Title: Imām al-Māwardī’s View on the Concept of Taxation (Kharaj) in al-Aḥkām Sulṭāniyyah

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

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The significant focus of Muslim intellectuals on taxation during the Abbasid dynasty was to shape 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. In the phase of the Bani Umayyah dynasty, taxation policies were subjected to minor adjustments, including delineating the responsibilities of tax officials and designating Arabic as the official language of tax institutions during the reign of Abd Malik bin Marwan.

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). 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

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7Ghida’ Khizanah Katibi, al-Kharāj Mundzu al-Fath al-Islāmī Hatta Awsat al-Qarn at-Tsālis al-Hijrī (Taxation Since the Opening Phase of Islam Until the Middle of the 3rd Hilijah), (Beirut-Lebanon: Markāz Dirāsāt al-Wihdah al-'Arabiyah, 1997), 134.
8Abd Syafī Abd Latif, al-Ālam al-Islāmi fi al-'Ashr al-'Umawi (Islamic Ritual and Religious Conditions during the Umayyad Dynasty), (Qāhirah: Dār as-Salām, 2008), 483-485.
deviated from the Qur’ān and Sunnah of the Prophet Muhammad\textsuperscript{11} contributing to challenges faced by Muslim nations worldwide.\textsuperscript{12}

“This research aimed to analyze the concept of taxation in Islam with a particular focus on \textit{al-Ahkām as-Sultāniyyah} 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.\textsuperscript{13} Furthermore, Tumanian (2018) discussed the role and significance of \textit{ahkām as-sultāniyyah} 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.\textsuperscript{14}

On the other hand, Fogel (2014) uncovered significant aspects of Māwardī’s \textit{Aḥkām Sulṭāniyyah}, indicating that al-Māwardī implicitly played a crucial role in structuring the constitutional authority of government within a state.\textsuperscript{15} Said (2016) conducted a codicological analysis of the manuscript \textit{Abad 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\textsuperscript{th} of Jumadal Tsani in 761 AD. It looked at the book’s physical components, including the title page, paper, sewing, writing, ownership, and structure.\textsuperscript{16}

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

\textsuperscript{11}Gusfahmi, \textit{Taxation According to Islamic Guideliness (Sharia)}. (Jakarta: Raja Grafindo Persada, 2007), 250.


stop the abuse of authority. 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. Furthermore, Zatari (2021) analyzed the contribution of Abū al-Hasan 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.

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 17th 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.

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.

Bhat (2023) critically analyzed the contributions of al-Māwardī to the theory of *Imāmah*, 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 *Imāmah*, 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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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.\textsuperscript{22}

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’īmā’u al-wardī.\textsuperscript{23} 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.\textsuperscript{24}

Al-Māwardī was renowned for his kindness, virtuous character, and profound knowledge spanning multiple disciplines. His extensive expertise covered fields comprising hadīth, tafsīr, nāwhu and sharf, adāb, politics (siyāsah), and fiqh. This comprehensive knowledge established him as a prominent scholar and ulema of the Shafi‘i madhhab during that time. His extensive expertise covered fields comprising hadīth, tafsīr, nāwhu and sharf, adāb, politics (siyāsah), and fiqh. This comprehensive knowledge established him as a prominent scholar and ulema of the Shafi‘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.\textsuperscript{25} Additionally, he played a crucial role in the State as a mediator between the caliph and the State Ministers in cases of differing opinions.\textsuperscript{26} 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.\textsuperscript{27} 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 Imam led to his removal from the government service due to a fatwa he issued in al-Ahkām as-Sulthāniyyah. The fatwa rejected the ‘nickname’ of Malik al-Mulūk (King of Kings) for the ruler of the Buwaih dynasty.\textsuperscript{28}

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), etc.\textsuperscript{29}
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.29 There were approximately 16 works authored by Imām al-Māwardī, which could be grouped into three scientific fields, including:30 (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.31

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 jay’, where both jay’ (kharāj) and ghanīmah (spoils of war) were deemed essential.32 These remained legally applicable to anyone who converted to Islam from groups that had made peace agreements with the Islamic State.33 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.34 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).35 Imām al-Māwardī provided a more detailed explanation of the differences between kharāj and jizyah, as follows: 36

29Abū Hasan ‘Alī al-Māwardī, Ādab Ad-Dunya Wa Ad-Dīn, 3.
32Yahya Ibn Adam, al-Kharaj, 181.
33Yahya Ibn Adam, al-Kharaj, 62.
Table 1. Similarities and Differences between Kharaj and Jizyah

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

In the time of Imām al-Māwardī, there were further developments regarding kharāj, which were categorized into four parts,37 (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:38 (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 ‘Ubaid bin Sallam elaborated on this division, which included,39 (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 ghanīmah, while others argued it was fay’. The land transformed into what the Messenger of Allah did with the land of Khaibar when it was ghanīmah, 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.40 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

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40Yahya 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.41 In contrast, non-Muslims were subject to kharāj.42 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).43

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.44

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 Hudzaifah and Uthman bin Hanif had integrated”. 45 Therefore, a new approach was needed to assess kharāj. Abū Yusuf introduced the muqāsamah method46 as a replacement for the misāhah47 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.48 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.”

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41Yahya Ibn Adam, al-Kharāj, 182 -183.
42Yahya Ibn Adam, al-Kharāj, 65.
43Yahya Ibn Adam, al-Kharāj, 70.
45Abū Yusuf Ya’qub, al-Kharāj (the Book of taxation), (Beirūt: Dār Syurūq,1985), 130-131.
46Muqāsamah 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 mīsahah 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-Mahdī. See: Muhammad Mar’iy, an-Nudzūm al-Māliyah wa al-Iqtisādiyyah 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-‘Ālamiyah, 1985), 15-18.
48Abū Yusuf Ya’qub, al-Kharāj (Beirūt: Dār Syurūq, 1985), 125, 153, 211, 152. See also: Quddamah bin Ja’far, ad-Dawāvīn 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:49 (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:50 (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.”51

4. 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.52 However, when the kharāj land was lent or leased, the landowner would bear the tax burden.53 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.54

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

52Ibid., 151.
53Ibid.
54Abū 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.55 Imām Daud equated kharāj with jizyah.56 As-Shāfi‘ī in al-Umm defined jizyah as dharībah (fees).57 As-Sarkhasi used kharāj synonymously with jizyah, representing a tax on the head of every person.58 ‘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.59 Furthermore, Katibi defined kharāj as a tax on land.60

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 held that role.62 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.63

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,64 driven by the increasing demands in both social and economic fields.65 Consequently, State budgets had expanded to accommodate such obligations.66 Yahyā ibn Adam presciently anticipated this shift when he asserted that ”kharāj and jizyah were laws that will remain,”67 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.68

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56 Abu Daud Sulaiman al-Azbari, Sunan Abu Daud (Qāhirah: Dar al-Hadīth, 1999), 1345.
57 Imam as-Syahī, Kitāb al-Umm, Juz. IV (Beirut: Dār al-Fikr, 1983), 212.
58 Syamsuddin as-Sarkhasi, Kitab al-Mabsūt, Juz. X (Mesir: Maktabah as-Sa‘ādah, 1324 H), 79.
62 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.
63 Muhammad, Fiscal and Monetary Policy in Islamic Economics Perspective, 212.
67 Yahyā ibn Ādam, al-Kharāj, 61.
68 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.  

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; 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.

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. The officers were required to uphold principles of trustworthiness (amānah) and fairness while dealing politely and courteously with taxpayers. 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:

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. Meanwhile, the special requirements included, fāqih, ‘ālim, deliberation, ahlu ra’yi, and honesty.

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69 Yusuf Qardhawi, Fiqh Zakat (Zakat Principles), (Beirut: Mu’assasah Risalah, 1983), 1031.
74 Syauqi Abd Syahi, al-Fikr al-Islāmī Wa al-Idārah al-Māliyah Li Daulah, 37.
75 Ibid., 52.
76 Abū Yusuf ‘Yaqūb, 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.

Data Availability Statement

The data associated with this study will be provided by the corresponding author upon request.

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