

The Social Construction of *Bughāt* as a Technology of Abbasid Hegemony in al-Māwardī's *al-Aḥkām al-Sultāniyyah*

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Abstract: The Islamic law of rebellion (*bughāt*) is traditionally interpreted as a protective framework or a neutral theological derivation designed to regulate internal political conflicts. Challenging these static interpretations, this study employs a genealogical deconstruction synthesized with social constructionism and power/knowledge frameworks to investigate al-Māwardī's *al-Aḥkām al-Sultāniyyah* as an artifact of imperial survival. Findings reveal that al-Māwardī's formulation of *bughāt* functions as a sophisticated "technology of power" engineered to mitigate the material impotence of the Abbasid Caliphate under Buwayhid hegemony. By constructing "legal fictions" of symbolic sovereignty, the text weaponizes the ambiguity between rebellion and banditry (*ḥirābah*). This architecture of exclusion utilizes the criteria of military strength (*shawka*) and plausible interpretation (*ta'wīl*) not to shield rebels, but to discipline the social body and criminalize dissenters who lack state-mirrored organizational structures. Consequently, the law transforms political opposition into a criminalized "non-subject" status, ensuring the state's monopoly on legitimate violence. This research concludes that classical *fiqh* is a historically contingent tool of hegemonic legitimation, exposing the inherent exclusionary mechanisms that underpin the preservation of centralized authority.

Keywords: *Bughāt*; *Al-Māwardī*; *Social Construction of Law*; *Abbasid Political Thought*; *Power Knowledge*

INTRODUCTION

The architecture of classical Islamic political thought has long been understood as a negotiated response to the crisis of authority that plagued the post-Prophetic era, reaching its apotheosis during the fragmentation of the Abbasid Caliphate (132–656 AH / 750–1258 CE). Within this tumultuous milieu, the legal conceptualization of *bughāt* (rebellion) emerged not merely as a theological imperative but as a critical instrument of state survival. The classical period, particularly under the shadow of Buwayhid tutelage, witnessed a profound transformation in the function of Islamic jurisprudence (*fiqh*), in which scholars such as Abū

al-Ḥasan al-Māwardī (d. 450/1058) endeavored to stabilize a fracturing political order through textual codification. Existing scholarship has extensively mapped this terrain, broadly interpreting al-Māwardī's *al-Aḥkām al-Sultāniyyah* as a pragmatic attempt to reconcile the ideal theory of the *khilāfah* with the gritty reality of military usurpation (al-Māwardī, 2019; Lav, 2025). This "realist" reading suggests that the juristic articulation of state authority was a necessary adjustment to maintain the rule of law amidst the centrifugal forces of dynastic collapse. Concurrently, a secondary stream of literature has sought to rehabilitate the classical law of *bughāt* by framing it through the lens of modern international humanitarian law (IHL). Scholars such as Tabassum (2011; 2020) and Badar and Sabuj (2019) argue that the juristic recognition of *bughāt* confers a "combatant status" analogous to modern protocols, ostensibly protecting rebels from the state's asymmetrical violence. These dominant narratives frame the legal discourse on rebellion as either a pragmatic administrative necessity or a proto-humanitarian shield, implying that the law primarily regulates violence rather than produces it.

However, a critical examination of the literature reveals a profound analytical silence regarding the genealogical ontology of the law itself. The prevailing discourse exhibits a fundamental knowledge gap: it systematically fails to analyze the doctrine of *bughāt* as a socially constructed artifact of hegemonic anxiety. Current scholarship treats the criteria for legitimate rebellion—specifically the requirements of a plausible interpretation (*ta'wīl*) and military strength (*shawka*)—as static theological categories derived impartially from scripture (*naṣṣ*), or as benevolent constraints on state power. This study contends that such readings are historically naive and theoretically insufficient. The literature neglects to theorize the extent to which the legal category of *bughāt* was, *ab initio*, a manufactured product of imperial power—a legal fiction constructed specifically to neutralize Alid and Kharijite threats to dynastic continuity. By focusing on the *application* of the law rather than its *production*, the field has overlooked that al-Māwardī's formulation of *bughāt* functions not as a check on executive tyranny, but as a constitutive technology of power designed to render the status quo inevitable and to render resistance religiously transgressive.

This inquiry, therefore, departs from the "humanitarian" and "pragmatic" consensus to interrogate the socio-political mechanics of legal production. The "humanitarian" reading of Islamic law, when applied without rigorous genealogy, inadvertently depoliticizes the exclusionary practices embedded in classical doctrine. As Sabuj (2025) notes, the classification of rebels often relies on scalar nuances of legitimacy. However, contemporary discourse frequently renders these complexities invisible, assuming a compatibility between classical *fiqh* and modern rights discourse that does not historically exist. The danger of this anachronism is that it obscures the "language of exclusion" inherent in the text (Alnizar, 2025). By framing the *bughāt* laws as protective, modern scholarship masks the reality that these laws were often articulated to reinforce the state's monopoly on violence. Griffel (2001) highlights that legal consequences for apostasy and rebellion were articulated to suppress dissent. However, this insight has not been sufficiently extended to deconstruct the specific criteria of *ta'wīl* as a gatekeeping mechanism. The gap lies in recognizing that the "justice" of the *bughāt* laws is a constructed reality, one that legitimates the victor's violence while criminalizing the vanquished's resistance.

The historical context of the Buwayhid era (334–447 AH / 945–1055 CE) provides the essential ecology for this legal construction. Al-Māwardī wrote *al-Aḥkām al-Sultāniyyah* at a moment of acute "hegemonic anxiety," in which the Abbasid Caliph served as a mere symbolic figurehead under the military dominance of the Shī'i Buwayhid amirs. Zatari (2021) suggests

that al-Māwardī's work was crucial for establishing civilization through reason and religion, but this assessment arguably understates the coercive utility of his project. The bureaucratic nature of the Buwayhid state necessitated a legal framework that could facilitate the state's claim over social order through coercive mechanisms (Allehbi, 2022). Al-Māwardī's articulation of *fiqh* entwined religious authority with political governance, emphasizing its utility in maintaining order and discipline within the state apparatus (al-Māwardī, 2019; Tumanian, 2020). By elevating the role of the jurist in the political sphere, he argued that laws should serve as instruments to enforce social cohesion. However, to view this merely as a "pragmatic adjustment" is to ignore the active "will to power" involved. Al-Māwardī did not just describe the state; he helped *construct* its legitimacy by codifying a legal reality in which the impotent Caliph retained theoretical sovereignty and in which opposition was categorized as either sin or banditry (*hirābah*).

To unpack this construction, this research employs a theoretical framework synthesizing the Social Construction of Reality by Berger and Luckmann (2016) with Foucault's analysis of power/knowledge (1982). Berger and Luckmann's concept of "legitimation"—specifically the second-order objectivation of meaning—allows us to view *al-Aḥkām al-Sulṭāniyyah* as the "conceptual machinery" required to maintain the symbolic universe of the Caliphate when its material plausibility had fractured. The doctrine of *bughāt* thus operates as a mechanism of "universe-maintenance," ensuring that the definition of reality (who is the legitimate ruler, who is the rebel) remains under the establishment's control. Complementing this, Foucault's notion of "regimes of truth" elucidates how legal discourse produces "truth" effects that serve power. In this light, the distinction al-Māwardī draws between the protected *bāghī* and the killable *muḥārīb* is not a discovery of divine law, but a political technology used to discipline the social body. It allows the state to weaponize ambiguity, shifting opponents between categories based on political expediency rather than moral consistency.

The insufficiency of the binary interpretations—idealism versus realism, or protection versus punishment—becomes evident when analyzing the specific legal criteria for rebellion. The requirement of *ta'wīl* (a plausible religious interpretation) is often cited as a protective measure, ensuring that rebels with a "just cause" are treated leniently. However, this study argues that *ta'wīl* functions as a sophisticated exclusionary device. By reserving the right to validate an interpretation for the state-aligned '*ulamā*', the doctrine effectively strips the rebel of epistemic authority. As noted in the analysis of modern Indonesian contexts by Mun'im et al. (2025) and Yahya and Susilo (2024), religious rulings often serve as "symbolic capital" for political leverage. Historical analysis suggests the same dynamic was at play in the Abbasid court. The label of *bughāt* was not merely a descriptor but a tool of delegitimization. If the state determines the validity of *ta'wīl*, then no rebellion that truly threatens the core of the state can ever be entirely "legitimate." The law thus presents a paradox: it theoretically allows for rebellion while, in practice, renders it impossible to carry out without incurring criminal status.

Furthermore, al-Māwardī's exploration of concepts such as *maṣlaḥah* (public interest) and *siyāsah* (administrative governance) underscores an ontological shift in the perception of *fiqh* as a tool of statecraft (Zatari, 2024). His approach enabled the state to justify its interventions in daily life as serving the greater good, transforming religious law into a state apparatus that underscored centralized control (Pramono & Sahidin, 2021). This shift marks a departure from viewing Islamic jurisprudence solely as a guide to personal ethics to recognizing it as a formidable instrument of governance. Nevertheless, contemporary literature often presents *bughāt* as a static theological construct, overlooking its dynamic and

adaptive nature during the Buwayhid period. Scholars who interpret *bughāt* merely as a repository of theological doctrine overlook the ways these laws were applied pragmatically to address the pressing political realities of their time (Hakim & Noviyanti, 2024).

This study, therefore, challenges the assumption of doctrinal neutrality that pervades the field. It asserts that al-Māwardī's *al-Aḥkām al-Sulṭāniyyah* is emblematic of a sophisticated blending of idealist principles and hegemonic necessities, utilizing "legal fictions" to create a perception of legitimacy (Black, 2010). By engaging in a genealogical deconstruction of these legal categories, this research aims to expose the "trap doors" built into the classical law of rebellion. It moves beyond the question of *how* the law is applied to the more fundamental question of *why* it was constructed in its specific form. To maintain analytical rigor, this inquiry explicitly delimits its scope to al-Māwardī's Shāfi'ī framework and its specific formulation within the mid-Abbasid political ecology, avoiding unwarranted generalizations across the broader spectrum of classical Islamic jurisprudence. In doing so, it reframes the study of *bughāt* from an inquiry into Islamic "humanitarianism" to a critique of Islamic "governmentality," revealing the enduring legacy of Abbasid political theology in the architecture of authoritarianism.

METHOD

This study adopted a qualitative, library-based research design centered on the synthesis of socio-historical reconstruction and genealogical analysis. This specific methodological configuration was justified as the most valid pathway to address the identified research gap because traditional philological and hermeneutic approaches are historically constrained by the text's internal logic, thereby obscuring the external power relations that constitute the text's ontology. By shifting the epistemic focus from "textual fidelity" to "sociological contingency," the research enabled the treatment of *fiqh* not as an unchanging theological framework, but as a "constructed artifact" produced through the dialectical processes of externalization, objectivation, and internalization (Bosančić, 2019). The integration of Berger and Luckmann's (2016) theory of legitimation and Foucault's (1997) power/knowledge paradigm was essential to uncovering the "will to power" embedded within al-Māwardī's juristic pronouncements.

The primary data were purposively extracted from the classical Arabic text of al-Māwardī's *al-Aḥkām al-Sulṭāniyyah wa-al-Wilāyāt al-Dīniyyah*, with a specific focus on the sections detailing the ordinances of rebellion (*aḥkām al-bughāt*). To provide the necessary socio-political "ecology" of the mid-Abbasid period, secondary data were collected from authoritative historical chronicles, including *Tārīkh al-Rusul wa-al-Mulūk* by al-Ṭabarī (1969) and *al-Bidāyah wa-al-Nihāyah* by Ibn Kathīr (1966). These sources enabled the reconstruction of the hegemonic anxieties prevalent during Buwayhid dominance (945–1055 CE), which pressured scholars to renegotiate the parameters of political legitimacy (Toynbee, 1987).

The analytical procedure followed a three-stage recursive logic. First, socio-historical mapping was conducted to identify the material interests of the ruling elites and the specific threats to Abbasid sovereignty. Second, a genealogical deconstruction was applied to al-Māwardī's legal criteria—specifically the requirements of *ta'wīl* (plausible interpretation) and *shawka* (military strength)—analyzing them as "regimes of truth" (Foucault, 1997) rather than neutral scriptural derivations. Finally, the study utilized thematic synthesis to bridge textual jurisprudence with the material needs of the state apparatus. This technical progression moved the analysis beyond mere interpretation toward a critical diagnosis of how legal discourse functioned as a "technology of power" to stabilize a fracturing caliphal order (Black,

2010). This design successfully isolated the "legal fictions" of the text, providing a rigorous critique of the status quo in Islamic political studies.

FINDING AND DISCUSSION

Buwayhid Hegemony and the Production of "Order"

The mid-5th/11th-century historical landscape was defined by the profound material impotence of the Abbasid Caliphate under the military tutelage of the Shi'i Buwayhid amirs. Historical chronicles of this period, most notably al-Ṭabarī's (1969) *Tārīkh al-Rusul wa-al-Mulūk* and Ibn Kathīr's (1966) *al-Bidāyah wa-al-Nihāyah* record an era where the Caliph was frequently reduced to a domestic prisoner within the Round City of Baghdad, stripped of administrative, fiscal, and military autonomy. The humiliating deposition and blinding of Caliph al-Mustakfī by the Amir Mu'izz al-Dawla serves as a stark historical marker, confirming that caliphal sovereignty was a mere symbolic residue in the face of Dailamite military might. It was within this specific ecology of crisis that Abū al-Ḥasan al-Māwardī (2019) composed *al-Aḥkām al-Sultāniyyah*. Textual evidence within the manuscript reveals a relentless jurisprudential obsession with the "unity of command" (*waḥdat al-qiyādah*) and an absolute prohibition of dual leadership. Al-Māwardī (2019) posited that the appointment of an Imam is a collective obligation (*fard kifāyah*) rooted essentially in the necessity of preventing chaos (*fitna*). He argued that even when the Caliph's material power is usurped by military "ministers" (*wuzarā' al-taḥwīd*), the symbolic authority must remain centralized in a single Qurayshī figurehead to maintain the integrity of the *ummah*.

An immediate interpretation of this textual fixation suggests that al-Māwardī's jurisprudence functioned as a compensatory mechanism for a physically fractured state. By insisting on a singular, centralized authority at the very moment the Caliph had no actual soldiers, the doctrine of *bughāt* (rebellion) was transformed into a technology of reality maintenance. Any dissent against the ruling apparatus—even one controlled by "usurping" Buwayhid amirs—was legally categorized as an attack on the divine order, provided those amirs maintained the "fiction" of caliphal delegation through the mention of the Caliph's name in the *khuṭbah* and on the *sikka* (coinage). Consequently, the legal discourse in *al-Aḥkām al-Sultāniyyah* did not merely "describe" a state; it manufactured a "symbolic sovereignty" where the impotence of the Caliph was jurisprudentially rebranded as a sacred, unified command. This effectively turned *fiqh* into an ideological apparatus that prioritized preserving the status quo over the ruler's substantive justice, characterizing political opposition not as a legitimate grievance but as a moral transgression against the communal bond.

This analysis directly challenges the "realist" revisionism of scholars such as Lav (2025), who argues that al-Māwardī was merely "adjusting authority" to accommodate the "impaired foundations" of the caliphate. While Lav perceives al-Māwardī as pursuing a pragmatic survival strategy, this study contends that al-Māwardī pursued a more radical project of "social construction" (Berger & Luckmann, 2016). By creating "legal fictions" that subsumed military usurpation under the umbrella of caliphal delegation, al-Māwardī provided what Black (2010) identifies as a "monopolistic definition of sovereignty." This goes beyond mere adjustment; it is an act of "symbolic legitimation" that creates a new reality where power is divorced from its material exercise. Furthermore, this challenges the "protective" narrative advanced by Tabassum (2011), who suggests that *bughāt* law aims to minimize suffering. On the contrary, the "ecology of crisis" suggests that the law was designed to maximize state

survival. As Allehbi (2022) notes, these frameworks underpinned coercive practices by rationalizing the suppression of opposition in the name of order. Thus, the "unity of command" was not an ethical ideal but a political technology used to consolidate power in an era of fragmentation, effectively "canonizing coercion" within the sacred sphere of *fiqh*.

Further evidence of this "ordered coercion" is found in al-Māwardī's systematic delegation of powers to those who seize authority through force (*imārat al-istilā'*). He posited that if a military leader seizes power while remaining outwardly obedient to the Caliph and enforcing the *sharī'ah*, his authority must be legally recognized to avoid the greater evil of total anarchy (al-Māwardī, 2019). This pragmatic concession was coupled with a rigid definition of rebellion, in which any group possessing *shawka* (military strength) and *ta'wīl* (a plausible interpretation of their dissent) was still treated as transgressive until they returned to the "unified fold." Tumanian (2020) highlights that al-Māwardī elevated the role of the jurist specifically to facilitate this bridging of religious authority and political necessity. The text's bureaucratic precision in detailing the duties of the *muḥtasib* (market inspector) and the *qāḍī* (judge) further extends the state's disciplinary reach into the social body, even when the central leadership was physically weak (Pramono & Sahidin, 2021; Zatari, 2024).

The immediate implication of these findings is that al-Māwardī developed a "totalizing jurisprudence" that effectively left no legal space for legitimate revolution. By legitimizing the usurper through the "fiction" of caliphal approval, he ensured that any *real* resistance to the material power of the amirs would be legally equivalent to a rebellion against the Caliph himself. The criteria of *shawka* and *ta'wīl*—often framed by modern scholars as protective measures—actually function as diagnostic tools for the state to identify and neutralize competitors. Analysis suggests that the "unity" al-Māwardī sought was not communal harmony but "hegemonic stability." His project was to ensure that knowledge of the law (power/knowledge) was inseparable from the institution's preservation, thereby transforming the *fiqh* of rebellion into a pre-emptive strike against political fragmentation. Dissent was thus "moralized" out of existence; it was no longer a political dispute over governance but a disruptive act against the "public interest" (*maṣlaḥah*) as defined by the state-aligned jurist.

This deeper analysis extends the work of Zatari (2024), who emphasizes the role of reason and "civilizational establishment" in al-Māwardī's thought. While they identify a constructive moral project, this study identifies a "regime of truth" (Foucault, 1997) that disciplines the political imagination. The "symbolic sovereignty" identified here aligns with Griffel's (2001) observation that legal categories like apostasy and rebellion were weaponized to reinforce authority. However, it challenges the "static theological" treatment criticized by Hakim and Noviyanti (2024). Rather than treating *bughāt* as a fixed doctrine, this study demonstrates its "dynamic adaptability" as a tool of statecraft. By confronting the status quo that views al-Māwardī as a "humanitarian" or "neutral" theorist, we expose the "trap door" in his logic: the law theoretically protects the rebel while, in practice, ensuring that the rebel can never win without being branded a criminal. This validates the adversarial thesis that *fiqh* was reconstructed in the mid-Abbasid era specifically as a technology of survival for a failing hegemony.

Deconstructing the Criteria of *Ta'wīl* and *Shawka*

In the legal taxonomy of *al-Aḥkām al-Sultāniyyah*, al-Māwardī (1989) establishes two indispensable criteria for a group to attain the legal status of *bughāt* (legitimate rebels): a "plausible interpretation" (*ta'wīl*) and "military strength" (*shawka*). Textual evidence reveals

that *ta'wīl* requires the dissenting group to possess a religious or legal justification for their revolt that, while potentially erroneous, is not patently absurd. Al-Māwardī (1989) specifies that if the interpretation is clearly contrary to an explicit text (*naṣṣ*), the group is denied *bughāt* status and is instead classified as common criminals or apostates. Furthermore, the criterion of *shawka*—alternatively termed *manā'ah* (fortification)—stipulates that the group must be sufficiently organized and armed such that the state cannot suppress them through ordinary policing but must instead engage them in military combat.

Crucially, al-Māwardī (1989) distinguishes between organized groups and individuals who remain within the state's immediate reach. He notes that for those who "stray as individuals" (*shudhādhan wa-afrādan*) and have not "sequestered a territory" (*lam yataḥayyazū bi-dār*) distinct from the Muslims, there is no legal requirement for military combat (*qitāl*). Because these individuals are under the state's power, the state's obligation is not to engage them as political combatants but to investigate the "doubts" (*shubha*) leading to their dissent. If they persist in their "falsehood" (*bāṭil*) without meeting the threshold of military secession, they are subjected to individual punitive measures, including execution for apostasy, rather than the collective procedural leniency afforded to organized rebels. Groups lacking this collective strength are relegated to the category of *muḥāribūn* (bandits) or *luṣūṣ* (thieves), subjecting them to the harsh *ḥudd* (divine penalty) sanctions of execution or crucifixion (al-Māwardī, 2019).

The immediate interpretation of these criteria suggests they function as sophisticated "gatekeeping mechanisms" rather than humanitarian protections. By necessitating a "plausible interpretation," the state-aligned jurist effectively reserves the right to define the boundaries of legitimate political discourse. The "plausibility" of a *ta'wīl* is inherently subjective and contingent upon the prevailing orthodoxy supported by the ruling power; thus, the requirement acts as an epistemic hurdle that undermines any claim seeking to position dissent as a legitimate religious act (Lammers et al., 2008).

Furthermore, the distinction between those "sequestered in territory" and those "under the state's power" creates a hierarchy of violence. By embedding military capability and territorial secession within the definition of legitimacy, the law marginalizes those who lack the means for armed struggle. For individuals or small groups residing within the state's core territory, the law offers no political status; they are reduced to "strays" (*shudhādhan*) whose only path to recognition is through the state's investigation into their psychological or theological "errors." This requirement constrains the landscape of acceptable political action to a military binary, reinforcing state dominance by rendering non-armed or non-secessionist resistance invisible to the legal order (Kaul & Cachelin, 2024). In effect, the law does not recognize the justice of a cause, but only the *threat* posed by its military apparatus.

This deconstruction fundamentally challenges the "protective thesis" popularized by Tabassum (2011, 2020), which argues that these criteria aim to protect rebels from state excess. On the contrary, the stringent application of these requirements indicates that they serve to isolate and delegitimize opposition. As Nanes (2021) suggests in the context of civil conflict, such legal thresholds often force dissenters into narrow, state-defined pathways of acceptance, effectively re-entrenching state sovereignty rather than limiting it. While the "protective" narrative emphasizes that *bughāt* should not be executed after capture, it ignores the reality that most dissidents—specifically those described by al-Māwardī (2019) as being "under power" (*taḥta al-qudra*)—are excluded from *bughāt* status altogether through the denial of their *ta'wīl* or the dismissal of their *shawka*. This dialogue extends the critique of "depoliticization" initiated in the introduction; by framing these criteria as neutral religious standards, the field

has overlooked how they function as a political technology of exclusion, ensuring that only those who already possess significant power are granted the dignity of legal recognition.

Further analysis of al-Māwardī's (2019) text demonstrates that the failure to meet these criteria results in the total stripping of social and political agency. Groups that revolt without a "plausible" interpretation or without sufficient "military strength" are treated as *ahl al-mashāq* (troublemakers) or *muḥāribūn*. For these individuals, the procedural safeguards of *bughāt* law—such as the prohibition on seizing their property or killing their wounded—are entirely suspended. The state is granted a "monopoly on violence" that is not only physical but jurisprudential; it defines the rebel out of existence. This is reflected in contemporary case studies in which religious authority is used to marginalize dissenters, such as the MUI's fatwas in Indonesia, which employ a "language of exclusion" to frame out-groups as threats to social stability (Alnizar, 2025). In al-Māwardī's framework, the absence of territorial sequestration renders potential rebels "invisible," falling outside the ambit of recognized political agency.

The immediate meaning of this dynamic is the transformation of the political rebel into a "non-subject." By setting the bar for legitimacy at a level unattainable for the disenfranchised—requiring them to physically seize territory before being granted legal protections—the state ensures that resistance is always-already criminalized. This misalignment between the theoretical "protection" of the law and the coercive "reality" of its criteria suggests a deliberate design: to provide the state with a legal mechanism for selecting which enemies it will treat with dignity and which with absolute annihilation. The "non-subject" status of the weak rebel re-entrenches the state's monopoly on violence by asserting that only "strength" is worthy of "justice." Consequently, the legal framework does not limit the state's power; it reinforces it by obstructing the prospects for genuine political engagement for any group that does not already mirror the state's military structure.

Engaging with Foucault's (1997) "regimes of truth," this situation illuminates how the legal definitions of *ta'wīl* and *shawka* function as disciplinary tools. The state does not merely suppress the rebel; it *produces* the rebel as a specific type of subject (the legitimate *bāghī*) while casting all others into the abyss of the "non-subject." This challenges the dominant narrative that classical *fiqh* provides a stable "rule of law" against executive tyranny. Instead, as the "adversarial thesis" of this study maintains, the law is genealogically engineered to stabilize authority. By synthesizing Berger and Luckmann's (2016) theory of "legitimation," we can see these criteria as the "conceptual machinery" that maintains the "symbolic universe" of the Abbasid state. The criteria of rebellion are not about the rebels' rights; they are about the state's survival. This adversarial reading forces a confrontation with the current status quo, revealing that the "protective" lens of modern scholarship is a depoliticized anachronism that masks the inherent violence of the classical architecture of exclusion.

The Weaponization of Ambiguity: *Bughāt* vs. *Muḥāribūn*

In the legal architecture of *al-Aḥkām al-Sultāniyyah*, al-Māwardī (1989) delineates a sharp yet porous boundary between political rebels (*bughāt*) and those categorized as "people of corruption" (*ahl al-fasād*) or brigands (*muḥāribūn*). For the *muḥāribūn* defined as those who brandish weapons to rob, kill, or block public thoroughfares al-Māwardī (1989) invokes the severe *ḥudd* (divine penalty) sanctions outlined in Qur'an 5:33. He records a significant juristic disagreement regarding the application of these penalties: the first school (e.g., Sa'īd ibn al-Musayyib, Mujāhid) grants the Imam absolute discretion to choose between execution, crucifixion, the cross-amputation of limbs, or exile. The second school, however, proposes a

graduated response based on the offender's role, where the "man of strategy and planning" (*dhā ra'y wa-tadbīr*) must be executed. At the same time, those possessing "sheer force" (*dhā baṭsh wa-quwwah*) suffer mutilation, and the weak are merely disciplined (*'azzarahu wa-ḥabasahu*) (al-Māwardī, 2019).

In contrast, the treatment of *bughāt* is characterized by eight distinct procedural mitigations designed to differentiate them from apostates (*murtaddūn*) and polytheists (*mushrikūn*). Al-Māwardī (2019) stipulates that: (1) the intent of combat must be deterrence (*rad'*) rather than extermination; (2) fleeing rebels must not be pursued; (3) the wounded must not be killed; (4) prisoners must not be executed; and (5) their property must not be seized as spoils. Crucially, al-Māwardī (2019) adds a structural condition for these protections. If the group has "not appointed an Imam for themselves nor presented a leader" (*lam yaṣībū li-anfusihim imāman walā qaddamū 'alayhim za'imān*), their seizure of wealth is considered common robbery for which their liability is not cleared, and their legal judgments are void. Only when they possess a formal leadership (*za'im*) do their administrative and fiscal acts gain a degree of "protected" recognition within the state's eyes.

The immediate meaning of this comparative legal logic reveals that the "mercy" afforded to the *bughāt* is not an inherent right of the dissenter but a conditional privilege granted by the state to those who mirror its hierarchical structure. By setting the appointment of an "Imam" or "leader" as the threshold between protected rebellion and killable banditry (*ḥirābah*), al-Māwardī's jurisprudence creates a structural trap. This "plasticity" of categories enables the state to weaponize ambiguity: any opposition that is unorganized, decentralized, or localized—and thus most likely to stem from genuine grassroots grievances—can be cast as *muḥāribūn*, stripping them of political agency and subjecting them to state-sanctioned mutilation or death (Tumanian, 2020). Conversely, the state reserves the "civilized" category of *bughāt* for those who possess sufficient *shawka* (strength) and centralized leadership to negotiate with. This creates a "monopoly on the definition of violence," where the state's decision to label a group as *bughāt* or *muḥāribūn* is a purely political act of "symbolic classification" used to stabilize the regime.

Engaging with Foucault's (1997) "regimes of truth," one can observe how the legal distinction between the "rebel" and the "bandit" is not a pursuit of justice but a reflection of the power dynamics governing knowledge creation. As Mahendra and Junaidi (2023) suggest, what is considered "legal truth" in classical *fiqh* is deeply embedded in the survival instincts of the state. This challenges the persistent narrative in the literature (e.g., Pramono & Sahidin, 2021) that classical *fiqh* provides a stable "rule of law" that checks executive tyranny. On the contrary, the fluidity of al-Māwardī's criteria allows the law to be reshaped by those in power to justify the violent suppression of "unstructured" dissent. This dialogue confirms the adversarial thesis of this study: the law of rebellion is a constitutive technology of power that transforms "inconvenient" rebels into "invisible" non-subjects. By casting the weak dissenter as a *muḥārib*, the state utilizes the sacred text of the Qur'an to "canonize" the annihilation of its most vulnerable critics.

Al-Māwardī's (2019) text further reinforces this disciplinary logic through his treatment of prisoners. He cites the precedent of 'Alī ibn Abī Ṭālib during the Battle of the Camel, who ordered that no fleeing person be followed and no wounded person be "dispatched" (*yu-dhaffaf*). However, al-Māwardī qualifies this leniency based on the "security" of the state: a prisoner who is deemed likely to return to the fray (*man lam tu'man minhu al-raja'*) must be imprisoned until the war ends (al-Māwardī, 2019). He recounts an anecdote of the Umayyad governor al-Ḥajjāj, who released a prisoner only to be told by the rebel leader Qaṭarī ibn al-

Fujā'ah to return to the fight, to which the prisoner poetically refused to "fight al-Ḥajjāj for his sovereignty" with a hand that al-Ḥajjāj himself had set free. This narrative is used by al-Māwardī (1989) to illustrate that the ultimate aim of *bughāt* law is the "return to obedience" (*al-rujū' ilā al-tā'ah*), based on Qur'an 49:9: "Fight the one that rebels until it returns to the command of Allah."

This evidence illustrates that the "protections" granted to rebels are essentially "investment strategies" in state stability. The prohibition on killing prisoners or pursuing the fleeing is not based on the rebels' inherent human rights, but on the state's desire to facilitate their eventual reintegration into the "symbolic universe" of the hegemony. The case of the prisoner released by al-Ḥajjāj is particularly telling: the "mercy" of the state is designed to create a psychological bond of gratitude and submission. When the rebel is treated as a *bāghī*, the state is attempting to "re-subjectify" them; when the rebel is treated as a *muḥārib*, the state is attempting to "eliminate" them. This binary—subjectification vs. elimination—demonstrates that the ambiguity between *bughāt* and *muḥāribūn* is a deliberate "trap door" (Sabuj, 2025). It allows the governing authority to shift between the "soft power" of juristic leniency and the "hard power" of *ḥudd* penalties, depending on whether the dissenter is deemed "useful" to the state's future or "expendable."

This interpretation extends the work of Zafari (2021) and Black (2010) on the "mirrors for princes" and the role of religion in establishing civilization. While these scholars focus on al-Māwardī's civilizing intent, this study exposes the coercive mechanisms underlying that civilization. By synthesizing Berger and Luckmann's (2016) theory of "legitimation," we can see that the distinction between *bughāt* and *muḥāribūn* is a vital piece of "conceptual machinery" used to maintain the "plausibility" of the Abbasid state. It ensures that any violence not sanctioned by the centralized "symbolic sovereignty" of the Caliph is rendered religiously and socially monstrous. This adversarial reading forces a confrontation with the "protective" consensus (Tabassum, 2011; Badar & Sabuj, 2019), revealing that the classical *fiqh* of rebellion is a sophisticated apparatus of "governmentality" that uses the facade of humanitarianism to discipline resistance and ensure that only the state-sanctioned "truth" survives.

CONCLUSION

This study offers a profound theoretical contribution by reframing classical Islamic jurisprudence not as a static repository of divine law, but as a dynamic technology of power. By dismantling the "protective thesis" surrounding *bughāt*, the research demonstrates how legal categories like *shawka* and *ta'wīl* were genealogically engineered to stabilize the Abbasid Caliphate during its era of material impotence. This shift from doctrinal hermeneutics to sociological deconstruction exposes the jurist's active role in "universe-maintenance," in which legal fictions are produced to render state-sanctioned violence religiously inevitable.

Practically, the findings provide a critical lens for understanding the enduring logic of authoritarianism in Muslim-majority societies. The weaponization of legal ambiguity between rebellion and banditry persists in contemporary state fatwas used to criminalize peaceful dissent. By identifying these "trap doors" in classical architecture, scholars and policy-makers can better recognize how religious orthodoxy is instrumentalized to strip marginalized groups of their political agency and render their grievances invisible to the legal order.

However, this research is limited by its specific focus on al-Māwardī's Shāfi'ī framework within the mid-Abbasid period. While foundational, the findings necessitate further comparative analysis across other legal schools and historical periods to determine the

universality of these exclusionary mechanisms. Future studies should investigate whether similar "architectures of exclusion" are present in Ḥanafī or Mālikī discourses on rebellion, or how these classical technologies of power have been re-appropriated in modern constitutional designs to suppress contemporary social movements.

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