

‘Aşabiyya and Its Effect on Testimony in al-Māwardī’s Thought

Mâverdî’nin Düşüncesinde Asabiyet ve Şahitliğe Etkisi

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Abstract

The term 'aşabiyya derived from a root meaning 'to surround' or 'to encompass', was used in the pre-Islamic (Jāhiliyya) period to refer to a community composed of kin related through the paternal line, reflecting a solidarity based on blood ties. Islam revised the pre-Islamic concept of 'aşabiyya into a framework based on cooperation in righteousness and goodness, as well as solidarity in preventing oppression and evil deeds, thus shifting the focus from blood ties to a religious bond. This also implies that 'aşabiyya, in its essence, is not entirely condemned and may have aspects that are acceptable or tolerable. Alongside the acceptable and unacceptable aspects of 'aşabiyya, its legal consequences have been discussed in fiqh. In this context, the approach of al-Māwardī (d. 450/1058), who addressed the subject comprehensively in the eyes of jurists, is particularly significant. He categorises 'aşabiyya into four types: love, 'aşabiyya itself, hatred, and enmity. Each category is analyzed in terms of whether it obstructs the validity of testimony and is further classified as *mubāḥ* (permissible), *mustaḥabb* (recommended), or *makrūh* (disliked). Al-Māwardī examines 'aşabiyya by emphasizing its elements of love, *bugḥ* (hatred), and *adāwa* (enmity) as the critical pillars of his classification. These pillars also fall within the study areas of disciplines such as moral philosophy, psychology, and sociology. Al-Māwardī's classification of 'aşabiyya clearly demonstrates how something is evaluated and ruled upon differently based on its moral, psychological, and social effects. The study highlights the connection between fiqh and ethics in al-Māwardī's approach, as well as the meticulous and thorough manner in which an issue is analyzed to derive rulings. As a Shāfi'ī jurist, it can naturally be said that al-Māwardī's approach to the subject is inspired by al-Shāfi'ī's (d. 204/820) views. However, it should also be noted that al-Māwardī's treatment of the subject is more developed and analytical. The sources for this study primarily include al-Māwardī's study al-Ḥāwī al-kabīr as well as classical jurisprudential sources from the four schools of thought.

Keywords: Islamic Law, al-Māwardī, Fuqahā', Testimony, 'Aşabiyya.

Māverdi'nin Düşüncesinde Asabiyet ve Şahitliğe Etkisi

Öz

Bu çalışma, Māverdi'nin (ö. 450/1058) asabiyet kavramına dair yaklaşımını ve bu kavramın altında yatan duyguların şahitlik üzerindeki etkilerini ele almaktadır. Sarmak, kuşatmak anlamına gelen "asabe" cahiliye döneminde baba tarafından kan bağı bulunan akrabalarından oluşan cemiyet anlamında kullanılarak kan bağına dayalı bir dayanışma anlayışını yansıtmaktaydı. İslam bu tür dayanışma anlayışını yererek hakta ve iyilikte yardımlaşma, zulmü ve münkeri engellemede dayanışmayı övmüştür. Fukahâ asabiyeti bu minvalde ele almış kendisine ilişkin hukuki sonuçları fıkıh literatüründe tartışmıştır. Bu bağlamda fukahâ nezdinde konuyu kapsamlı bir şekilde ele aldığı için Māverdi'nin (ö. 450/1058) yaklaşımı önem arz etmektedir. O, konuyu muhabbet, asabiyete sebep olan sevgi, buğz ve adavet şeklinde dört kategoride ele almaktadır. Māverdi, bu kısımları da şahitliğe engel olup olmaması açısından kendi içerisinde mubah, müstehab ve mekruh kategorizasyonu ile incelemektedir. Māverdi, asabiyette yer alan sevgi, buğz ve adaveti kendi tasnifinin önemli sacayakları yaparak konuyu ele almaktadır. Bu sacayakları aynı şekilde ahlak felsefesi, psikoloji ve sosyoloji gibi farklı disiplinlerin de çalışma alanlarına girmektedir. Māverdi'nin asabiyete ilişkin tasnifi bir şeyin ahlakî, nefsi ve toplumsal etkisine göre nasıl farklı değerlendirildiğini ve hükme bağlandığını açıkça göstermektedir. Bu çalışma Māverdi'nin bu tasnifinin, İslam hukukunda nesep, mezhep gibi herhangi bir aidiyetin adalet üzerindeki etkisini anlamaya yönelik önemli bir çerçeve sunması; fıkıhın ahlakla ilişkisine ve hüküm vermek için bir meseleyi tüm boyutlarıyla ve dakik bir şekilde ele alma özelliğine dikkat çekmesi açısından önem arz etmektedir. Māverdi'nin konuya dair yaklaşımına Şāfi'î'nin (ö. 204/820) görüşlerinin ilham verdiği söylenebilir. Ancak Māverdi'nin konuyu ele alma biçiminin daha gelişkin veya analitik olduğunu söylemek gerekir. Çalışmanın kaynakları arasında başta Māverdi'nin *el-Ḥâvî'l-kebîr* adlı eseri olmak üzere dört mezhebe dair klasik fıkıh kaynakları yer almaktadır.

Anahtar Kelimeler: İslam Hukuku, Māverdi, Fukahâ, Şahitlik, Asabiyet.

Introduction

‘Aṣabiyya (عصبية) is a nisba noun (منسوب اسم) derived from ‘aṣab (غضب).¹ The word asab means nerves in the body, ivy, and the notable members of a tribe.² ‘Aṣaba (عصبية) refers to those who inherit from a deceased person who has no direct ascendants (vālid) or descendants (walad) through the kalāla route.³ These are the male children and paternal relatives.⁴ The reason these relatives are called ‘aṣaba is their support for the father and their close relationship with him.⁵ In Islamic inheritance law, aṣabe are those who inherit the entire estate when there are no fixed-share heirs (aṣḥāb al-furuḍ). If there are fixed-share heirs, aṣaba receive whatever remains after their shares have been distributed.⁶ The term ‘aṣabiyya means ‘calling on a person to support his own tribe and to ally with those who oppose them, even if unjustly’.⁷ An ‘aṣabī person is someone who harbors hostility for the sake of their own ‘aṣaba and acts with a protective instinct.⁸

‘Aṣabiyya is predominantly based on kinship ties, and the closer or stronger these ties are, the more intense the ‘aṣabiyya becomes.⁹ Ibn Manẓūr states that protection and defense are two key attitudes associated with ‘aṣabiyya.¹⁰ Due to these emotions, ‘aṣabiyya leads a person to stand by his kin and protect them, whether they are oppressors or the oppressed. This attitude has been condemned by Islam. The Prophet Muḥammad (PBUH) said: “Whoever fights for ‘aṣabiyya, calls to it, or dies because of it, dies the death of the pre-Islamic age of ignorance (Jahiliyya).”¹¹ When asked whether love for one’s own people is considered ‘aṣabiyya, the Prophet (PBUH) replied: “No, but when a man helps his tribe in oppression, it is ‘aṣabiyya.”¹² The concept of ‘aṣabiyya is used in a way to include a negative meaning such as supporting the side to which one belongs under all circumstances, regardless of whether it is justified or unjustified.. In pre-Islamic society, the phrase “support your brother, whether he is an oppressor or the oppressed” encapsulated the primary meaning of ‘aṣabiyya. The Prophet Muḥammad (PBUH) also used this phrase but reinterpreted it positively. When a companion asked, “I understand helping him when he is oppressed, but how do I help him when he is an oppressor?” the Prophet (PBUH) replied, “by preventing him from committing oppression.”¹³ The statement “The liar of Rabi’ah is better than the truthful of Mudar” clearly reflects the understanding of ‘aṣabiyya in the period of jāhiliyya. This phrase is said to have been uttered during the war between the false prophet Musaylimah al-Kadhḥāb and the Muslims.¹⁴ Accordingly, Musaylimah from Rabi’a and Prophet Muḥammad (PBUH) from Muḍar are compared in terms of their qualities. Even though they knew that Musaylimah was a liar and they accepted that Prophet Muḥammad (PBUH) was faithful in his message, the sense of ‘aṣabiyya drove them to fight on Musaylimah’s side.

Islam emphasizes the establishment of Islamic brotherhood beyond blood ties. In the verses “indeed, the believers are but brothers.”¹⁵, “The believing men and believing women are allies of one another. They

¹ Abū al-Faḍl Jamāl al-Dīn Muḥammad b. Mukarram b. ‘Alī b. Ahmad al-Ansārī al-Ruwayfī Ibn Manẓūr, *Lisān al-‘Arab* (Bayrūt: Dār al-Ṣadr, 1414), “aṣab”, 15/97.

² Abū al-Ṭāhir Majd al-Dīn Muḥammad b. Ya‘qūb b. Muḥammad al-Firūzābādī, *al-Qāmūs al-muḥīṭ* (Bayrūt: Muassesa al-Risāla, 2005), “aṣab”, 115.

³ Ibn Manẓūr, “aṣab”, 1/605; al-Firūzābādī, “aṣab”, 115.

⁴ Ibn Manẓūr, “aṣab”, 1/605.

⁵ Ibn Manẓūr, “aṣab”, 1/606.

⁶ Ibn Manẓūr, “aṣab” 1/605; al-Firūzābādī, “aṣab”, 115. See also: Abū Bakr ‘Uthmān b. Muḥammad Shaṭā al-Dimyāṭī. *l’ānāt al-ṭālibīn ‘alā ḥall al-fāz Fath al-mu’īn* (n.p.: Dār al-Fikr, 1997), 3/266.

⁷ Ibn Manẓūr, “aṣab”, 1/606.

⁸ Ibn Manẓūr, “aṣab”, 1/606.

⁹ Mustafa Çağrı, “Asabiyyet” *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (İstanbul: TDV Yayınları, 1991), 3/453.

¹⁰ Ibn Manẓūr, “Aṣab”, 1/606.

¹¹ Abū ‘Urwah Ma‘mar b. Rāshid al-Baṣrī al-Ṣan‘ānī, *al-Jāmi‘*, critical ed. Ḥabīb al-Raḥmān al-A‘zamī (Bayrūt: al-Maktaba al-Islāmī, 1403), 11/339.

¹² Abū ‘Abd Allāh Aḥmad b. Muḥammad b. Ḥanbal al-Shaybānī Aḥmad b. Ḥanbal, *al-Musnad*, critical ed. Abū Ḥājir Muḥammad Sa‘īd Bashyūnī (Bayrūt: s.n., 1405/1985), 28/196-197; 29/16.

¹³ Abū al-Ḥasan ‘Alī b. Muḥammad al-Baṣrī Al-Māwardī, *al-Ḥawī al-kabīr fī al-fiqh ‘alā madhhab al-Imām al-Shāfi‘ī*, critical ed. ‘Alī Muḥammad Mu‘awwaḍ and ‘Ādil Aḥmad ‘Abd al-Mawjūd (Bayrūt: Dār al-Kutub al-Ilmiyya, 1999), 17/201.

¹⁴ Abū Zakariyyā Yahyā b. Sharaf al-Nawawī, *al-Majmū‘ sharḥ al-Muḥadhdhab* (Bayrūt: Dār al-Fikr, n.d.), 14/42; Mustafa Sabri Küçükbaşçı, “Mudar” *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (Ankara: TDV Yayınları, 2020), 30/357.

¹⁵ Al-Ḥujurāt 49/10.

enjoin what is right and forbid what is wrong."¹⁶ Allāh commands Muslims to foster unity and cooperation while forbidding them from turning their backs on one another and falling into division. The ḥadīths *"Do not be jealous of one another, do not fall into separation, do not turn your backs on one another, do not hate one another, and serve Allāh as brothers"* and *"My ummah is like a building whose parts hold each other tightly"* can also be evaluated in this context. *Fuqahā* have cited these verses and ḥadīths as evidence that the *‘aşabiyya* of the pre-Islamic period is condemned.¹⁷

This study analyses the way *‘aşabiyya* is handled in fiqh sources, especially its effect on testimony. In this context, al-Māwardī's approach is of particular importance since he analyses *‘aşabiyya* analytically. The main axis of the study is al-Māwardī's analysis of the emotions underlying the phenomenon of *‘aşabiyya* and their effects on testimony. The study consists of two titles. In the first heading, the jurists' definitions of *‘aşabiyya* and their views on the issues related to *‘aşabiyya* will be discussed. In the second section, al-Māwardī's classification will be analysed in depth in terms of its effect on testimony.

1. General Outline of *‘Aşabiyya* in Fiqh Sources

1.1. The Perspective of the *Fuqahā* on *‘Aşabiyya*

When the sources of *fiqh* are analysed, it is seen that *‘aşabiyya* is defined in accordance with the dictionary meanings we quoted above. In general, the definition of *‘aşabiyya* as *‘disliking a person because he is the child of so-and-so'*¹⁸ comes to the fore.¹⁹ This definition indicates that *fuqahā* approached the concept of *‘aşabiyya* in line with the understanding from jahiliyya era, which Islam condemned. The context in which they addressed *‘aşabiyya* also confirms their negative perception of it.

Al-Shāfi‘ī (d. 204/820) points out that the most honourable descent is to be attributed to Islam. He states that the worthiest of being loved are those who obey Allāh the most.²⁰ According to him, the most virtuous among those who obey Allāh are the following three individuals: a just ruler, an alim who exercises ijtihād (independent legal reasoning), and a person who benefits both the general Muslim community and specific individuals²¹. He does not consider the love of one's own tribe to be a form of *‘aşabiyya*, unless it leads to ḥarām behaviour towards others.²² This also shows that *‘aşabiyya* is used in a different sense beyond loving one's own tribe.²³ According to him, *‘aşabiyya* is to dislike a person only because he is from so-and-so's tribe without any religious and justified personal justification.²⁴ Al-Shāfi‘ī's understanding suggests that hatred (*bughḍ* - بغض) as an emotion alone is not absolutely condemned. For example, it is legitimate to dislike someone who is in disobedience to Allāh, and this dislike is justified. Al-Shāfi‘ī sees the state of loving and disliking someone as a fact that occurs in almost every human being. According to him, the criterion for loving a person is whether this love leads to a ḥarām behaviour. What is makrooh in this kind of love is if this love leads the person to things that Allāh has forbidden, such as cruelty, mockery of lineage, and showing *‘aşabiyya*.²⁵

The approach of al-Shāfi‘ī, who did not consider the love of one's own tribe within the scope of *‘aşabiyya* as long as it did not lead the person to an unlawful behaviour against others, was reflected

¹⁶ Al-Tawbah 9/71.

¹⁷ Abū ‘Abd Allāh Muḥammad b. Idrīs al-Shāfi‘ī, *al-Umm* (Bayrūt: Dār al-Ma‘rifa, 1990), 6/223; al-Māwardī, *al-Ḥawī al-kabīr*, 17/199; Abū al-Ma‘ālī Rukn al-Dīn ‘Abd al-Malik b. ‘Abd Allāh b. Yūsuf al-Juwaynī, *Nihāyat al-maṭlab fī dirāyat al-madhhab*, critical ed. ‘Abd al-‘Azīm al-Dīb (Saudi Arabia: Dār al-Minhāj, 2007), 19/28.

¹⁸ Al-Shāfi‘ī, *al-Umm*, 6/223; al-Nawawī, *Rawḍat al-tālibin wa ‘umdat al-muttaqīn*, critical ed. Zuhayr al-Shāwīsh. (Bayrūt: Al-Maktab al-Islāmī, 1991), 11/238. Abū ‘Abd Allāh Shams al-Dīn Muḥammad b. Muḥammad b. ‘Abd al-Raḥmān al-Khaṭṭāb. *Mawāhib al-Jalīl fī sharḥ Mukhtaṣar Khalīl* (n.p.: Dār al-Fikr, 1992), 6/175.

¹⁹ Yusuf Eşit, "Fukahanın Asabiyyete Bakışı" *Middle East 9th International Conference on Contemporary Scientific Studies*, March 13–15, 2024 – Bayrūt, Lebanon: Abstract Book, ed. Samar Zakaria Asso ve Samira Kkadhraoui Ontunç (Ankara: İksad Publications, 2024), 367.

²⁰ Al-Shāfi‘ī, *al-Umm*, 6/223.

²¹ Al-Shāfi‘ī, *al-Umm*, 6/223.

²² Al-Shāfi‘ī, *al-Umm*, 6/223.

²³ Eşit, "Fukahanın Asabiyyete Bakışı", 367.

²⁴ Al-Shāfi‘ī, *al-Umm*, 6/223.

²⁵ Al-Shāfi‘ī, *al-Umm*, 6/223.

unconditional in the sect with al-Muzanī (d. 264/878)²⁶ “as love of one’s tribe is not ‘aṣabiyya”. For example, al-Juwaynī (d. 478/1085) states that there are reports that ‘aṣabiyya is forbidden, but loving one’s own tribe is not ‘aṣabiyya.²⁷ However al-Juwaynī further states that hating someone merely because they belong to a different lineage is an ‘aṣabiyya.²⁸

Al-Shāfi‘ī and Ibn Qudāma (d. 620/1223), while outlining the qualifications of those from whom a judge (qāḍī) would obtain information, stipulate that they should be free from ‘aṣabiyya.²⁹ Al-Māwardī (d. 450/1058), al-Shīrāzī (d. 476/1083), al-Rāfi‘ī (d. 623/1226), and al-Nawawī (d. 676/1277) similarly emphasize that those providing testimony must be free from both tribal and sectarian bias to ensure that justice prevails.³⁰ The fact that these jurists mentioned sectarian ‘aṣabiyya in addition to genealogical ‘aṣabiyya is important in their terms of approaching ‘aṣabiyya from a broader perspective beyond blood ties. It is also understood from this that, unlike the *Jāhiliyya* society, different types of ‘aṣabiyya other than lineage were formed in Islamic society and the *fuqahā* considered them within the scope of ‘aṣabiyya. Accordingly, all kinds of belonging and associations that cause fanaticism can be considered within the scope of ‘aṣabiyya.

The speculative (*ẓannī*) nature of fiqh has allowed for diverse interpretations and opinions. Al-Shāfi‘ī, being aware of this, states that they did not discredit (*jarḥ*) those who considered mut‘a marriage lawful, issued fatwas permitting it, and practiced it; those who deemed it lawful to marry a concubine regardless of whether she was Muslim or polytheist despite having financial means; and those who considered it permissible to exchange one dinar for two dinars or one dirham for two dirhams in a spot transaction and engaged in such practices and therefore, he does not regard their testimony as rejected (*mardūd*). According to al-Shāfi‘ī, some leading muftis have issued fatwas permitting such practices and even implemented them themselves. However, al-Shāfi‘ī classifies all of these acts as *taḥrīmān makrūh* (prohibitively disliked), yet he states that he does not discredit these individuals by accusing them of legalising what Allāh has prohibited. He further notes that, just as they consider him to be mistaken, he likewise considers them to be inaccurate. The key difference, however, is that they accuse al-Shāfi‘ī of prohibiting what Allāh has permitted.³¹ Although al-Shāfi‘ī stated that they did not censure those who thought differently from them and did not accuse them of anything, the fact that he stated that they were accused of making the lawful *ḥarām* provides us with data on sectarian ‘aṣabiyya in his period. We can say that al-Shāfi‘ī’s broad tolerance and approach to fiqhī disagreements were not fully embraced even by some of his later followers in certain periods of Islamic history. Indeed, the following passages of Ibn Muflīḥ (d. 763/1362) provide striking data on the actual existence of sectarian ‘aṣabiyya in Islamic society and the relations between power and religion:

“I have seen a group of people who claim to belong to ‘ilm (knowledge) but behave like the common folk (‘awām). If a Ḥanbalī prays in a Shāfi‘ī mosque without reciting aloud (*jaḥrī*), the Shāfi‘ī has become angry; if a Shāfi‘ī prays in a Ḥanbalī mosque and recites aloud, the Ḥanbalīs become angry. This issue is a matter of *ijtihād*, and the ‘aṣabiyya shown in this regard is nothing more than a desire far removed from true knowledge. Ibn ‘Aqīl said: ‘I have seen that people refrain from oppression only when they are powerless to commit it. I say this is not only for the *awām* but also for the scholars. During the time of Ibn Yūsuf, power was in the hands of the Ḥanbalīs; thus, they oppressed those who

²⁶ Abū Ibrāhīm Ismā‘īl b. Yahyā b. Ismā‘īl al-Muzanī, *Mukhtaṣar al-Muzanī* (Bayrūt: Dār al-Ma‘rifa, 1990), 8/420.

²⁷ Al-Juwaynī, *Nihāyat al-maṭlab*, 19/28. For a detailed discussion on al-Juwaynī’s stance toward madhhab imāms and its connection to ‘aṣabiyya, see: Selman Demirboğa, “Cüveynî’nin Mezhep İmamlarına Yönelik Tutumu: el-Burhān fī Usūlī’l-Fıkh Adlı Eseri Örneğinde”, *Şırnak Üniversitesi İlahiyat Fakültesi Dergisi* 30 (2023), 415-425.

²⁸ Al-Juwaynī, *Nihāyat al-maṭlab*, 19/28.

²⁹ Al-Shāfi‘ī, *al-Umm*, 6/221; Abū Muḥammad Muwaffaq al-Dīn ‘Abd Allāh b. Aḥmad b. Muḥammad Ibn Qudāma, *al-Mughnī* (Cairo: Maktabat al-Qāhira, 1968), 10/58.

³⁰ Al-Māwardī, *al-Ḥawī al-kabīr*, 16/185; Abū Ishāq Ibrāhīm b. Yūsuf al-Shīrāzī, *al-Muḥadhdhab fī fiqh al-Imām al-Shāfi‘ī* (Bayrūt: Dār al-Kutub al-‘Ilmiyya, n.d.), 3/385; Abū al-Qāsim ‘Abd al-Karīm b. Muḥammad b. ‘Abd al-Karīm al-Rāfi‘ī, *al-‘Azīz sharḥ al-Wajīz*, critical ed. ‘Alī Muḥammad Mu‘awwad and ‘Adil Aḥmad ‘Abd al-Mawjūd (Bayrūt: Dār al-Kutub al-‘Ilmiyya, 1417/1997), 12/505. Al-Nawawī, *Rawḍat al-tālibīn*, 11/172.

³¹ Al-Shāfi‘ī, *al-Umm*, 6/222-223.

followed the Shāfi'ī school in secondary (furū') matters. They did not allow them to recite aloud (jahṛī) in prayer or make the qunūt supplication in their mosques. However, this is an ijtihādī matter. When Ibn Yusuf died and the era of Naẓẓām (Nizām al-Mulk) began, the Ḥanbalīs lost their power. This time, it was the Shāfi'īs who extended their hands over the Ḥanbalīs like oppressive rulers."³²

In the eyes of the *fuqahā*, 'aṣabiyya is understood as hatred that is not based on a legitimate and justified reason or love that causes oppression to others. As such, the *fuqahā* have taken a negative approach to the issues related to 'aṣabiyya. Indeed, Ibn 'Ābidīn (d. 1252/1836) interprets the narration "When two Muslims confront each other with swords, both the killer and the killed will be in hellfire" as referring to conflicts driven by 'aṣabiyya, tribal zeal (*ḥamiyya*), or disputes over worldly power and wealth.³³ Similarly, al-Nawawī restricts the permissibility of prayers of fear (*ṣalāt al-khawf*) to non-ḥarām wars. According to him, since it is forbidden by ijmaa for tribes to fight each other on the grounds of 'aṣabiyya, it is not permissible to pray the prayer of fear in such wars.³⁴ Fear prayer is a concession (*rukḥṣa*), and linking it to sinful acts contradicts the principle of nahy 'an al-munkar. In this case, granting a licence means indirectly supporting the commission of an ḥarām act.

1.2. The Opinions of the *Fuqahā* on Issues Related to 'Aṣabiyya

The issues in which the *fuqahā* have addressed 'aṣabiyya include its impact on testimony (shahāda), the status of those who die in battles driven by 'aṣabiyya, and the compensation for damages incurred in such conflicts. They also discussed whether funeral prayers (*ṣalāt al-janāza*) should be performed for them, and the person consulted by the judges should be free from 'aṣabiyya. Among these, it is possible to say that the effect of 'aṣabiyya on witnessing is discussed more.

The Ḥanafī jurist al-Kāsānī (d. 587/1191), in discussing the testimony of those influenced by their desires (*hawā*), states that if a person's hawā does not lead to disbelief (*kufr*) but they possess 'aṣabiyya or actively promote their hawā, their testimony will not be accepted.³⁵ He further notes that those who propagate their hawā or exhibit fanaticism (*ta'aṣṣub*) tend to be indifferent to lying.³⁶ Ibn Nujaym (d. 970/1563) transmits the view that the people of Irāq are considered fanatics because they intercede for those among them who commit crimes, and therefore, their testimony is not accepted. Following this, he states that the testimony of all fanatics will not be accepted.³⁷ Similarly, Ibn 'Ābidīn states that if a judge delivers a ruling based on the testimony of someone affected by 'aṣabiyya, the ruling is invalid.³⁸ It is observed that al-Kāsānī, Ibn Nujaym, and Ibn 'Ābidīn do not make any qualifications when rejecting testimony on the grounds of 'aṣabiyya.

The Mālikī jurist al-Khaṭṭāb (d. 954/1547) transmits the view of Ibn Farḥūn (d. 799/1397), who defines 'aṣabiyya as a person harboring hatred toward another merely because they are the child of a certain individual or belong to a particular tribe and holds that this is an impediment to testimony.³⁹ (d. 954/1547). Al-Sāwī (d. 1241/1825) also states that the testimony of a person accused of zealotry (*hamiyya*) and 'aṣabiyya is not be accepted.⁴⁰

³² Abū 'Abd Allāh Shams al-Dīn Muḥammad bin Muflīḥ bin Muḥammad al-Maqdisī Ibn Muflīḥ, *Kitāb al-furū'*, critical ed. 'Abdullah b. 'Abdullah b. 'Abduhuḥsīn al-Turki (Bayrūt: Mu'assasa al-Risāla, 2003), 2/22-23.

³³ Muḥammad Amīn bin 'Umar bin 'Abd al-'Abd al-Ḥusaynī al-Dimashqī Ibn 'Ābidīn, *Rādh al-mukhtār 'alā al-Durr al-mukhtār* (Bayrūt: Dār al-Fikr, 1992), 4/265.

³⁴ Al-Nawawī, *al-Majmū'*, 4/403.

³⁵ 'Alā' al-Dīn Abū Bakr b. Mas'ūd b. Aḥmad al-Kāsānī, *Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'* (Bayrūt: Dār al-Kutub al-'Ilmiyya, 1986), 6/269.

³⁶ Zayn al-Dīn b. Ibrāhīm b. Muḥammad al-Miṣrī Ibn Nujaym, *al-Baḥr al-rā'iḳ sharḥ Kanz al-daḳā'iḳ* (n.p.: Dār al-Kutub al-Islāmī, n.d.), 7/90.

³⁷ Muḥammad Amīn b. 'Umar b. 'Abd al-'Azīz al-Ḥusaynī al-Dimashqī Ibn 'Ābidīn, *Minḥat al-khāliq* (n.p.: Dār al-Kitāb al-Islāmī, n.d.), 7/86.

³⁸ Al-Khaṭṭāb, *Mawāhib al-Jalīl fī Sharḥ Mukhtaṣar Khalīl*, 6/175.

³⁹ Abū al-'Abbās Aḥmad b. Muḥammad al-Sāwī, *Bulghat al-sālik li-aqrab al-masālik* (n.p.: Dār al-Ma'ārif, n.d.), 4/256.

⁴⁰ Al-Shāfi'ī, *al-Umm*, 6/223.

We previously mentioned that al-Shāfi‘ī considered what he termed pure ‘aṣabiyya (*makhḍa* ‘aṣabiyya) which ‘aṣabiyya as an impediment to the acceptance of testimony.⁴¹ However, al-Shāfi‘ī makes a qualification at this point. He states that the testimony of a person who openly displays their ‘aṣabiyya and calls others to it is not accepted.⁴² Al-Shāfi‘ī states that even if a person does not declare war, their testimony will be rejected if they verbally express their ‘aṣabiyya, call others to it, and gather people around this cause. This is because such a person had committed an act that is unanimously considered ḥarām by *fuqahā*.⁴³

Al-‘Imrānī (d. 558/1163) defines *madhmūm* ‘aṣabiyya (blameworthy ‘aṣabiyya) as harboring hatred toward a group of people solely because they belong to a certain tribe, despite them having done no harm to the individual. According to him, if a person merely dislikes those they harbor resentment toward in their heart and does not express this hatred verbally, it does not affect their testimony against them. This is because it is impossible to guard against what is in the heart.⁴⁴ However, if this hatred manifests through a language of hatred, such as provocative speeches that incite hostility or calls for enmity without being accompanied by explicit insults or verbal abuse the ruling varies depending on the reason behind it. According to what he transmits, Ibn al-Ṣabbāgh (d. 477/1084) holds that if the hatred is based on religious reasons, the testimony will not be rejected; however, if it pertains to worldly matters, the person falls into the category of an adversary, and their testimony against the opposing party will not be accepted.

Additionally, as he reports, Shaykh Abū Ḥamid (d. 406/1016) states: “If such behavior is repeatedly observed from a person, they become a *fāsiq*, and their testimony is rejected. If they insult those people and openly use offensive language, then they are a *fāsiq*, and their testimony will not be accepted against anyone”.⁴⁵

The Shāfi‘ī jurist al-Nawawī (d. 676/1277) defines ‘aṣabiyya as harboring hatred toward a person solely because they belong to a certain group. He states that ‘aṣabiyya alone is not sufficient to invalidate testimony; rather, for testimony to be rejected, it must be accompanied by calling upon others to harm that person and gathering people against them. Al-Nawawī considers with ‘aṣabiyya the presence of active propaganda against the individual as a necessary condition for rejecting testimony.⁴⁶ Al-Shirbīnī (d. 977/1570) does not consider a person's love for their own kin as ‘aṣabiyya and states that testimony will not be rejected on this basis. Additionally, like al-Nawawī, he affirms that ‘aṣabiyya, defined as ‘harboring hatred toward someone solely because they are the child of a certain person,’ is not sufficient on its own to invalidate testimony. Al-Shirbīnī further states that those who are part of a group united in enmity against a particular community will have their testimony rejected.⁴⁷

The Ḥanbalī jurist Shams al-Dīn Ibn Muflīḥ considers ‘aṣabiyya as one of the factors that invalidate testimony. According to him, the testimony of a person known for displaying extreme fanaticism is not accepted. Even if it does not reach the level of outright hostility, he includes cases such as one tribe exhibiting ta‘assub against another within this ruling.⁴⁸ Burhān al-Dīn Ibn Muflīḥ (d. 884/1479) also transmits the view of Ibn ‘Aqīl (d. 513/1119), who holds that the testimony of a person known for ‘aṣabiyya, such as the tribal bias that Bedouins harbor against village dwellers, will not be accepted.⁴⁹

Unlike the Shāfi‘ī *fuqahā*, who consider external factors such as verbal expression, propaganda, or other outward manifestations necessary for ‘aṣabiyya to invalidate testimony, the Ḥanafī, Mālikī, and Ḥanbalī *fuqahā* regard the mere presence of ‘aṣabiyya as sufficient grounds for rejecting testimony and do not impose additional conditions as the Shāfi‘īs do. Shāfi‘ī jurists have not considered *bughḍ* alone as a factor

⁴¹ Al-Shāfi‘ī, *al-Umm*, 6/223.

⁴² Al-Shāfi‘ī, *al-Umm*, 6/223.

⁴³ Abū al-Ḥusayn Yahyā b. Abī al-Khayr b. Sālim b. As‘ad al-‘Imrānī, *al-Bayān fī madhhab al-Imām al-Shāfi‘ī*, critical ed. Qāsim Muḥammad al-Nūrī (Saudi Arabia: Dār al-Minhāj, 2000), 13/316.

⁴⁴ Al-‘Imrānī, *al-Bayān*, 13/316.

⁴⁵ Al-Nawawī, *Rawḍat al-tālibīn wa ‘umdat al-muttaqīn*, 11/239.

⁴⁶ Shams al-Dīn Muḥammad b. Aḥmad al-Khaṭīb al-Shirbīnī, *Mughnī al-muhtāj ilā ma‘rifat ma‘ānī alfāz al-Minhāj* (Bayrūt: Dār al-Kutub al-‘Ilmiyya, 1994), 6/358.

⁴⁷ Ibn Muflīḥ, *Kitāb al-furū*, 11/365.

⁴⁸ Abū Ishāq Burhān al-Dīn Ibrāhīm b. Muḥammad b. ‘Abd Allāh Ibn Muflīḥ, *al-Nukat wa al-fawā'id al-saniyya ‘alā mushkil al-Muḥarrar li-Majd al-Dīn Ibn Taymiyya* (Riyāḍ: Maktabat al-Ma‘ārif, 1984), 2/301.

that invalidates testimony; moreover they have stipulated its open expression and active propagation as additional conditions.⁴⁹ This should not be understood as tolerating bughḍ to a certain extent.⁵⁰ The rejection of testimony is a judicial decision, which requires a concrete, assessable, and objective criterion. At this point, this feeling can only be understood by revealing it, and revealing it can only be understood by expressing it.⁵¹

Another issue related to people of *‘aşabiyya* is whether funeral prayers should be performed for those who die in battles and conflicts driven by *‘aşabiyya*. In this context, the discussion on whether funeral prayers should be conducted for such individuals is generally found in Ḥanafī sources. Ḥanafī jurists state that those killed in wars rooted in *‘aşabiyya* are treated under the same ruling as rebels (*bāghī*) regarding the washing of their bodies and the performance of their funeral prayers.⁵² There is also, a weak opinion within the Ḥanafī school that allows for the washing of their bodies.⁵³ Jurists emphasise the deterrent aspect of the view of not performing the funeral prayers of both the *baghiyyahs* and their funeral prayers.⁵⁴

Since the Ḥanafī jurists considered washing of the bodies of those who died in this way and the performance of their prayers within the scope of *bagy*, it is understood that they were of the opinion that they could be fought with them. The Mālikīs, on the other hand, deal with this issue explicitly. Imām Mālik, on the question of whether the people of *‘aşabiyya* should be fought, states that they can be fought if they do not respond positively to the just imām's invitation to them to be merciful and return to the truth.⁵⁵ Ibn Abī Zayd al-Qayrawānī (d. 386/996) also states that if the people of *‘aşabiyya* do not return to the truth after the imām calls them to the truth, they can be fought.⁵⁶

Al-Shāfi‘ī states that it is permissible to fight against acts fundamentally based on oppression, such as banditry (*ṭarīq qat’*) and *‘aşabiyya*.⁵⁷ According to him, when two groups engage in battle due to plunder or *‘aşabiyya*, both remain liable for compensation (*‘āqila*) and retribution (*qisās*) for the damages they cause to each other.⁵⁸ Similarly, al-Māwardī holds that if two individuals or groups come together and fight solely for *‘aşabiyya*, seeking each other's lives and property, both parties are considered oppressors. However, those killed from either side are regarded as wronged, and retributions applied to their killers. Before the battle begins, both sides are equally considered oppressive, as they have transgressed limits by engaging in conflict. However, once killing occurs, the situation changes: The killer becomes the oppressor due to committing the act of killing, while the one killed is deemed the oppressed.⁵⁹

Ibn Qudāma (d. 620/1223) states that if two groups fight each other due to leadership, *mulk*, or *‘aşabiyya* and refuse to obey the *imām*, they are both considered oppressors, and thus, they are liable for the damages they inflict upon one another.⁶⁰ According to him, if one of these groups fights under the command of the imām and in obedience to him, that group is in the right. The other group, however, is in the position of those who fight against the imām.⁶¹ From this approach, it is understood that Ibn Qudāma holds the view that it is permissible to fight against the fanatical (*muta‘aṣṣib*) side and that they are responsible for the harm they cause.

⁴⁹ Eşit, "Fukahânın Asabiyete Bakışı", 367.

⁵⁰ Eşit, "Fukahânın Asabiyete Bakışı", 367.

⁵¹ Eşit, "Fukahânın Asabiyete Bakışı", 367.

⁵² Ibn Nujaym. *Al-Baḥr al-rā‘iq*, 2/215.

⁵³ Ibn ‘Ābidīn. *Radd al-mukhtār*, 2/211; Abū al-İhlās Ḥasan b. ‘Ammār b. ‘Alī al-Shurunbulālī, *Marāqī al-falāḥ bi-ımdād al-fattāḥ* (n.p.: Al-Maktabat al-‘Asriyya, 2005), 223.

⁵⁴ Ibn ‘Ābidīn, *Radd al-mukhtār*, 2/211; al-Shurunbulālī, *Marāqī al-falāḥ*, 223.

⁵⁵ Abū Sa‘īd ‘Abd al-Salām b. Sa‘īd b. Ḥabīb al-Tanūkhī Sahnūn, *al-Mudawwana* (n.p.: Dār al-Kutub al-‘Ilmiyya, 1994), 1/530.

⁵⁶ Khalaf b. Abī al-Qāsim Muḥammad al-Qayrawānī, *al-Tahdhīb fī Ikhtisār al-Mudawwanah*, critical ed. Muḥammad al-Amin (Dubai: Dār al-Buhuth li’l-Dirasat al-Islamiyya, 2002), 2/77.

⁵⁷ Al-Shāfi‘ī, *al-Umm*, 1/257.

⁵⁸ Al-Shāfi‘ī, *al-Umm*, 6/35.

⁵⁹ Al-Māwardī, *al-Ḥāwī al-kabīr*, 13/465.

⁶⁰ Abū Muḥammad Muwaffaq al-Dīn ‘Abdullāh b. Aḥmad b. Muḥammad Ibn Qudāma, *al-Kāfī fī fiqh al-Imām Aḥmad* (Bayrūt: Dār al-Kutub al-‘Ilmiyya, 1994), 4/59.

⁶¹ Ibn Qudāma, *al-Kāfī*, 4/59.

Al-Qarāfī (d. 684/1285) states that *ta’wīl* (interpretation) plays a crucial role in determining liability for damages in any conflict. *Ta’wīl* refers to a justifiable reason, and those who possess such a justification are classified as rebels. The reason rebels are not held responsible for damages caused during war is that they act based on *ta’wīl*, meaning they believe they have a valid justification. Al-Qarāfī does not regard mere ‘aṣabiyya as a justifiable reason within the scope of *ta’wīl*.⁶² Similarly, al-Kharashī (d. 1101/1690) states that when *bāghī* groups engage in war without *ta’wīl* motivated instead by ‘aṣabiyya or sheer obstinacy (*‘inād*) they are liable for the damages they cause.⁶³

Al-Shāfi‘ī and Ibn Qudāma (d. 620/1223) state that those whom the *qāḍī* consults for verification (*tazkiya*) must be free from *hawā* (bias) and ‘aṣabiyya.⁶⁴ Al-Māwardī explains this requirement as follows: “One should not be among those swayed by *hawā* and ‘aṣabiyya in matters of lineage or sect. Such a person may be inclined to present the bad actions of someone aligned with them as good, while portraying the good actions of someone opposed to them as bad.”⁶⁵ Similarly, al-Shīrāzī, al-Rāfi‘ī and al-Nawawī emphasize that those from whom the *qāḍī* seeks information must be free from lineage-based and sectarian ‘aṣabiyya to ensure that a just person is not discredited (*jarḥ*) and an unjust person is not wrongfully validated (*tazkiya*).⁶⁶

2. Al-Māwardī’s Classification of the Underlying Emotions of ‘Aṣabiyya in Relation to Testimony

Before discussing the relationship between ‘aṣabiyya and testimony, Al-Māwardī provides a general outline of Islam’s stance on the relationships among believers. According to him, Allāh the almighty has commanded Muslims to uphold unity and mutual support while prohibiting division and enmity through the following verses: “The believers are but brothers.”⁶⁷ “The believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong.”⁶⁸ He also cites the following *ḥadīths* of the Prophet Muḥammad (PBUH) regarding this matter: “My ummah is like a building; each part supports the other.” “Do not hate one another, and do not be jealous of one another, and do not desert each other, and O, Allāh’s worshipers! Be brothers.”⁶⁹ Al-Māwardī emphasizes that the type of relationship described in these *ḥadīths* is the fundamental principle in Islam. He argues that only through such unity can Muslims form a single force against the adherents of other religions.⁷⁰ Indeed, in another *ḥadīth*, the Prophet Muḥammad (PBUH) stated: “The blood of Muslims is equal to one another. They are united against others, and even the protection (*amān*) granted by the lowest-ranking among them is binding upon all Muslims.”⁷¹

Al-Māwardī, like al-Shāfi‘ī, after mentioning the fundamental principle of Islam regarding the relationships among Muslims, defines ‘aṣabiyya as “an excessive inclination toward a group in opposition to others.”⁷² At this point, the positive and negative emotions that arise in a person toward others form the basis of ‘aṣabiyya. Indeed, in al-Māwardī’s definition, both inclination toward one group and opposition to another are present. Instead of making a general judgement on ‘aṣabiyya and its underlying emotions, Mawardī categorises it according to the emotions it contains. He discusses which of these emotions are acceptable or prohibited under which conditions and categorises ‘aṣabiyya in the following four categories

⁶² Abū al-‘Abbās Shihāb al-Dīn Aḥmad b. Idrīs al-Qarāfī, *Al-Dhakhīrah*, critical ed. Muḥammad Bū Khabza (Bayrūt: Dār al-Gharb al-Islāmī, 1994), 12/10.

⁶³ Muḥammad b. ‘Abd Allāh al-Kharashī, *Sharḥ Mukhtaṣar Khalīl* (Bayrūt: Dār al-Fikr, n.d.), 8/61.

⁶⁴ Al-Shāfi‘ī, *al-Umm*, 6/221; Ibn Qudāma, *al-Mughnī*, 10/58.

⁶⁵ Al-Māwardī, *al-Ḥāwī al-kabīr*, 16/185.

⁶⁶ Al-Shīrāzī, *al-Muḥadhdhab*, 3/385; al-Rāfi‘ī, *al-‘Azīz*, 12/505; al-Nawawī, *Rawdat al-ṭālibīn*, 11/172.

⁶⁷ Al-Ḥujurāt 49/10.

⁶⁸ Al-Tawbah 9/71.

⁶⁹ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/199.

⁷⁰ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/199.

⁷¹ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/199.

⁷² Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/199.

according to its source and result: Love (*maḥabbah*), love that leads to sin (*ma'ṣiyah*), *bughḍ* (hatred), and hatred that leads to *'adāwa* (enmity).⁷³

Al-Māwardī Categorises each aspect as *mubāḥ* (permissible), *mustaḥabb* (recommended), and *makrūh* (discouraged). As mentioned in his definition, these emotions can essentially be reduced to two fundamental aspects: love and *bughḍ*. It can be said that al-Māwardī's classification of *'aṣabiyya* in this manner is influenced by al-Shāfi'ī's approach, which also considers the issue in terms of love and hatred. Indeed, al-Shāfi'ī addresses two aspects of *'aṣabiyya* in the context of its impact on testimony: love that manifests negatively toward others and hatred toward someone without a justifiable reason.⁷⁴

2.1. Love (Maḥabba)

Al-Māwardī categorises the ruling on love into three types: *mubāḥ*, *mustaḥabb*, and *makrūh*. Permissible (*mubāḥ*) love is that which is based on kinship, similarity in knowledge or literary taste, or on what is *mubāḥ* in terms of profession or livelihood.⁷⁵ According to him, This type of love is permissible, as it strengthens justice (*'adāla*) and does not weaken it.⁷⁶ Al-Māwardī states that⁷⁷ this is the kind of love that al-Shāfi'ī referred to in his saying: "A person's love for his own people is not *'aṣabiyya*."⁷⁸

Al-Māwardī also includes the Prophet Muḥammad's (PBUH) love for his own tribe, *Quraysh*, within this category. The Prophet (PBUH) was loved the Quraysh because they were his people. He expressed this through his statements: "The leaders (*a'immaḥ*) are from Quraysh"⁷⁹, "give precedence to Quraysh and do not go ahead of them; learn from Quraysh and do not dispute with them"⁸⁰ With these words, he designated leadership (*khilāfa*) for Quraysh.⁸¹ When returning from the Battle of *Badr*, a member of the *Anṣār*, Salāmah ibn Waqsh, was asked whom they had fought against. He replied, "Did we encounter anyone other than bald old men?" When the Prophet (PBUH) heard this, he responded, "They were the nobles of Quraysh." According to al-Māwardī, in this narration, the Prophet (PBUH) removed disgrace from them despite their disbelief and their enmity against him.⁸² Al-Māwardī also narrates an incident regarding the Prophet's (PBUH) love for his tribe, referring to a poet from the *Ḥimyar* tribe of Yemen who once recited: "When asked about my lineage, I am from *Ḥimyar*; I am neither from *Rabī'ah* nor from *Mudar*." In response, the Prophet (PBUH) said: "That is of lesser significance to your status but takes you farther from Allāh."⁸³

Mustaḥabb love is the love that is for the sake of religion. It promotes goodness, brings one closer to obedience to Allāh, and keeps one away from sin.⁸⁴ Al-Māwardī gives as an example of this type of love the brotherhood established by the Prophet Muḥammad (PBUH) between the *Anṣār* and the *Muhājir*. He cites the following verse as evidence: "You are the best community ever raised for humanity—you encourage good, forbid evil, and believe in Allāh."⁸⁵ He did not feel the need to address the impact of recommended love on justice and testimony. This is because if *mubāḥ* love does not harm justice but rather strengthens it, then *mustaḥabb* love, by greater reason, does not cause harm and instead further reinforces justice.⁸⁶

According to al-Shāfi'ī, the *makrūh* aspect of love is when it negatively affects others.⁸⁷ He focuses not on the group toward which the love is directed but on the negative consequences of that love. Al-Māwardī,

⁷³ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/199.

⁷⁴ Al-Shāfi'ī, *al-Umm*, 6/223.

⁷⁵ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/200.

⁷⁶ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/200.

⁷⁷ Al-Muzanī, *Mukhtaṣar al-Muzanī*, 8/420. In al-Shāfi'ī's original work, this statement is recorded as: "If a person particularly loves his tribe, this love is *silā* (kinship) and not *'aṣabiyya*, unless it leads him to act unjustly toward others." Al-Shāfi'ī, *al-Umm*, 6/223.

⁷⁸ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/200.

⁷⁹ Ma'mar b. Rāshid, *al-Jāmi'*, 11/58; Aḥmad b. Ḥanbal, *al-Musnad*, 7/389.

⁸⁰ Ma'mar b. Rāshid, *al-Jāmi'*, 11/54.

⁸¹ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/200.

⁸² Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/200.

⁸³ For the poem, see Abū 'Uthmān 'Amr b. Baḥr b. Maḥbūb al-Jāhiz, *Maḥāsin wa al-azdād* (Bayrūt: Dār wa Maktabat al-Hilāl, 1423), 131.

⁸⁴ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/200.

⁸⁵ Āl 'Imrān 3: 110.

⁸⁶ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/200.

⁸⁷ Al-Shāfi'ī, *al-Umm*, 6/223.

however, categorises *makrūh* love based on the group to which it is directed. According to him, *makrūh* love is love based on mutual agreement and partnership in sin. Al-Māwardī cites the *ḥadīth*: "A person will be with those he loves." as an example of this type of love, emphasizing that a person who loves a sinner is like the sinner himself.⁸⁸ Through this statement, al-Māwardī highlights the spiritual consequences of social relationships in afterlife. In his perspective it is also stressed that the importance of adopting a value-based approach in forming relationships, explicitly stating that loving a sinner and approving of their actions brings a person to the same level as the sinner.

Al-Māwardī does not make explicit statements regarding justice and testimony of a person who falls into the category of *makrūh* love. He merely states that such individuals are in the same position as sinners (*fāsiq*). This type of love contradicts the general principle of religion, which mandates preventing wrongdoing (*munkar*). Since it contributes to acceptance and normalization of sin, al-Māwardī equates it, in terms of its consequences, with committing sin itself. As will be seen in later sections, as long as this love remains abstract and does not translate into concrete negative actions, it is difficult to claim that it harms justice or invalidates testimony. However, this legal assessment should not be interpreted as approval of such an attitude. In *fiqh*, determining that a particular condition does not disqualify testimony does not mean that it is ethically or religiously acceptable. For example, a *ṣalāh* that meets all its outward pillars (*arkān*) and conditions (*shurūṭ*) may be legally valid but is not necessarily accepted in the sight of Allāh. Its acceptance is also connected to the sincerity and devotion of the worshiper. Similarly, such love, over time, may lead a person to normalize sin within themselves, become desensitized to it, or even develop an inclination toward it. This will ultimately harm the individual's religious commitment. If this attitude persists and becomes widespread, it will contribute to broader societal normalization of sin. The complete elimination of sin cannot be achieved solely through the social isolation of sinners. If a sinner fails to recognize their wrongdoing and instead feels reinforced through indirect approval, they may normalize their behavior and, at worst, remain in their current state. Therefore, it must be acknowledged that love for sin has unacceptable consequences for the individual who loves it, for the sinner who is loved, and for society as a whole.

Al-‘Imrānī does not consider a person’s love for their own tribe, clan, sect, or homeland to be *makrūh* (discouraged). Instead, he views it as *mandūb* (recommended), citing prophetic *ḥadīths* related to companionship (*ulfaḥ*), unity, and solidarity as evidence.⁸⁹ The type of love Al-‘Imrānī refers to is likely one that does not lead to any negative consequences. It can be said that the love he considers *mandūb* corresponds to the *mubāḥ* (permissible) category in Al-Māwardī’s classification.

Al-Māwardī also addresses the ruling on love that arises from admiration of appearance. According to him, if such love stems from a desire that leads to suspicion, it is *makrūh* (discouraged). However, if it is based on appreciating Allāh’s craftsmanship in creation and the beauty within His design, it is considered closer to *mustaḥabb* (recommended) love.⁹⁰

2.2. The Love That Leads to Sin/*Ma’siyah* (‘Aṣabiyya)

Al-Māwardī, while classifying the emotions that underlie ‘aṣabiyya, refers to the second category as *love that leads to sin (ma’siyah)*. However, in the section where he begins his explanation, he opts for the ⁹¹ term “aṣabiyya”.⁹² He defines ‘aṣabiyya as “a group’s excessive inclination toward another group” and categorises it into two types: unconditional-general and justice-based. He describes the unconditional-general type as a tendency to support a group in every situation, regardless of truth or falsehood.⁹³ It

⁸⁸ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/200.

⁸⁹ Al-‘Imrānī, *al-Bayān*, 13/315.

⁹⁰ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

⁹¹ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/199.

⁹² Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

⁹³ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

represents a general attitude of unwavering allegiance to individuals or causes, whether they are right or wrong.⁹⁴ In this category, the distinction between just and unjust is irrelevant, and support is given to the favored side under all circumstances. Al-Māwardī characterizes this form of *‘aṣabiyya* as *fiṣq* (moral corruption) and considers it an attitude that disqualifies testimony.⁹⁵ As evidence, he cites the verse:⁹⁶ “*The hypocrites, both men and women, are all alike: they encourage what is evil, forbid what is good, and withhold ‘what is in’ their hands*”⁹⁷ It can be said that the type of *‘aṣabiyya* categorized by Al-Māwardī includes the love that Al-Shāfi‘ī describes as *makrūh*. Indeed, according to Al-Shāfi‘ī, if a person’s love for their own kin leads them to commit actions that Allāh has forbidden against others, this form of love is considered *makrūh*.⁹⁸

The justice-based and conditional category of *‘aṣabiyya* is limited to legitimate situations, such as supporting one's own group when they are in the right or striving to remove oppression against them. Whether it involves securing their rights or lifting injustices upon them, both cases are considered legitimate, and a person's support and loyalty to their own group are not absolute or unrestricted. What distinguishes this category from the first type -unconditional and general loyalty- is that when a group is unjust or oppressive, one does not continue to support them. Failing to stand by one's group in cases of wrongdoing or injustice sets this type apart from blind and unconditional allegiance. According to Al-Māwardī, this form of loyalty does not undermine justice and does not disqualify a person from giving testimony.⁹⁹ To support the legitimacy of this category, he cites the following verse: “*Cooperate in righteousness and piety, but do not cooperate in sin and aggression.*”¹⁰⁰ He also references the *ḥadīth*: “*One day, the Prophet (PBUH) said to a man: ‘Help your brother, whether he is an oppressor or he is an oppressed one.’ The man asked, ‘O Messenger of Allāh! I understand helping the oppressed, but how do I help the oppressor?’ The Prophet (PBUH) replied: ‘By preventing him from committing oppression.’*”¹⁰¹

Al-Māwardī points out that the ruling on this type of loyalty varies depending on its cause. If this loyalty is merely about loving one’s group, it is classified as *mubāḥ*. However, if it is aimed at ensuring that justice is served and rights are upheld, it is considered *mustaḥabb*.¹⁰² It is observed that the same action have different rulings due to underlying varying cause and intention behind it.

2.3 Hatred (*Bughḍ*)

The lexical meaning of *bughḍ* is disliking or the opposite of love.¹⁰³ Al-Māwardī, just as he did with love, categorizes *bughḍ* (hatred) into three types: *Mustaḥabb*, *mubāḥ*, and *makrūh*.¹⁰⁴ *Mustaḥabb bughḍ* is hatred based on religious reasons. Al-Māwardī includes hatred toward sinners in this category. Since he considers *bughḍ* against sinners as upholding the rights of Allāh the Almighty and a form of obedience to Him, he states that such hatred earns reward.¹⁰⁵ According to what Al-‘Imrānī transmits, Ibn al-Sabbāgh holds the view that if *bughḍ* is openly expressed and propagated, but not accompanied by explicit insults or verbal abuse, it does not invalidate testimony as long as its source is a religious matter.¹⁰⁶

The approaches of al-Māwardī and Ibn Sabbāgh parallel that of al-Shāfi‘ī.¹⁰³ According to al-Shāfi‘ī, the form of *‘aṣabiyya* that invalidates testimony is not one arising from a personal injustice or directed

⁹⁴ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

⁹⁵ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

⁹⁶ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

⁹⁷ Al-Tawbah 9/67.

⁹⁸ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

⁹⁹ Al-Shāfi‘ī, *al-Umm*, 6/223.

¹⁰⁰ Al-Ma‘idah 5/2.

¹⁰¹ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

¹⁰² Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

¹⁰³ Al-Firūzābādī, “*bughḍ*”, 637; Muḥammad b. Muḥammad ‘Abd al-Razzāq al-Ḥusaynī al-Zabīdī, *Tāj al-‘arūs min jawāhir al-qāmūs* (n.p.: Dār al-Hidāya, n.d), “*bughḍ*”, 18/247.

¹⁰⁴ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

¹⁰⁵ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

¹⁰⁶ Al-‘Imrānī, *al-Bayān*, 13/316.

against a sinful act (ma‘ṣiyah), but rather one based solely on being affiliated with a particular group.¹⁰⁷ From his statements, it is understood that al-Shāfi‘ī does not regard resentment (bughḍ) toward sin or in response to personal injustice as the type of ‘aṣabiyya that disqualifies testimony. Al-Shāfi‘ī’s view of bughḍ against sinful acts corresponds to al-Māwardī’s category of mustaḥabb (recommended) bughḍ/adāwah, while his view on resentment arising from personal injustice aligns with al-Māwardī’s category of mubāḥ (permissible) bughḍ/adāwah.

This *bughḍ* is a manifestation of a person’s faith and loyalty to Allāh. Additionally, through an internal aversion to sin, a person disciplines their own soul, while socially distancing themselves from those who engage in sinful behavior helps preserve this moral state. Furthermore, by demonstrating such an attitude toward sin, the isolation of sinners from society is intended to encourage their reformation. The acceptability of this type of *bughḍ* is conditional upon it remaining within its proper limits. As will-be explicitly discussed in the following section on ‘adāwa, the legitimacy of this *bughḍ* depends on it staying at the emotional level and not translating into actions. The fundamental aim here is the inherent repulsiveness of sin itself. The fact that this *bughḍ* arises as a reaction to sin is what provides its legitimacy and justification.

Mubāḥ bughḍ refers to personal matters that arise from worldly causes. An example of this type of *bughḍ* is a person harboring resentment toward someone who has wronged them by usurping their rights or openly displaying enmity toward them.¹⁰⁸ Al-Māwardī states that since this *bughḍ* originates from worldly causes, a person neither gains *thawāb* (reward) nor incurs *ithm* (sin) because of it.¹⁰⁹ According to him, as long as this *bughḍ* does not extend to others, the person remains just (‘ādil), and his testimony is accepted.¹⁰⁹ In Al-Māwardī’s thought, a boundary is drawn for this type of *bughḍ*, and a balance is emphasized. He acknowledges that a person may have the motivation to defend their own rights and considers this a worldly matter. It is explicitly stated that as long as this *bughḍ* does not extend negatively to others, the individual neither gains reward nor incurs sin. However, if this *bughḍ* reaches a level where it affects others negatively, it is regarded as exceeding its proper limits. Such excess is seen as a negative condition and is described as *bughḍ* that undermines ‘adālah and invalidates testimony.

Makrūh bughḍ is the hatred a person harbors toward others based on differences in lineage, knowledge or profession. Al-Māwardī states that this form of *bughḍ* is *makrūh* because it causes division among people and distances them from one another.¹¹⁰ Al-‘Imrānī also describes as *madhmūm-‘aṣabiyya* a person’s hatred toward a group solely because they belong to a certain tribe, despite the fact that they have done nothing wrong to them.¹¹¹ According to Al-Māwardī, if this *bughḍ* hatred escalates into inciting others against those whom one harbors hatred toward, it undermines justice and disqualifies a person from giving testimony. However, if it does not reach this level, this type of *bughḍ* does not invalidate testimony.¹¹² Al-‘Imrānī transmits that Ibn al-Sabbāgh, a contemporary of Al-Māwardī, also considers openly expressed and propagated *bughḍ* to be an impediment to testimony if its source is a worldly matter, even if it is not accompanied by explicit insults or verbal abuse.¹¹³

Al-Māwardī classifies this type of *bughḍ* as *makrūh* in all cases, whether or not it reaches the level that invalidates testimony. This is because such an emotion undermines the social unity that Allāh has intended. Indeed, Al-Māwardī considers the solidarity and unity of the ummah to be a fundamental principle of the religion. Since this feeling sows the seeds of resentment and division, it contradicts this essential principle. Possessing such *bughḍ* is *makrūh*, and a person must control and even reform this feeling within themselves. If one fails to control it and it escalates to a level where it influences others—reaching the stage

¹⁰⁷ Al-Shāfi‘ī, *al-Umm*, 6/223.

¹⁰⁸ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

¹⁰⁹ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

¹¹⁰ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/201.

¹¹¹ Al-‘Imrānī, *al-Bayān*, 13/316.

¹¹² Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

¹¹³ Al-‘Imrānī, *al-Bayān*, 13/316.

of incitement (taḥrīd)—then their *‘adālah* will be compromised, and their testimony will be rejected. It can be said that Al-Māwardī’s approach reflects the stance of the Shāfi’ī sect. As previously mentioned, Shāfi’ī *fuqahā*, beginning with al-Shāfi’ī himself, require both open expression (iẓhār) and active propagation (da’wah or propaganda) for testimony to be invalidated due to *‘aṣabiyya*.¹¹⁴

Al-Māwardī also addresses causeless *bughḍ* at this point. According to him, if *bughḍ* is not based on a specific reason and is directed toward only one person, it does not invalidate testimony, as it stems from the individual’s inability to control their heart¹¹⁵ However, if *bughḍ* becomes a general attitude toward everyone, such a person falls under the scope of the Prophet’s *ḥadīth*: *‘The worst of people is the one who harbors hatred toward others, and others harbor hatred toward him.*¹¹⁶ According to al-Māwardī, such a condition constitutes a deficiency (*jarḥ*) in a person. Since it leads to division that religion prohibits and distances them from the companionship (*ulfah*) that Islam commands, their *‘adālah* is compromised. As a result, their testimony is rejected.¹¹⁷

Al-Māwardī considers *bughḍ* toward an individual as a natural human condition stemming from one’s inability to control their heart. However, he does not regard a generalized hatred toward everyone as a normal state. Hatred directed at a single person differs from *makrūh bughḍ*, which refers to animosity toward groups that differ in lineage, profession, or knowledge. In this, al-Māwardī addresses *bughḍ* directed at a single individual. Therefore, he categorizes *bughḍ* toward a single person, a specific group, and society at large differently in terms of their impact on testimony. Accordingly, harboring *bughḍ* toward a single individual without reason is a human tendency and does not compromise a person’s overall *‘adālah*. While *bughḍ* toward groups that differ in lineage, profession, or knowledge is *makrūh*, this emotion alone does not harm *‘adālah* unless it transforms into active propaganda against them. However, once this *bughḍ* shifts from emotion to action, it becomes detrimental to *‘adālah*. On the other hand, a generalized hatred toward all people is considered an abnormal state and is viewed as damaging to justice even if it does not manifest in outward actions.

2.4. Enmity (*‘Adāwa*)

One of the underlying emotions of *‘aṣabiyya* is *‘adāwa*, which is derived from the root *‘a-d-w* (ع-د-و)¹¹⁸, meaning ‘to oppress’ or ‘to act unjustly’ in its lexical sense. The aspect of *‘aṣabiyya* that favors certain individuals is driven by love, while its opposing aspect is shaped by *bughḍ* and *‘adāwa*. Al-Māwardī makes a fundamental distinction between *bughḍ* and *‘adāwa*. According to him, *bughḍ* is an internal emotion that exists within the heart, whereas *‘adāwa* is a concrete state that manifests in actions. He states that every instance of *‘adāwa* contains *bughḍ*, but not every instance of *bughḍ* leads to *‘adāwa*. Through this distinction, al-Māwardī essentially emphasizes that *bughḍ* is the underlying cause of *‘adāwa*.¹¹⁹ Al-Māwardī considers *‘adāwa* to be more severe than *bughḍ*.¹²⁰ Al-Zabīdī (d. 1205/1791) states that *bughḍ* generally leads to *‘adāwa*, but the two do not share the same meaning.¹²¹ By distinguishing between them, he aligns with al-Māwardī’s view. However, his assertion that *bughḍ* ultimately necessitates or results in *‘adāwa* is related to a cause-and-effect relationship, whereas al-Māwardī’s perspective focuses on the conceptual inclusion-exclusion relationship (intensional-extensional relation).

‘Adāwa is a broad concept that encompasses both justified and unjustified causes, with *‘aṣabiyya* being one of its underlying reasons. In this regard, the impact of *‘adāwa* on testimony is addressed independently in fiqh sources. Al-Shāfi’ī explicitly states that the testimony of an enemy against their

¹¹⁴ Al-Shāfi’ī, *al-Umm*, 6/223; al-Nawawī, *Rawḍat al-ṭālibīn*, 11/239; al-Shirbīnī, *Mughnī al-muḥtāj*, 6/358.

¹¹⁵ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

¹¹⁶ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

¹¹⁷ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

¹¹⁸ Al-Firūzābādī, “adā”, 1309.

¹¹⁹ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

¹²⁰ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

¹²¹ Al-Zabīdī, “bughḍ”, 18/247.

adversary is not admissible.¹²² Ibn Rushd (d. 595/1198) reports that Imām Mālik also held this view.¹²³ The Ḥanbalī jurists also share this view,¹²⁴ and Ibn Qudāma attributes it to the majority of scholars.¹²⁵ In the Ḥanafī school, the accepted view is that an enemy’s testimony against their adversary is not rejected, regardless of whether the enmity arises from a religious or worldly matter. However, there is also a reported opinion within the school stating that ‘*adāwa* affects and undermines justis; therefore, the testimony of a person who harbors worldly enmity toward their adversary should not be accepted.¹²⁶

At this point, the debate does not concern ‘*adāwa* that stems from a religious cause. Rather, the discussion revolves around the impact of ‘*adāwa* arising from worldly matters on testimony. An example of a case where ‘*adāwa* arises from a worldly cause includes the testimony of a person who was robbed against the highway robber and the testimony of a murder victim’s heir (walī al-maqtūl) against the killer. An example of a case where ‘*adāwa* arises from a religious cause includes the testimony of a Muslim against a disbeliever (*kāfir*) and the testimony of a rightful of *ahl al-Sunnah* against an innovator (*mubtadi*).¹²⁷

Al-Māwardī approaches the issue with a more precise and analytical distinction, categorizing ‘*adāwa* into three types: *mustaḥabb*, *mubāḥ*, and *makrūh*.¹²⁸ *Mustaḥabb* ‘*adāwa* is the enmity felt toward those who deviate from Allāh’s commands and commit sins.¹²⁹ Al-Māwardī explains that the anger or resentment in this case stems from devotion and reverence for Allāh’s commands and prohibitions. Therefore, it transcends mere ‘*adāwa* and transforms into an attitude aimed at upholding the religion.¹³⁰ This, in turn, strengthens a person’s justis and makes their testimony even more worthy of acceptance. According to him, if a person can feel anger for the sins committed by others for the sake of Allāh, they will naturally exhibit an even greater sensitivity in keeping themselves away from sin.¹³¹ Al-Shirbīnī also states that the testimony of a Muslim against a disbeliever due to religious enmity, or that of a Sunni against an innovator, is admissible. According to him, religious enmity does not necessitate the rejection of testimony.¹³²

Al-Māwardī’s *mustaḥabb* ‘*adāwa* category, ‘*adāwa*, anger, and resentment do not stem from personal or worldly reasons but rather an expression of loyalty and devotion to Allāh. It is directed against disrespect toward Allāh’s rights and is exhibited purely for his sake (*fī ṣabilillāh*). Since this type of ‘*adāwa* originates from religious sensitivity, it is regarded as a moral stance that strengthens a person’s justis. Furthermore, because it carries a positive religious significance, it is not classified within ‘*adāwa* in its conventional negative sense. However, this state of anger centered on Allāh’s rights must not transform into personal resentment, vengeance, or hatred. It is possible to say that the legitimacy or morality of an attitude may vary according to its underlying intention and that a delicate balance is observed here.

The Ḥanafī scholar Mullā Khusraw (d. 885/1480) also states that ‘*adāwa* arising from a religious justification does not invalidate testimony; rather, he views it as an indication of a person’s strong adherence to their faith and the strength of their ‘*adālah*.¹³³ However, he considers ‘*adāwa* rooted in worldly matters to be ḥarām and argues that such enmity raises doubts about whether the person might fabricate statements against their adversary. Therefore, he regards this type of enmity as an impediment to

¹²² Al-Shāfi‘ī, *al-Umm*, 5/315.

¹²³ Abū al-Walīd Muḥammad ibn Aḥmad ibn Muḥammad al-Qurṭubī Ibn Rushd, *Bidāyat al-mujtahid wa nihāyat al-muqtasid* (Cairo: Dār al-Ḥadīth, 2004), 4/247.

¹²⁴ Abū al-Khaṭṭāb Maḥfūz b. Aḥmad al-Kalwadhānī, *al-Hidāyah ‘alā madhhab al-Imām Abū ‘Abdullāh Aḥmad b. Muḥammad b. Ḥanbal al-Shaybānī*, critical ed. ‘Abdullāṭif Ḥumaym al-Fahl, Māhir Yāsīn (Kuwait: Mu’assasat al-Ghirās li al-Nashr wa al-Tawzī‘, 2004), 598; Ibn Qudāma, *al-Kāfī*, 4/278.

¹²⁵ Ibn Qudāma, *al-Mughnī*, 10/167.

¹²⁶ Aḥmad b. Muḥammad b. Muḥammad al-Shaqafī Abū al-Walīd Lisān al-Dīn Ibn al-Shiḥnāh, *Lisān al-ḥukkām fī ma’rifat al-aḥkām* (Cairo: Al-Bābī al-Ḥalabī, 1973), 243; Ibn Nujaym, *al-Baḥr al-rā’iq*, 7/86.

¹²⁷ Ibn Qudāma, *al-Mughnī*, 10/167; Ibn al-Shiḥnāh, *Lisān al-ḥukkām*, 243.

¹²⁸ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

¹²⁹ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

¹³⁰ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

¹³¹ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

¹³² Al-Shirbīnī, *Mughnī al-Muḥtāj*, 6/358.

¹³³ Mullā Khusraw, *Durar al-ḥukkām fī sharḥ Ghurar al-aḥkām* (n.p.: Dār Ihya al-Kutub al-‘Arabiyya, n.d.), 2/376.

testimony.¹³⁴ From Mullā Khusraw's approach, it is understood that he aligns with the Ḥanafī position that considers dunyawī 'adāwa as a factor that disqualifies testimony. The 'adāwa described as being rooted in worldly matters corresponds to al-Māwardī's *mubāḥ* category of 'adāwa.

According to al-Māwardī, *mubāḥ* 'adāwa refers to a person's response to hostility directed at them while adhering to legal (*shar'ī*) limits, as stated in the verse: 'And if you punish, then punish with the equivalent of what you were harmed with.'¹³⁵ The individual must not exceed these boundaries when seeking retribution. In this case, since the person has acted within the limits of justice, their justis remains intact. However, the acceptance of their testimony depends on whether their enmity persists. If their anger has not subsided and their state of retaliation has not ended, their testimony against the person they are in conflict with is rejected. Conversely, their testimony remains valid when given in matters unrelated to that individual.¹³⁶

In *mubāḥ* 'adāwa, the fundamental criterion for a person's response to hostility directed at them is either *mithliyyah muqābalah* or not exceeding the legal limits. This ensures a delicate balance of justice, preventing the person from committing another act of injustice or unlawfulness in response. In this category, al-Māwardī views retaliation against enmity as a natural human reaction. However, as long as it remains within *shar'ī* boundaries, it does not compromise a person's general justis. Nevertheless, testimony against the person with whom one has an 'adāwa relationship varies depending on the persistence of this enmity. If the enmity remains active, the testimony against that person is not accepted. However, as long as one remains within *shar'ī* limits, testimony regarding others remains valid and admissible.

Al-Māwardī's approach aligns with al-Shāfi'ī's observation that people have both those they love and those they dislike. Indeed, al-Shāfi'ī acknowledges that nearly everyone holds positive and negative emotions toward others, highlighting this as a natural human condition.¹³⁷ However, he emphasizes that what matters is whether these emotions lead to injustice. Similarly, al-Māwardī follows this approach. However, al-Shāfi'ī takes this approach not in the context of context of *bughḍ*, but in the context of the limits of loving someone in terms of whether this love leads to something that is not lawful towards others.¹³⁸

Al-Māwardī defines *makrūh* 'adāwa as enmity initiated without any necessity or justification.¹³⁹ According to him, this type of enmity leads a person to exceed limits. If this 'adāwa is accompanied by offensive speech or inappropriate behavior, the individual loses credibility in the eyes of all people, and their testimony is rejected, both in their favor and against them. However, if the enmity does not involve offensive words or actions, the person's justis remains intact, and their testimony is accepted in cases unrelated to their adversary. Their testimony against their enemy is rejected, but if given in favor of their enemy, it remains valid.¹⁴⁰

In the *makrūh* 'adāwa category, there is neither a religious nor a personal necessity for hostility. The person harbors *bughḍ* without any justification. This, in itself, is considered exceeding the limits. However, when this enmity manifests through offensive speech or actions, the individual loses their credibility in society. At this stage, their testimony, whether in their favor or against them, is entirely rejected completely. If the *bughḍ* does not escalate into offensive words or actions, then the person's testimony is only rejected when given against their adversary, but it remains valid if given in favor of them.

As seen in the discussions on *mustaḥabb* and *mubāḥ* 'adāwa, a Muslim's *bughḍ* must be based on a valid and justified reason. In an 'adāwa relationship, not only the cause of enmity but also the words and actions that

¹³⁴ Mullā Khusraw, *Durar al-ḥukkām*, 2/376.

¹³⁵ An-Naḥl 16/126.

¹³⁶ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

¹³⁷ Al-Shāfi'ī, *al-Umm*, 6/223.

¹³⁸ Al-Shāfi'ī, *al-Umm*, 6/223.

¹³⁹ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

¹⁴⁰ Al-Māwardī, *al-Ḥāwī al-kabīr*, 17/202.

accompany it are of great importance. In all cases, offensive words and actions are not accepted. When unjustified ‘*adāwa* leads to inappropriate speech and behavior, it completely nullifies a person’s ‘*adālah*.

Conclusion

It can be said that among the *fuqahā*, ‘*aṣabiyya* is generally understood as ‘harboring hatred toward someone solely because they belong to a certain group.’ *Bughḍ* can be considered legitimate if it is based on a valid justification. However, hatred rooted solely in lineage-based affiliation has not been classified as legitimate *bughḍ*. Due to the negative connotation attributed to ‘*aṣabiyya* among the *fuqahā*’, it is also observed that they generally adopt an unfavorable stance toward all issues associated with it.¹⁴¹

The act of harboring *bughḍ* toward someone due to their lineage and the love of one’s own lineage had not regarded as the same by some jurists, especially al-Shāfi‘ī.¹⁴² Except in external cases where it may lead to favoritism, merely loving one’s own tribe does not contain aspect that reflects negatively on the individual or others.¹⁴³ However, in the case of resenting another person solely because of their lineage, even holding such a sentiment internally is not true.

Al-Māwardī does not approach ‘*aṣabiyya* and its impact on testimony in a simplistic manner. Instead, he categorises its underlying emotions such as love and *bughḍ* individually, offering a nuanced classification. He examines ‘*aṣabiyya* in relation to testimony by considering the nature of the emotion, its cause, and its consequences, presenting analytical framework. It is possible to say that all of his classification is dealt with on the basis of the unity of Muslims in general and the reform of the Muslim individual. For instance, *mubāḥ* love, despite lacking a direct religious motivation, is seen as strengthening justice because it fosters *ulfaḥ*. On the other hand, *makrūh* love, *bughḍ*, and ‘*adāwa* are clearly identified as harmful to communal unity. In *mustaḥabb* forms of love, *bughḍ*, and ‘*adāwa*, both the individual and the object of these emotions are expected to undergo reform (*iṣlāḥ*). This approach seeks to prevent corruption (*ifsād*) and deviation within society by implementing the principle of forbidding evil (*nahy ‘an al-munkar*).

In al-Māwardī’s classification, human nature is taken into account, but limits are set to prevent these emotions from causing individual or societal harm. In *mubāḥ bughḍ* and ‘*adāwa*, there is a legitimate personal motive, such as reclaiming a usurped right. In other words, these emotions are based on a justifiable cause. A person’s *bughḍ* toward someone who has wronged them and their act of retaliation are considered part of restoration of rights (*iḥqāq al-ḥaqq*). However, this it has not been viewed as unrestricted; rather, it has been restricted with *shar‘ī* boundaries. If these emotions stem from an unjust or baseless reason, they are classified as *makrūh*; if they are based on a religious justification, they are *mustaḥabb*. The classification of *makrūh* forms of love, *bughḍ*, and ‘*adāwa* as *karāḥah* is sufficient to indicate that these emotions are not approved in themselves.

Declaration

- 1. Finance/Incentive:** The author declare that no financial/incentive was used in the study.
 - 2. Conflict of Interest:** The author declare that there is no conflict of interest in the study.
 - 3. Ethical Statement:** The author declare that research and publication ethics were followed in this article. In addition, Ethics Committee Approval is not required for this research.
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¹⁴¹ Eşit, “Fukahânın Asabiyete Bakışı”, 367.

¹⁴² Eşit, “Fukahânın Asabiyete Bakışı”, 367.

¹⁴³ Eşit, “Fukahânın Asabiyete Bakışı”, 367.

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