign of the Prophet Muhammad, a tradition that continued through the era of Abu Bakar as-Siddiq.<sup>3</sup> During the rule of 'Umar ibn al-Khattab, a significant shift occurred in the largest revenue source for the State finances. During this period, *jizyah* and *kharāj* supplanted *zakāt* as the predominant state revenue sources. The transformation was a result of the expansion of Islamic territories through conquest (*futuhāt al-Islāmiyyah*) and the *ijtihād* carried out by 'Umar ibn al-Khattab regarding the status of land

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<sup>1</sup>Luke Yarbrough, "Upholding God's Rule: Early Muslim Juristic Opposition to the State Employment of Non-Muslims," *Islamic Law and Society* 19, no. 1-2 (2012): 11-85. <https://doi.org/10.1163/156851912X571964>

<sup>2</sup>Niall Christie, *Muslims and Crusaders: Christianity's Wars in the Middle East, 1095–1382, from the Islamic Sources* (USA: Routledge, 2020), 76-77.

<sup>3</sup>Ahmed El-Askher, and Rodeny Wilson, *Islamic Economics: A Short History* (Leiden Boston: Brill, 2006), 89.

in newly conquered areas called land of *sawād*.<sup>4</sup> Furthermore, the *ijtihād* of 'Umar bin Khattab was considered to contribute to the state revenue rather than distributing it as spoils of war (*ghanimah*) to the Muslim participants in the conflict. The decision was based on the perceived benefits to the State and the necessity for the survival and unity of the Muslim community.<sup>5</sup>

Caliph 'Umar bin Khattab played a crucial role in shaping taxation policies, evident in the establishment of State Institutions, including the Institution of Taxation (*diwān kharāj*) and Spoils of war (*diwān kharāj wa al-fa'y*). These institutions aimed to efficiently and effectively manage the sources of state revenue.<sup>6</sup> In the phase of the Bani Umayyah dynasty, taxation policies were subjected to minor adjustments,<sup>7</sup> including delineating the responsibilities of tax officials and designating Arabic as the official language of tax institutions during the reign of 'Abdul Malik bin Marwan.<sup>8</sup>

The most significant phase in the history of taxation occurred during the 'Abbasid dynasty when Muslim intellectuals made monumental contributions to the research of taxation (*kharāj*). The phase was known as the zenith of Islamic civilization, specifically during the reign of Caliph Harun ar-Rashid (766-809 AH).<sup>9</sup> Prominent works in taxation from this period included Quddamah ibn Ja'far (337 AH) *ad-Dawawīn min Kitāb al-Kharāj wa Sinā'atu al-Kitābah*, Abū Yusuf Ya'qub (731-798 AH) *Kitab Kharāj*, Yahyā ibn Adam (752-818 AH) *Kitab Kharāj*, Abū 'Ubaid Ibn Sallam *Kitab al-Amwāl*, Imām al-Māwardī (974-1058 AH) *al-Ahkām Sulthāniyyah*, Ibn Taymiyyah (1263-1328 AH) *Majmū' al-Fatāwa*, and Ibn Khuldun (1332-1406 AH) *Tārikh al-Ibar* which also called *Tārikh Ibn Khuldūn*.

The significant focus of Muslim intellectuals on taxation (*kharāj*) during the 'Abbasid dynasty indicated the crucial role of tax in state revenue. The extensive discussions on the context during this period led to the formulation of principles and regulations appropriate to Sharia, which continued to have a significant influence today. Profound contributions included the theory of progressive taxation (*muqāsamah*) by Abū Yusuf, the theory of land prices and criteria for tax officers by Imām al-Māwardī, the theory of justice by Ibn Khaldun, and others.

In contrast, the attention given to taxation during the Ottoman Turkish dynasty experienced a decline. State income tax was even abolished as rulers vied for influence and power, a situation that persisted until the collapse of the caliphate during the First World War (1342 AH -1924 AD).<sup>10</sup> The collapse of the Ottoman Turkish dynasty resulted in the division of Islamic countries, further influencing fundamental differences in state policies, particularly in taxation. These policies often

<sup>4</sup>Muhammad Dhiya,' *'Umar bin Khattāb* (Beirut: Dār al-Fikr al-Lubnān, 1991), 53-54.

<sup>5</sup>Yahya Ibn Adam, *Kharāj (The Book of Taxation)*, 1st Edition, (Qāhirah: Dār as-Syurūq, 1987), 43.

<sup>6</sup>Philip K. Hitti, *The History of Arabs*, translated. R. Cecep, et, al. (Jakarta: Serambi, 2008), 281.

<sup>7</sup>Ghida' Khizanah Katibi, *al-Kharāj Mundzu al-Fath al-Islamī Hatta Awsat al-Qarn at-Tsālis al-Hijrī (Taxation Since the Opening Phase of Islam Until the Middle of the 3<sup>rd</sup> Hijriah)*, (Beirut-Lebanon: Markāz Dirāsāt al-Wihdah al-'Arabiyah, 1997), 134.

<sup>8</sup>Abd Syafi Abd Latif, *al-'Ālam al-Islamī fī al-'Ashr al-'Umawī (Islamic Ritual and Religious Conditions during the Umayyad Dynasty)*, (Qāhirah: Dār as-Salām, 2008), 483-485.

<sup>9</sup>Muhammad al-Khudriy, *ad-Daulah 'Abbāsiyah (Abbasid Dynasti)*, (Beirut-Lebanon: Dār al-Kutub al-'Ālamiyah, 1998), 130.

<sup>10</sup>Philip K. Hitti, *History of Arabs*, 930; See also: Abu Sinn, Ahmad Ibrahim. *al-Idārah fī al-Islām (Management in Islamic Perspective)*. (Riyadh: Dār al-Kharījī li an Nasyr Wa at-Tauzī', 1996), 45.

deviated from the *Qur'ān* and Sunnah of the Prophet Muhammad<sup>11</sup> contributing to challenges faced by Muslim nations worldwide.<sup>12</sup>

“This research aimed to analyze the concept of taxation in Islam with a particular focus on *al-Ahkām as-Sulṭāniyyah* by Imām al-Māwardī from his point of view related to the policy regulating state finance as evidence of the foundational principles of Islamic governance aim at achieving justice and welfare in Islam.”

## 2. Literature Review

Haddad (1996) investigated Imām al-Māwardī's opinions of *dhimmah* specialists in the Islamic State. According to the Imām's doctrine, these specialists had duties as well as privileges inside the Islamic State. They were required to pay taxes and defend the nation in times of war, while enjoying rights including governmental protection and freedom of religion. Schneider (2006) analyzed the interpretation of the *Qur'ān* by Imām al-Māwardī, who claimed to have used a methodical approach that harmonized tradition and reason in order to comprehend the text of the *Qur'ān*.<sup>13</sup> Furthermore, Tumanian (2018) discussed the role and significance of *ahkām as-sulṭāniyyah* by Imām al-Māwardī in shaping Islamic political theory. The work was crucial in bringing Muslims of that era together who had disparate views on politics and power dynamics. It is regarded as the first thorough examination of Islamic state and government thought. Imām al-Māwardī methodically investigated and clarified what are now considered the fundamentals of state governance in the work.<sup>14</sup>

On the other hand, Fogel (2014) uncovered significant aspects of Māwardī's *Ahkām Sulṭāniyyah*, indicating that al-Māwardī implicitly played a crucial role in structuring the constitutional authority of government within a state.<sup>15</sup> Said (2016) conducted a codicological analysis of the manuscript *Adab dunya wal-din* by al-Māwardī. The research found that the manuscript was transcribed during the Mamluk period (648-923/1250-1517), specifically on the 20<sup>th</sup> of *Jumadal Tsani* in 761 AD. It looked at the book's physical components, including the title page, paper, sewing, writing, ownership, and structure.<sup>16</sup>

Heck (2016) conducted a comparative analysis of governance as perceived by al-Māwardī and Augustine. According to al-Māwardī, the research came to the conclusion that the government's job was to create a fair social structure that was consistent with God's plan. This demonstrated how the state was essential to the accomplishment of heavenly goals. However, al-Māwardī stressed that governance should be based not only on the ruler's divinely bestowed agency but also on a set of objectives, acknowledging the inherent frailties of human nature. The strategy acted as a roadmap to

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<sup>11</sup>Gusfahmi, *Taxation According to Islamic Guideliness (Sharia)*. (Jakarta: Raja Grafindo Persada, 2007), 250.

<sup>12</sup>Yahya Ibn Adam, *Kharāj (The Book of Taxation)*, 1st Edition (Qāhirah: Dār as-Syurūq, 1987), 1.

<sup>13</sup>Irene Schneider, “Reason or tradition? Abu I-Hasan Ali al-Māwardī 's (st. 449/1058) hermeneutics of the Koran as reflected in his time.” *Zeitschrift der Deutschen Morgenlandischen Gesellschaft (Magazine of the German Oriental Society)*. 156 (1), (2006): 57-80.

<sup>14</sup>Tigran G. Tumanian, “Treatise of al-Māwardī al-Ahkām as-Sulṭāniyya as a Source of the Political Theory of Islam,” *Voprosy Filosofii (Questions of Philosophy)*, 5, (2018): 172-178. <https://doi.org/10.7868/S0042874418050138>

<sup>15</sup>Frank E. Vogel, “Tracing Nuance in Māwardī's al-Ahkām al-Sulṭāniyyah: Implicit Framing of Constitutional Authority,” In *Islamic Law in Theory* (Brill, 2014), 331-359, [https://doi.org/10.1163/9789004265196\\_015](https://doi.org/10.1163/9789004265196_015)

<sup>16</sup>Ahmed Said, “A Mamlūk manuscript in the South of Morocco: A Codicological Study of *Adab al-Dunyā wal-Dīn* by al-Māwardī,” *Journal of Islamic Manuscripts* 7 (2), (2016): 244-260. <https://doi.10.1163/1878464X-00702005>

stop the abuse of authority.<sup>17</sup> Abbas (2018) examined the concept of justice as envisioned by Imām al-Māwardī, concluding that justice embodied a deep understanding of religion to achieve peace in the world.<sup>18</sup> Furthermore, Zatari (2021) analyzed the contribution of Abū al-Ḥasan al-Māwardī in bridging the religious relations to construct and maintain civilization, primarily based on his work, *Kitab Adab al-dunyā wa-al-dīn*. The work concluded that the preservation and advancement of civilization intricately depended on a deep understanding of the role of religion in society. Religion, when used effectively, leads to enhanced behaviors and character within a civilization.<sup>19</sup>

Racman (2021) investigated the relationship between Islamic legal principles applied in Pat a Pangampong sa Ranao of the Magindanao (The Confederate States of Lanao) Sultanate during the 17<sup>th</sup> century and their persistence in contemporary Islamic law from the perspective of Imām al-Māwardī. This thorough investigation focused on the sultanate's Royal Court's policies regarding adulterous punishment. The outcomes were contrasted with the hadith and Qur'ānic commands about the penalty of adulterers, utilizing al-Māwardī's Islamic viewpoint on the subject.<sup>20</sup>

Sopyan and Syamsuddin (2021) attempted to draw a comparison between the Code of Judicial Conduct formulated by the Indonesian Supreme Court and classical Islamic jurisprudence, considering the ideas articulated by Imām al-Māwardī in his work '*Adab al-Qāḍī*.' The investigation came to the conclusion that the behavior originated in Islamic law, which al-Māwardī also cited. The fundamental principles of the Indonesian Code of Judicial Conduct were based on the moral idealism philosophy, which views people as moral beings with moral standards that should govern their attitudes and actions.<sup>21</sup>

Bhat (2023) critically analyzed the contributions of al-Māwardī to the theory of *Imāmāh*, considering the political dynamics within the Muslim world and the prevailing power struggles between the Abbasids and the Buwayhids. The study identified certain weaknesses in the theory of *Imāmāh*, particularly in the perspectives on the undemocratic appointment of the caliph. Additionally, the research underscored al-Māwardī delineation of the prerogatives and privileges of the caliph while giving comparatively less attention to the rights of the people. Nevertheless, the work and the theory of the caliphate played a significant role in safeguarding the Muslim community against exaggerated and illogical claims propagated by various Islamic sects, particularly *Shia*,

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<sup>17</sup>Paul L. Heck, "Māwardī and Augustine on Governance: How to Restrain the Restrainer?" *Studies in Christian Ethics* 29 (2), (2016): 158-168. <https://doi.org/10.1177/0953946815623129>

<sup>18</sup>Abbas Poya, "Conditions for a God World: The Concept of Comprehensive Justice by Abu al-Hasan al-Māwardī (972–1058)," *Sharia and Justice: An Ethical, Legal, Political, and Cross-cultural Approach* (2018): 39-58. <https://doi.org/10.1515/9783110574593-003>

<sup>19</sup>Fadi Zatari, "Religion as a Pillar for Establishing a Civilization: Al-Māwardī's Perspective," *Journal of Islamic Thought and Civilization* 11 (1) (2021): 240-257. <https://doi.org/10.32350/jitc.111.13>

<sup>20</sup>Sohayle M. Hadji Abdul Racman, Hassan Shakeel Shah, and Mohammad Ayaz, "The Lanao Sultanate Today: Its Adat Laws and Islamic Law on Fornication with Special Reference to the Islamic Perspectives of al-Māwardī," *Journal of Islamic Thought and Civilization* 11 (1), (2021): 318-334. <https://doi.org/10.32350/jitc.111.17>

<sup>21</sup>Yayan Sopyan, "Sulūk al-Qāḍī: Muqāranah Bayna Mafhūm al-Māwardī fī Kitāb Adab al-Qāḍī wa Qawā'id Sulūk al-Qaḍa fī Indūnīsiyā," (Attitudes and Ethics of Judges: A Comparative Study between al-Māwardī's Thoughts in the Kitāb Adab al-Qāḍī and Qawā'id Sulūk al-Qaḍa and their relevance in Indonesia). *Ahkam: Jurnal Ilmu Syariah* 21 (2), (2021): 445-470. <https://repository.uinjkt.ac.id/dspace/bitstream/123456789/69329/1/Artikel.pdf>



*Khawarij*, and others. The most significant contribution of the work of al-Māwardī lay in his detailed explanation of the administrative system within the government.<sup>22</sup>

### 3. Short Biography of Imām al-Māwardī

#### 3.1. Birth and Growth

Abu al-Hasan ‘Ali Ibn Habib al-Māwardī was born in 364 M (974 H) in the city of Basra, located in Iraq. The nickname 'al-Māwardī' was derived from his childhood residence, known as *ba'ī mā'u al-wardī*.<sup>23</sup> He was a product of the golden age of the 'Abbasid dynasty, a vibrant era that became a hub for Islamic scholarship, having a diverse array of innovative works and scholars.<sup>24</sup>

Al-Māwardī was renowned for his kindness, virtuous character, and profound knowledge spanning multiple disciplines. His extensive expertise covered fields comprising hadīth, *tafsīr*, *nawhu* and *sharf*, *adāb*, politics (*siyāsah*), and *fiqh*. This comprehensive knowledge established him as a prominent scholar and ulema of the Shafī'i madhhab during that time. The career of al-Māwardī as a judge (*qādi*) in several regions culminated in his appointment as the Supreme Judges (*aqdā al-qudhāt*) of the State in 406AH.<sup>25</sup> Additionally, he played a crucial role in the State as a mediator between the caliph and the State Ministers in cases of differing opinions<sup>26</sup>. The role of al-Māwardī being a mediator extended to conflicts between the Ministers and Caliph al-Qadir in Baghdad and interactions with the *Buwaihi* and *Saljuk* Kingdoms between 381-422 AH.<sup>27</sup> Throughout these diplomatic endeavors, al-Māwardī had a close relationship and gained the trust of the caliph until the end of his life.

The character of al-Māwardī was characterized by mild-mannered firmness and was known for his impartiality. However, the principled stance of the Imām led to his removal from the government service due to a fatwa he issued in *al-Ahkām as-Sulthāniyah*. The fatwa rejected the 'nickname' of *Malik al-Mulūk* (King of Kings) for the ruler of the Buwaih dynasty.<sup>28</sup>

In the formative years of al-Māwardī, he began investigating hadith in the city of Basra alongside colleagues such as al-Hasan Ibn ‘Ali Ibn Muhammad al-Jalbi (909-964 H), Abu Hulayfah al-Fadl Ibn al-Habib al-Jamhi (915-989 H), Muhammad Ibn 'Adi Ibn Zahri al-Maqr (913- 986 H),

<sup>22</sup>Adil Hussain Bhat, "Apprehending Al-Māwardī's Theory of Imamate," *International Journal of Humanities and Social Science Studies (IJHSSS)* IX, (II), (2023): 42-52. <https://doi.10.29032/ijhsss.v9.i2.2023.42-52>

<sup>23</sup>Abu Hasan ‘Ali al-Māwardī, *Nasīhat al-Mulūk (Several Advice to the Kings)*, (Kuwait: Maktabah Dār al-Falāh, 1983), 7; Ahmad Wahban, *al-Māwardī Rā'id al-Fikr as-Siyāsī al-Islamī (al-Māwardī Pioneer of Islamic Political Thought)*, (al-Iskandariyah: Dār al-Jāmi'ah al-Jadīdah, 2001), 14; M. Nejatullah Siddiqi, *Recent Works on History of Economic Thought in Islam: A Survey* (Saudi Arabia: International Centre for Research in Islamic Economics, 1402 H-1982 M), 13. Adiwarmar Karim, *History of Islamic Economic Thought* (Jakarta: Raja Grafindo Persada, 2005), 300.

<sup>24</sup>Abu Hasan ‘Ali al-Māwardī, *Ādab Ad-Dunyā wa Ad-Dīn (Ethic of World and Reigious)*. (Qāhirah: Dār al-Fikr, 1987), 3.

<sup>25</sup>Ibn Asir, *al-Kāmil fi at-Tārikh (a Comprehensive History)*, Vol. VII (Beirut: Dār al-Kutub al-‘Ālamīyah, 2006), 223-224; M. M. Sharif, *A History of Muslim Philosophy* (Karachi, 1983), 717-718.

<sup>26</sup>Abu Hasan ‘Ali al-Māwardī, *al-Mudārabah (Profit and Loss Sharing)*. (Qāhirah: Dār al-Wafā', 1987), 59. See also: Shalahuddin Bayuni Ruslan, *al-Fikr as-Siyāsī 'Inda al-Māwardī (Political Thought According to al-Mawardi)*, (Qāhirah: Dār at-Tsaqāfah, 1983), 17-18.

<sup>27</sup>Abu Hasan ‘Ali al-Māwardī, *Ādab ad-Dunyā wa ad-Dīn*, 3.

<sup>28</sup>Abu Hasan ‘Ali al-Māwardī, *Nasīhat al-Mulūk*, 9,18.

and others. Furthermore, he examined *fiqh* under the guidance of Abi al-Qasim Abdul Wahid Ibn Muhammad as-Simriy al-Qadi. The educational journey of al-Māwardī continued in Baghdad, where he examined *fiqh* with Shaykh Abu Hamid (Ahmad Ibn Abi Tahir al-Isfarani) until he achieved a high level of proficiency.

After al-Māwardī's extensive experience as a judge in several governorates, he returned to Baghdad for further research. During this period, he dedicated several years with his seniors and teachers to examine the interpretation of the Qur'ān, *fiqh* and its fundamentals, *adāb*, and authoring various works.<sup>29</sup> There were approximately 16 works authored by Imām al-Māwardī, which could be grouped into three scientific fields, including:<sup>30</sup> (1) Religious Sciences, (2) Political Sciences, (3) Administrative and Social sciences, (4) arts and Literature.

Imām al-Māwardī passed away in 1058 H and was laid to rest in the *bāb al-ḥarb* cemetery in Baghdad after traveling to various places in the territory of the 'Abbāsiyyah dynasty. His life spanned 86 years, from 364 H to 450 H. Imām al-Māwardī played a significant role in advancing Islamic scholarship and the governance of the State, both in Bashrah, Baghdad, and other cities.<sup>31</sup>

#### 4. Concept of Tax (*Kharāj*) According to Imām Al-Māwardī

##### 4.1. *Kharāj* Definition

*Kharāj* represented a source of state revenue used for meeting various state expenses and essential for the total well-being of the populace. The scholarly interest in *kharāj* was evident through numerous written works. From the perspective of Imām al-Māwardī, *kharāj* was considered a component of *fay'*, where both *fay'* (*kharāj*) and *ghanīmah* (spoils of war) were deemed essential.<sup>32</sup> These remained legally applicable to anyone who converted to Islam from groups that had made peace agreements with the Islamic State.<sup>33</sup> The *kharāj* contract was likened to *ijārah* (rent) in line with the abolition of the tax on crops. Therefore, the *kharāj* rate remained fixed, regardless of whether the land was used.

During the era of Imām al-Māwardī, *kharāj* became the primary source of state revenue, with other income streams assuming the secondary role.<sup>34</sup> He defined *kharāj* as the monetary levy imposed on land, including associated rights and obligations. Its description in the *Qur'ān* differed from that of *jizyah*. Consequently, the handling of taxation matters was left to the *ijtihad* of the ruler (*imām*).<sup>35</sup> Imām al-Māwardī provided a more detailed explanation of the differences between *kharāj* and *jizyah*, as follows:<sup>36</sup>

<sup>29</sup>Abū Hasan 'Alī al-Māwardī, *Ādab Ad-Dunyā Wa Ad-Dīn*, 3.

<sup>30</sup>Abū Hasan 'Alī al-Māwardī, *Nasīhat al-Mulūk*, 13; *Ādab Ad-Dunyā Wa Ad-Dīn*, 5-7, 11; M. Nejatullah Siddiqi, *Recent Works on History of Economic Thought in Islam: A Survey* (Saudi Arabia: International Centre for Research in Islamic Economics, 1402 H-1982 M), 18.

<sup>31</sup>Abu Hasan 'Ali al-Māwardī, *Ādab al-Wazīr (Ministerial ethics)*, 2<sup>nd</sup> Edition (Qāhirah: al-Maktabah al-Khanāji, 1994), 3.

<sup>32</sup>Yahya Ibn Adam, *al-Kharāj*, 181.

<sup>33</sup>Yahya Ibn Adam, *al-Kharāj*, 62.

<sup>34</sup>Abdussalām Balajī, *al-Māliyah al-'Āmmah 'Inda Imam al-Māwardī wa Ibn Khuldun (Public finance according to Imam al-Māwardī and Ibn Khuldun)*, (Beirut: Dār al-Kalimah li at-Tauzī' wa an-Nashr, 1991-1992), 102.

<sup>35</sup>Abdussalām Balajī, *al-Māliyah al-'Āmmah 'Inda Imam al-Māwardī wa Ibn Khuldun*, 152.

<sup>36</sup>Abu Hasan 'Ali al-Māwardī, *al-Ahkām Sulthāniyah*, 142-143.

**Table 1.** Similarities and Differences between *Kharaj* and *Jizyah*

No.	<i>Kharaj</i> and <i>Jizyah</i>	
	Similarities	Differences
1	Both were obtained from non-Muslims ( <i>mushrik</i> ) as a form of tribute.	The provision of <i>jizyah</i> was based on the <i>Qur'ānic</i> text, while <i>kharāj</i> was based on the <i>ijtihād</i> of the leader ( <i>imām</i> ).
2	Both were categorized as <i>fay</i> ' wealth and were distributed to <i>fay</i> ' recipients.	Sharia determined the minimum <i>jizyah</i> rate, and the leader's <i>ijtihād</i> determined the maximum amount. Meanwhile, the minimum and maximum rates of <i>kharāj</i> were based on the leader's <i>ijtihād</i> .
3	Both must reach the one-year time limit; before one year, they were not subject to withdrawal.	<i>Jizyah</i> was imposed on non-Muslims ( <i>mushrik</i> ) and was waived when they became Muslims. Meanwhile, <i>kharāj</i> was fixed, regardless of being a non-Muslim or a Muslim.

#### 4.2. Land Division

In the time of Imām al-Māwardī, there were further developments regarding *kharāj*, which were categorized into four parts,<sup>37</sup> (1) land that a Muslim originally cleared had a status designated as *zakāt* ('*ushr*) and not subjected to tax (*kharāj*), (2) land owned by a Muslim convert transformed into '*ushr* land, (3) land acquired from Non-Muslims through war had a status designated as *kharāj* or *zakāt* (4) land peacefully acquired from Non-Muslims were further divided into two:<sup>38</sup> (a) when the owner vacated the land without war, it became waqf land (inalienable property) for the benefit of Muslims and was subject to *kharāj*, (b) when the land remained occupied and owned by the owner through a peace agreement, it was subject to tax (*kharāj*).

During the time of Yahyā ibn Adam, land ownership was categorized into three parts, following the practices of the Prophet and the caliphs who succeeded him. Abū 'Ubad bin Sallam elaborated on this division, which included,<sup>39</sup> (1) land acquired peacefully (without war), subject to *kharāj*, and (2) land acquired through force (through conquest), with varying opinion on its status. Certain states considered it *ghanimah*, while others argued it was *fay*'. The land transformed into what the Messenger of Allah did with the land of Khaibar when it was *ghanimah*, while it became what the caliph 'Umar ibn Khattab did with the land of *Sawād* when it was *fay*'. However, everything relied on the policy of the leader (*Imām*).

#### 4.3. Sale of *Kharāj* Land

When converted to a Muslim, the landowner's obligation for *jizyah* and *kharāj* ceased. Moreover, the landowner could continue to use the land as before (subject to '*ushr*), dedicate it for the benefit of the Muslims, or sell it.<sup>40</sup> When the landowner abandoned the land during the war, it became the property of the Muslim community. In this scenario, the leader (*Imām*) appointed someone to oversee the land and allocate its proceeds to the *baitul mal*. It could also be established

<sup>37</sup>Abu Ya'la Muhammad bin Husein al-Farra,' *al-Ahkām Sulthāniyah*, (Beirut Lebanon: Dār al-Kutub al-'Ālamiyah, 1985), 162-163.

<sup>38</sup>Ali al-Māwardī, *al-Ahkām Sulthāniyah*, 147-148.

<sup>39</sup>Abū 'Ubad al-Qasim, *Kitab Amwāl (The book of Finance)*. (Beirut: Dār Syurūq, 1989), 132.

<sup>40</sup>Yahya Ibn Adam, *al-Kharāj*, 63.

as a lease agreement between the *baitul māl* and the manager of the land for the benefit of the Muslims, or it could be sold.

When a Muslim acquired *kharāj* land through purchase, it was considered undesirable (*makruh*). In such cases, two forms of taxation were simultaneously imposed, including *kharāj* and *'ushr*. This principle extended to Muslims who cultivated their crops on *kharāj* land.<sup>41</sup> In contrast, non-Muslims were subject to *kharāj*.<sup>42</sup> When *'ushr* land was leased to non-Muslims for management, the tax (*kharāj*) was imposed on them, and the *zakāt* (*'ushr*) was levied on the renter of the land (Muslim).<sup>43</sup>

Imām al-Māwardī introduced the possibility of selling *kharāj* land to non-Muslims, subject to specific terms and conditions. When the buyer was non-Muslim, the status of the land remained as *kharāj* but when Muslims purchased the land, its status changed to *'ushr*.<sup>44</sup>

#### 4.4. Tax Rate Determination Method (*Kharāj*)

“The *kharāj* rates underwent various modifications while the ‘Abbasid dynasty was in power. Numerous factors, including shifting crop prices and the fertility of the soil, had an impact on these shifts. During the rule of ‘Umar bin Khattab, it became impracticable to employ the same strategy that companions Hudzaiifah and Uthman bin Hanif had integrated”.<sup>45</sup> Therefore, a new approach was needed to assess *kharāj*. Abū Yusuf introduced the *muqāsamah* method<sup>46</sup> as a replacement for the *misāhah*<sup>47</sup> system that had been used since the time of ‘Umar ibn Khattab. The primary objective of “the replacement for tax rate method was” to establish fairness in the relationship between landowners and government tax officials.<sup>48</sup> When Harun ur-Rashid took over as the caliphate of the ‘Abbasid dynasty during Abū Yusuf’s reign the *muqāsamah* method was used. The strategy remained in place during the reigns of the succeeding caliphs, including Yahyā ibn Adam’s time under al-Ma’mun. Consequently, it may be said that the *muqāsamah* system was used to determine tax rates during Yahyā ibn Adam’s period.”

<sup>41</sup>Yahya Ibn Adam, *al-Kharāj*, 182 -183.

<sup>42</sup>Yahya Ibn Adam, *al-Kharāj*, 65.

<sup>43</sup>Yahya Ibn Adam, *al-Kharāj*, 70.

<sup>44</sup>Ali al-Māwardī, *al-Ahkām as-Sulthāniyah*, 147-148.

<sup>45</sup>Abū Yusuf Ya’qub, *al-Kharāj (the Book of taxation)*, (Beirut: Dār Syurūq, 1985), 130-131.

<sup>46</sup>*Muqāsamah* is a method of collecting *kharāj* in which the State and the land manager share the profits according to the agreement of both parties, regardless of the land size, as in the *misāhah* method. Thus, the income earned by both party changes according to what is produced from the harvest. This method was an old one that had been applied during the Persian and Sasanian periods, re-applied during the reign of al-Mansur, and then developed by the caliph al-Mahdi. See: Muhammad Mar’iy, *an-Nudzūm al-Māliyah wa al-Iqtisādiyah fi ad-Daulah al-Islāmiyyah ‘Ala Dhou’i Kitāb Kharāj li Abū Yūsuf (Financial and Economic Systems during the Islamic Dynasty in the Perspective of Kitāb Kharāj by Abū Yūsuf)*, (Qatar: Dār Tsaqāfah, 1408). Compare to, Abu al-Farraj Abdurrahman bin Rajab, *al-Istikhrāj li Ahkām Kharāj (on the Analysis of the Laws of Taxation)*, (Beirut Lebanon: Dār al-Kutub al-‘Ālamīyah, 1985), 15-18.

<sup>47</sup>*Misāhah* is a method of collecting *kharāj* where the tax rate is measured based on the size of the *kharāj* land regardless of other factors. Muhammad Mar’iy, *an-Nudzūm al-Māliyah wa al-Iqtisādiyah fi ad-Daulah al-Islāmiyyah ‘Ala Dhou’i Kitāb Kharāj li Abū Yūsuf (Financial and Economic Systems during the Islamic Dynasty in the Perspective of Kitāb Kharāj by Abū Yūsuf)*, 1<sup>st</sup> Edition (Qatar: Dār Tsaqāfah, 1408), 128.

<sup>48</sup>Abū Yusuf Ya’qub, *al-Kharāj* (Beirut: Dār Syurūq, 1985), 125, 153, 211, 152. See also: Quddamah bin Ja’far, *ad-Dawāwīn min Kitāb al-Kharāj wa Sinā’atu al-Kitābah (List of Bureaus in the Work of Kitāb al-Kharāj wa Sinā’atu al-Kitābah)*, (Yordania: Jāmi’ah Yordania, 1986), 20-21.

“In this regard, Imām al-Māwardī devised a methodical technique for ascertaining *kharāj* rates, encompassing the subsequent factors”:

1. “The tax deducted from” the view of to the content of each soil. The land was categorized into various types based on its content:<sup>49</sup> (1) fertile land, where crops thrived and yielded abundantly. (2) Versatile land suitable for various crops, such as seeds and fruits. Among the crops were those that became expensive and cheap. For this reason, the quality of crops influenced the tax rate. (3) Land primarily useful for irrigation or as drinking areas. (4) The distance of the land from the city or market is also factored in.
2. After identifying the types of soil, the tax officer had three options:<sup>50</sup> (1) determine tax rates based on land measurement (*misāhah*), (2) determine tax rates based on the number of crops (*muqāsamah*), (3) simultaneously use both land measurement and crop assessment (*misāhah* and *muqāsamah*).
3. “The basis for determining taxes based on land measurement or *misāhah*, was based on Islamic (the *Hijri*) year. The Gregorian year was the relevant standard when the decision was made based on the quantity of crops. The crop’s maturity age and skinning process served as the benchmark when both approaches were applied. As long as the land’s produce and irrigation did not change, these tax rates remained valid and might not be raised or lowered.”<sup>51</sup>

#### 4.5. Building on *Kharāj* Land

Regarding construction or cultivation on *kharāj* land, Imām al-Māwardī argued that when a house or shop was built on tax land, the tax would still apply because the landowner could use the building. The perspective was in line with the opinion of Imām Abu Hanīfah.<sup>52</sup> However, when the *kharāj* land was lent or leased, the landowner would bear the tax burden.<sup>53</sup> On the other hand, Yahyā ibn Adam believed that when someone built a structure on the land without the owner’s permission, they were liable for the tax imposed on the land. However, when someone obtained permission from the owner, the taxes applied to the value of the building. This tax obligation ceased when it was permitted for a certain period.<sup>54</sup>

### 5. An Analysis of the Views of Imām Al-Māwardī and Other Muslim Scholars on Tax

This research was subjected to a comparative analysis of the tax ideas of Imām al-Māwardī about *kharāj* and those of other scholars. Al-Māwardī’s tax theory was compared to that of other Muslim scholars, and it was found that Imām al-Māwardī’s tax theory had several forward-looking advantages, particularly about the flexibility with which the tax object could be determined by adapting it to the conditions of the tax object and subject. However, al-Māwardī’s theory of taxation remained relevant for modern implementation. Despite some differences, there were also notable similarities in their opinions, as outlined below:

Firstly, both Imām al-Māwardī and other scholars agreed on the definition of *kharāj* as a tax imposed on taxpayers. Secondly, the assessment of *kharāj* was based on the fertility of the land in

<sup>49</sup>Abu Hasan ‘Ali al-Māwardī, *al-Ahkām Sulthānīyah*, 148. See also, Abdussalam Balaji, *al-Māliyah al-‘Āmmah ‘Inda Imām al-Māwardī wa Ibn Khuldūn* 102.

<sup>50</sup>Abu Hasan ‘Ali al-Māwardī, *al-Ahkām Sulthānīyah*, 149-150. See also, Abdussalam Balaji, *al-Māliyah al-‘Āmmah ‘Inda Imām al-Māwardī wa Ibn Khuldūn*, 103. Abu al-Farraj Abdurrahman bin Rajab, *al-Istikhārāj li Ahkām al-Kharāj*, 92.

<sup>51</sup>Abu Hasan ‘Ali al-Māwardī, *al-Ahkām Sulthānīyah*, 152-153.

<sup>52</sup>Ibid., 151.

<sup>53</sup>Ibid.

<sup>54</sup>Abū Yusuf Ya’qub, *al-Kharāj*, 127.

the respective area. Thirdly, consensus existed among scholars concerning the taxation principles related to building on *kharāj* land. Fourthly, the criteria for tax officers covered fairness, moderation, according to ability, free, trustworthiness, and competency in taxation matters (*kharāj*).

Yahyā ibn Adam and Imām al-Māwardī held differing opinions on several aspects related to *kharāj*: Firstly, they disagreed on the division of land. Yahyā ibn Adam categorized the type of land into three parts, namely, (a) land whose owner converted to Islam, was called '*ushr* land, (b) land held peacefully by the Muslims, subject to a predetermined tax, and (c) land obtained through force or war, with varying opinions among Muslims regarding its status.

On the other hand, al-Māwardī divided the land into four parts, including (a) land owned by Muslims, designated as '*ushr* land, (b) land whose owners were Muslims and they had the right to determine the status of the land, (c) land obtained from non-Muslims peacefully, violence, or warfare, and (d) land owned by non-Muslims, but a peace treaty stipulated the obligation to pay *kharāj* on their land.

Secondly, they differed on the legality of a Muslim buying *kharāj* land. Yahyā ibn Adam regarded this as a disliked action (*makrūh*), with the buyer obligated to pay both *kharāj* and '*ushr* or *nisf 'ushr*. Conversely, Imām al-Māwardī did not consider such actions as disliked (*makruh*), and argued that the law of *kharāj* did not apply to the land purchased by Muslims.

Thirdly, they had differing perspectives on factors influencing the price of land. Yahyā ibn Adam did not explain such factors because the public perceived that buying *kharāj* land was *makrūh*. However, Imām al-Māwardī outlined various factors such as: (a) soil fertility, (b) type and number of crops, (c) method of irrigation, and (d) distance to the city or market.

Fourthly, on the method of determining the tax rate (*kharāj*), Yahyā ibn Adam advocated for the *muqāsamah* method as determined by Abū Yusuf, while Imām al-Māwardī advocated for freedom of choice among the three existing methods, including *misāhah*, *muqāsamah*, and *muzāraah*. The choice was based on what benefited both the landowner and the state the most. Imām al-Māwardī focused more on the benefits of the withdrawal of *kharāj* according to the circumstances.

Fifthly, regarding the construction of buildings on *kharāj* land, Yahyā ibn Adam stated that it was the landowner's responsibility. If the landowner granted permission to Muslims for construction, *kharāj* would be imposed on the landowner within a predetermined period. Imām al-Māwardī, on the other hand, stated that *kharāj* on land was levied due to land utilization. When the land was leased, *kharāj* became the responsibility of the landowner.

After discussing the perspectives of *Kharāj*, as articulated by Yahyā ibn Adam and Imām al-Māwardī, several insights evolved regarding their relevance to contemporary taxation, including the excellence of Imām al-Māwardī's *Kharāj* thought. Several factors underlined the superiority of the thought of *Kharāj* by Imām al-Māwardī over that of Yahyā ibn Adam .

Firstly, by Imām al-Māwardī's approach was grounded in rationality (*ra'yī*) and the spirit of renewal (*ijtihād*). Moreover, the evolving complexities of civilization and scientific problems that occurred during the time of Imām al-Māwardī contributed to the depth and comprehensiveness of his *kharāj* thought.

Secondly, there was an overlap in terminology between the meaning of *kharāj*, *jizyah* and *dharībah*. Different scholars had varying interpretations of these terms, leading to some confusion. For instance, al-Māwardī in al-Ahkām Sulthāniyyah defined *kharāj* as a land tax and *jizyah* to be a



tax on the head of the State.<sup>55</sup> Imām Daud equated *kharāj* with *jizyah*.<sup>56</sup> As-Shāfi'i in al-Umm defined *jizyah* as *dharībah* (fees).<sup>57</sup> As-Sarkhasi used *kharāj* synonymously with *jizyah*, representing a tax on the head of every person.<sup>58</sup> Imarah defined *jizyah* as *kharāj* on land, while the head tax was also called *kharāj* on the head. *Kharāj* was a tax, whereas *jizyah* was levied by the king.<sup>59</sup> Furthermore, Katibi defined *kharāj* as a tax on land.<sup>60</sup>

Despite etymological distinctions, *jizyah*, *kharāj*, and *dharībah* essentially referred to a tax levied on land. Over time, there was a shift in revenue sources, with *dharībah* becoming the primary income stream, contrasting with the past when *kharāj*<sup>61</sup> held that role.<sup>62</sup> This shift showed the dual meanings of *kharāj*, specifically as a land tax (*kharāj*) and generally as *dharībah*, constituting the primary state revenue source today.<sup>63</sup>

Hamudah and Husein in their work *al-mu'āmalah māliyah fi al-Islām*, indicated that *dharībah* had evolved into the primary source of state revenue in modern times. The transformation was an undeniable necessity for the State,<sup>64</sup> driven by the increasing demands in both social and economic fields.<sup>65</sup> Consequently, State budgets had expanded to accommodate such obligations.<sup>66</sup> Yahyā ibn Adam presciently anticipated this shift when he asserted that "*kharāj* and *jizyah* were laws that will remain,"<sup>67</sup> in the form of *dharībah*.

According to Yūsuf Qardhāwi in his work *fiqh zakāt*, a significant shift had occurred in contemporary circumstances. While *kharāj* once became the predominant source of state revenue in ancient times, *dharībah* has now assumed the role of the primary income stream in modern society.<sup>68</sup>

<sup>55</sup>Abu Hasan 'Ali al-Māwardī, *al-Ahkām Sulthānīyah*, 147-148.

<sup>56</sup>Abu Daud Sulaiman al-Azdari, *Sunan Abu Daud* (Qāhirah: Dār al-Hadīst, 1999), 1345.

<sup>57</sup>Imam as-Syafi'i, *Kitāb al-Umm*, Juz. IV (Beirut: Dār al-Fikr, 1983), 212.

<sup>58</sup>Syamsuddīn as-Sarkhasī, *Kitāb al-Mabsūt*, Juz. X (Mesir: Maktabah as-Sa'ādah, 1324 H), 79.

<sup>59</sup> Muhammad Imarah, *al-Mustalahāt al-Iqtishādīyah fi al-Hadhārah al-Islāmīyah (Explanations regarding economic problems in the History of Islamic Civilization)*, (Beirut: Dār Syurūq, 1993), 149, 187, 342.

<sup>60</sup>Ghida Khizanah Katibi, *al-Kharāj Mundzu al-Fath al-Islamī Hatta Awsatu al-Qarn Tsālis al-Hijrī (Taxation Since the Opening Phase of Islam Until the Middle of the 3<sup>rd</sup> Hijriah)*, (Beirut-Libanon: Markaz Dirāsāt al-Wihdah al-'Arabīyah, t.t.), 346.

<sup>61</sup>Abdussalam Balaji, *al-Māliyah al-'Ammah 'Inda Imām al-Māwardī wa Ibn Khuldūn*, 102; See also: Muhammad, *Fiscal and Monetary Policy in Islamic Economics Perspective* (Jakarta: Salemba Empat, 2002), 183.

<sup>62</sup>Since the eighth century, most of scholars have argued that the words *jizyah* and *kharāj* have come to mean one thing: gift. See Muhammad Kamal Husein, *al-Jizyah fi al-Islām* (Beirut Lebanon: Dār al-Maktabah al-Ḥayāt, t.t.), 14.

<sup>63</sup>Muhammad, *Fiscal and Monetary Policy in Islamic Economics Perspective*, 212.

<sup>64</sup>Mahmud Hamudah, and Mustafa Husein, *al-Mu'āmalah al-Māliyah fi al-Islām (Financial Systems in Islamic Perspective)*, ('Ammān al-Ardān: Muassasah al-Warrāq, 1991), 155. See also: Center for the Study and Development of Islamic Economics (P3EI)-UII, *Islamic Economics* (Jakarta: Raja Grafindo Persada, 2008), 499.

<sup>65</sup> M. Umer Chapra, *al-Islām wa Tahaddī al-Iqtishādīyah (Islam and The Challenge of Economics)*. (Urdūn: al-Maktabah al-Wathanīy al-Ma'had 'Ālamīy al-Fikr al-Islamīy, 1996), 162.

<sup>66</sup>Husein Ratb Yusuf Rayyan, *'Ajzu al-Muwāzanah wa 'Ilājuha fi al-Fiqh al-Islāmī (Settlement of Inequality Problems and Solutions in Islamic Jurisprudence)*, (Yordania; Dār Nafā'is, 1999), 64-66.

<sup>67</sup>Yahyā Ibn Ādam, *al-Kharāj*, 61.

<sup>68</sup>Yusuf Qardhawi, *Fiqh Zakat (Zakat Principles)*, (Beirut: Mu'assasah Risalah, 1983), 1031.

This shift was in line with the role of the State, where it strived to enhance justice and meet the evolving needs of society.<sup>69</sup>

Throughout different periods, the ulema had issued fatwas regarding the obligation to pay the tax mandated by a just head of State (*imām*), to meet urgent needs such as cash shortages in the *baitul māl* and the need for State expenditure. Several factors underpinned the fatwas;<sup>70</sup> Firstly, the State bore ever-increasing responsibilities and incurred substantial costs in various areas, particularly health, education, security, economic, social welfare, and infrastructure.

Secondly, a fundamental shift had occurred wherein the predominant sources of state revenue during the golden age of Islam, such as *jizyah*, *kharāj*, *'ushr*, and *zakāt* had been replaced by *dharībah* which now constituted the principal source of revenue in modern times.<sup>71</sup>

Thirdly, the obligations of tax officers (*kharāj*) were crucial. Every nation's finances were managed by a treasury and officers responsible for overseeing state revenues and expenditures.<sup>72</sup> The officers were required to uphold principles of trustworthiness (*amānah*) and fairness while dealing politely and courteously with<sup>73</sup> taxpayers.<sup>74</sup> Neglecting these principles in officer selection, particularly within the context of state finances, could lead to irregularities in taxation practices today.

Islamic principles guided the selection of officers based on two fundamental criteria, including ability and *amānah*. Officers in Islam were chosen based on their dedication to fulfilling the needs and rights of the community. The process of selecting state financial officers included:<sup>75</sup>

- a. Officer selection board
- b. Officer selection policy
- c. Selection rules and regulations
- d. Position assignment and length of service
- e. Wage provisions
- f. Offenses for which an officer may be removed from employment

The general requirements for State officers consisted of, religion, reason, trust, ability, and independence.<sup>76</sup> Meanwhile, the special requirements included, *fāqih*, *'ālim*, deliberation, *ahlu ra 'yī*, and honesty.<sup>77</sup>

<sup>69</sup>Yusuf Qardhawi, *Fiqh Zakat (Zakat Principles)*, (Beirut: Mu'assasah Risalah, 1983), 1031.

<sup>70</sup>Husein Ratb Yusuf Rayyan, *'Ajzu al-Muwāzanah wa 'Ilājuha fi al-Fiqh al-Islāmī (Settlement of Inequality Problems and Solutions in Islamic Jurisprudence)*, (Yordania: Dār Nafā'is, 1999), 36-38.

<sup>71</sup>Imam as Syatibi, *al-Itishām*, Juz. II (Saudi Arabia: Dār Ibn 'Affān, 1414 H-1993 M), 619.

<sup>72</sup>Syauqi Abd Syahi, *al-Fikr al-Islāmī wa al-Idārah al-Māliyah li Daulah (Islamic Financial Management Thoughts for a Country)*, (Lebanon: Dār al-Kutub al-Miṣriyyah, n.d.), 37.

<sup>73</sup>M. Umer Chapra, *al-Islām wa Tahaddī al-Iqtishādīyah (Islam and The Challenge of Economics)*, (Urdūn: al-Maktabah al-Wathanīy al-Ma'had 'Ālamīy al-Fikr al-Islāmī, 1996), 264-265.

<sup>74</sup>Syauqi Abd Syahi, *al-Fikr al-Islāmī Wa al-Idārah al-Māliyah Li Daulah*, 37.

<sup>75</sup>Syauqi Abd Syahi, *al-Fikr al-Islāmī Wa al-Idārah al-Māliyah Li Daulah* 39, 42, 43-48.

<sup>76</sup>Ibid., 52.

<sup>77</sup>Abū Yusuf Ya'qub, *al-Kharāj*, 106.



## 6. Conclusion

In conclusion, *kharāj* constituted a land tax distinguished from *jizyah* by separate *Qur'ānic* references indicating that the regulations governing *kharāj* were subject to the *ijtihād* of the leader (*imām*). There was a common ground between Imām al-Māwardī and other ulema regarding the definition, size, and legality of selling *kharāj* land and the criteria for *kharāj* officers. However, there were disparities between Imām al-Māwardī and other ulema regarding land classification, the legality of Muslims purchasing *kharāj* land, factors influencing land prices, tax collection methods, and the legitimacy of erecting structures on *kharāj* land.

The ideology of Imām al-Māwardī regarding *kharāj* had futuristic insights and applicability to the contemporary context. This evolution resulted from societal progress and the complexity of issues during his lifetime. Therefore, the legacy of Imām al-Māwardī played a crucial role in shaping a better understanding of *kharāj* in line with the demands of the current era.

### Conflict of Interest

The authors of the manuscript have no financial or non-financial conflict of interest in the subject matter or materials discussed in this manuscript.

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