

**AL-MAWARDI'S THEORY  
OF THE  
STATE**

**QAMAR-UD-DIN KHAN**

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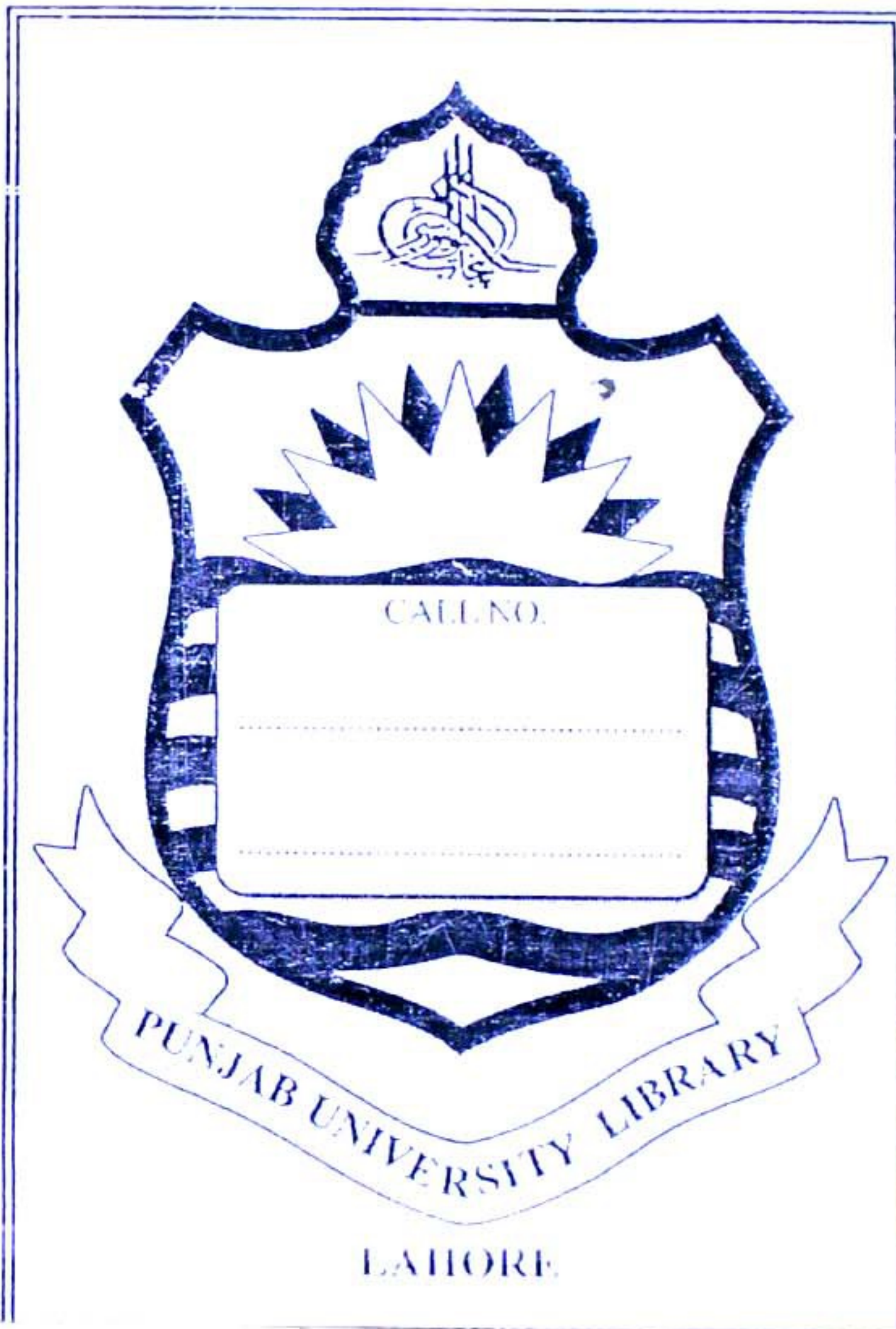
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# AL-MAWARDI'S THEORY OF THE STATE

by

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## Foreward. . . . .

**AL-MAWARDI**, who died in 450 A.H., is the first writer on political theory in the history of Islam. Except Ibn Khaldun, all the jurists, theologians and political philosophers who have followed him, down to our own day, have hardly made any improvement upon his thought. This monograph on al-Mawardi, by Mr, Qamar-ud-Din Khan, is a valuable contribution to Muslim political thought, and is remarkable for the following features it embodies:—

First, the writer gives a very good account of the historical development of Muslim political thought up to the time of al-Mawardi. Next, he analyses the main thought of al-Mawardi and expounds it in sufficient detail. And, finally, he gives his own comments on al-Mawardi's thought.

His comments are scientific and revolutionising. The following pages will convince the reader that Mr. Qamar-ud-Din Khan has opened a new chapter in the history of Muslim political thought. He has thoroughly disproved many traditional ideas, and laid down the foundations of sane thinking in Islamic polity. And the great merit of this work is that it is well documented with original authorities from Arabic.

In these days of confusion and prejudice, I believe, this small tract will be of immense value to all serious students of Muslim political thought.

**M.M.SHARIF**







## AL-MAWARDI'S THEORY OF THE STATE

### I—INTRODUCTION

The theory of the caliphate has ever been the most controversial issue in Islamic history. The reason for the controversy is the conspicuous absence of details about it in the Quran. There are numerous verses referring to it ; for instance :

And when the Lord put Ibrahim to test by means of certain covenants and he fulfilled them, He said : I will make thee an Imam for the people. He said : and from my progeny ? He (God) said : there is no promise from Me to tyrants.<sup>1</sup>

And Allah has promised those of you who believe and do goods deeds that He shall appoint them caliphs in this earth as He has appointed others before them ; and that He shall make the religion, which He has approved for them, supreme ; and that He shall change their condition and lead them from fear into security. They worship Me and do not associate anything with Me ; and those who disbelieve after this even, they are the transgressors.<sup>2</sup>

And it is He who made you caliphs of this earth, and raised some of you above others in station, in order to try you in what He has bestowed on you. Indeed thy Lord is quick in His chastisement and He is most forgiving and most kind.<sup>3</sup>

These verses are most general in their scope and extension. Muslim commentators are agreed that the word

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1 Al-Quran, 2 : 123

2 *Ibid.*, 24 : 35

3 *Ibid.*, 6 : 167



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Caliph in these passages does not mean the representative of God on earth.<sup>1</sup> The word in truth carries the basic idea of the dispensation of God on earth. Political organisation is a fundamental necessity of man. Hence the maintenance of law and order, the development of peaceful social and economic relations, and a proper curb on mutual aggressiveness are possible only if there are certain general laws respected and obeyed by one and all. When these laws are devised by representatives of a people, they bring out a system that is called the secular state. The establishment of this state is dictated by the need for the attainment of worldly and mutual good and for the prevention of mutual evil, as required by the demands of reason.<sup>2</sup>

And when these laws are given by God through a Prophet who interprets and demonstrates them, the system that evolves out of them is called a religious state. The aim of this state is to look after the good of man in this world as well as in the world hereafter. The Quranic viewpoint is that God has not created man frivolously.<sup>3</sup> He has created him to fulfil a divine purpose.<sup>4</sup> Hence it is not his worldliness that is desired by God but his other-worldliness.<sup>5</sup> All that is here, is to perish, and so to perish is man ; but his life will continue after death, and the goodness or badness of that life shall be determined by its goodness or badness on this earth.<sup>6</sup> The injunctions of God are therefore intended to guide him in all his activities to prepare for the fuller and permanent life in the next world ; and as they guide him in matters of worship and material

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1 *Muqaddimah*, Ibn Khaldun, p. 191

2 *Muqaddimah*, Ibn Khaldun, p. 190

3 *Al-Quran*, 23 : 116

4 *Ibid.*, 51 : 56

5 *Ibid.*, 8 : 67

6 *Ibid.*, 46 : 19



transactions they also guide him in matters of state,<sup>1</sup> and demand that political organisation should be done in accordance with the directions of the Prophet, through whom the Will of God is revealed to man. A state, which comes into being on account of sheer force or as a result of the aspirations of a human group, is bound to indulge in tyranny and oppression.<sup>2</sup> Also if it comes into being as a consequence of pure rationalistic planning it will achieve nothing better and shall be equally disastrous and condemnable, because the best human brain can speculate only about matters which pertain to this world, and cannot see beyond.<sup>3</sup> The light that can see beyond is the light that dawns only on the Prophet of God. Only the Prophet can inform and instruct as to what will be profitable in the next world. And since all the doings of man, including his political actions, shall be called into account on the day of Resurrection, the Prophet is directed by God to persuade mankind to follow the injunctions of the Shari'ah which is the best guide in the two worlds. The direction to enforce the Shari'ah is given to the Prophets. And those who carry on the mission of the Prophets after them, are designated as their Caliphs.<sup>4</sup> The Caliphate is therefore an institution which represents the mission of Muhammad, and the chief duties of the caliph are the safeguard of religion and the proper organisation of general polity.<sup>5</sup>

The conception of the Caliphate is clearly reflected in the above-quoted verses. But what is more clear is that the Quran aims at creating an ideal society in which good predominantly prevails over evil, and in which the laws

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1 Ibn Khaldun, p. 190.

2 *Ibid.*, p. 190.

3 Ibn Khaldun, p. 190

4 *Ibid.*, p. 191

5 *Ibid.*, p. 191



of God are generally obeyed. Further, it promises the inheritance or possession and governace of the earth to those only who follow in the foot-steps of the Prophet and practise piety and do justice. The promise does not hold good if the Muslims break the covenant, that is, abandon the Shari'ah in practical life. Moreover, the promise is that true Muslims shall be the inheritors of the earth. The Quran has not defined any clear principle of state. The meaning and idea of the constitution, the clear conception of sovereignty, the principle of franchise, the detailed conception of human rights, and the regulations of state organization are not given anywhere.<sup>1</sup>

When the Muslims built a world empire and actual needs arose, they tackled all these issues and tried to reach definite conclusions on all of them in the light of the Quran and the Sunnah. The Quran is, however, silent on all these issues, because their meaning is ever-changing with historial evolution. Besides, the Quran does not aim to create a state but to create a society. Hence whatever the form and shape of the state, if the Quranic society is realised in it, it may bear the designation of the Islamic state.<sup>2</sup> The omission of the details is therefore a great blessing to the Muslim community, because it makes it possible for Islam to march with the progress of time and adjust itself to new conditions and new environments. But this omission has also motivated Muslim jurists and political thinkers in every age to justify the political systems prevailing in their times according to the Quran. And this has in turn led to great differences of opinion on the fundamental issues.

For instance, the very first problem : Is there any necessity for the establishment of the Imamate ? is not squarely answered by the Quran. The necessity is proved either

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1 Ahmad Amin, *Fajr al-Islam*, p. 240

2 Sayyid Qutub, *Al-'adalat al-Ijtima'iyah fil Islam*, p. 97



by concensus or by the demand of reason<sup>1</sup> or by divine injunction<sup>2</sup> (according to the Shi'ite view). Again, it is not clear who will hold the sovereign power in the state. The Quran says, "Obey God, and obey the Prophet, and the *Uli-al-Amr* from amongst you." Now from this same verse al-Mawardi,<sup>3</sup> Ibn Khaldun<sup>4</sup> and others argue that the authority of the Imam shall be supreme, whereas al-Naysaburi, al-Mufti 'Abduh and Rashid Rida argue that *Uli-al-Amr* mean the *Ahl-al-hall wal 'aqd* who represent the people.<sup>5</sup> Again, the Quran says that the Muslims should settle their affairs by mutual consultation.<sup>6</sup> It also commands the Prophet to take the counsel of the Muslims in matters of state.<sup>7</sup> From these verses al-Mawardi infers that the Imam is entitled to nominate the members of the Shura,<sup>8</sup> but the early practice of Islam and modern thought in the Muslim world is wholly opposed to it.<sup>9</sup> These few examples are enough to illustrate how from the different interpretations of the Quran there arose sharp differences of opinion about the theory of the Caliphate in early Islam.

It should be noted here that it is one of the basic principles in Islamic jurisprudence that an ambiguous verse of the Quran or an ambiguous tradition of the Prophet cannot constitute a decisive argument in favour of establishing a legal rule in the Shari'ah. Now since the

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1 Ibn Khaldun, p. 191, al-Mawardi, pp. 1-2

2 Ibid., pp. 195-197

3 al-Mawardi, p. 2

4 Ibn Khaldun, p. 193

5 S. M. Rashid Rida, *al-Khilafah*, p. 15., Allal al-Fasi, *Al-Naqd al-Dhati*, p. 137

6 Al-Quran, 42 : 38

7 Ibid., 3 : 159

8 Al-Mawardi, p. 21

9 Rashid Rida, *op. cit.*, pp. 30-32



Muslim jurists are agreed that the institution of the Caliphate is not necessitated by a clear injunction in the Quran but by the concensus of opinion, it is obvious that the matter is left to the judgment of the Muslim community. The Quran is very clear and definite about all fundamental problems ; for instance, about the articles of faith, the forms of religious worship, laws of matrimony and inheritance, distribution of booty of war, prohibition of interest, rights and obligations of husband and wife etc., but omits all details about the form and constitution of the Caliphate ; and this is deliberate, because the wisdom of God knows better that the social and political constitutions of man are ever-changing and evolving with the march of time.<sup>1</sup> It was therefore in the fitness of things that no restrictions were placed on the dynamism of Islam. So the attempts of certain people in our day to dig out from the Quran and the Sunnah a rigid principle of state and political organisation reflects sheer ignorance of divine wisdom, and an equal ignorance of the affairs of the world.

The second fundamental source of political speculation was the Sunnah. And because the jurists failed to get sufficient material in the Quran to construct a detailed political theory, they spent much greater pains in exploring the Sunnah and the archives of early Islamic history to realise their purpose. For the same reason the fabrication of traditions was indulged in on a large scale. And not only traditions of the Prophet but also of the Companions and Successors were invented abundantly and skilfully. There were other important reasons for the coinage as well. They were briefly as follows :<sup>2</sup>

1. The political factions which developed in early

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1 'Allal-al-Fasi, *op. cit.*, pp. 110-115

2 Ahmad Amin, *op. cit.*, p. 212 f.



Islam as a result of the first Civil War, later consolidated into political sects. Each one of these sects tried to impress that truth was exclusively limited to itself, by inventing suitable traditions for the purpose.

2. The development of different schools of law and theology soon created school bigotry, and led to self-exaltation and mutual recrimination. Traditions were then readily invented to back particular schools and censure others.

3. Hypocrites and enemies of Islam, particularly the Jews and Persians who entered the fold of Islam unwillingly, avenged themselves by introducing into it a large amount of vicious literature, most of which took the form of tradition.

4. A large corpus of traditions was also invented by unscrupulous and self-seeking scholars to feed the whims and vanity of Caliphs and amirs.

5. The indifference of scholars engaged in writing didactic, ethical and sufistic literature also led to the growth of unwarranted traditions, in particular, traditions which had no bearing on the validity or otherwise of a point of law in the Shari'ah. To this same category belong the traditions which were invented to prove the properties of the surahs (chapters) of the Quran.

6. One of the important causes of the fabrication of traditions was the exaggerated insistence of people to accept as true knowledge only such matter as was closely related to the Quran and the Sunnah, and to declare the rest as trifling and of no significance. Thus the discretion (ijtihad) of a jurist, however well conceived, carried no weight unless it was dependent on tradition. Therefore most of the wisdom of ancient Greece, Persia and India was given a religious garb and sanctity ; and since the tradition offered an open door, most of this wisdom entered Islam through



this door.<sup>1</sup>

All these factors and influences combined produced a staggering confusion in the general body of traditions. The distinction between genuine and forged traditions became a difficult affair. Even famous scholars like Abu Yusuf, Ibn Qutaybah, Imam al-Bukhari, and Yahya bin Main spent their labours mostly on the study of chains of transmission (*Isnad*), and a thorough and critical examination of internal evidence was never attempted.<sup>2</sup> This huge mass of true and forged traditions had a far-reaching effect on the development of political theory. Every situation and every political turn was explained and sanctioned by a handy tradition. The drift, therefore, from the original basis of Islamic polity was accelerated with the march of time, and by the time we reach al-Mawardi this tendency of drift becomes not only most apparent but astonishing. A true estimate of al-Mawardi will therefore not be possible until we take stock of the centuries which preceded him.

The forty years of the Pious Caliphate, according to general reckoning, represent the true spirit of Islamic democracy. Although the structure of the Caliphate was brutally shaken during the regime of Uthman and finally cracked during the reign of 'Ali, its fundamental principles

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1 For a fuller discussion see the following :-

al-Shatibi, *Al-Muwafiqat*

Ibn Qutaybah, *Al-Ma'arif*

Ibn Qutaybah, *Mukhatalif Tawil-al-Hadith*

Ibn Qayyim, *I'lam Al-Muwaqqa'in*

*Taysir al-Wusul fi Jam' Ahadiih al-Rasul*

Mulla 'Ali Qari, *Kitab Maudu'at al-Kabir*

Ibn Haj, *Fa.h al-Bari*

Muslim Al-Nuwawi, *Sharh Sahih*

Ibn Khaldun, *Al-Muqqaddimah*

2 Ahmad Amin, *op. cit.*, pp. 217-218



remained prominent and operative. These principles were as follows :—

1. The aim of the Islamic state is to create a society as conceived in the Quran and Sunnah.

2. The state shall enforce the Shari'ah as the fundamental law of the state.

3. The sovereignty rests in the people. The people can plan and set up any form of state conforming with the above two principles and with the exigencies of time and environment.

4. Whatever the form of state, it must be based on the principle of popular representation, because sovereignty belongs to the people.

Muslim in early Islam were not beguiled by sophisticated notions of *khilafah* as presented by later theologians and jurists. To them it was abundantly clear that the source of all temporal authority were the people, and the people alone. The ideas of absolution of the Caliph and of divine right were entirely foreign to them.

But there was no writing constitution. The Quran and the Sunnah did not specifically demand the necessity of a state. And at any rate the idea of the state was never very clear. It was on this account that the Ummayyad and Hashimite race for supremacy of power stated immediately after the death of the Prophet. There is no truth in the oft-repeated assertion that the Ummayyads were ignorant of Islam and therefore abandoned the principles of the Caliphate. The truth is that the race for political power was initiated by the Hashimites themselves, when 'Ali withdrew his allegiance from Abu Bakr when the latter was elected Caliph. In later times Mu'awiyah and Ibn Zubayr only followed the example of 'Ali ; they did not innovate anything.

The most remarkable thing in this age is that the idea



of dynastic rule was not opposed in principle ; for instance, the Companions and Successors who joined hands with 'Ali did not regard him as the elected head of a democratic state but as the inheritor of the legacy of the Prophet. So also when Mu'awiyah was snugly placed in power, he announced the succession of Yazid ; and he was opposed only by five persons, and especially by Husayn and Ibn Zubayr, who were themselves soon going to proclaim their right to the caliphal throne. Again, when Ibn Zubayr declared himself as Caliph, the entire Hijaz declared allegiance to him, and it must be remembered that all his life he was chiefly arrayed against Abd al-Malik, whom, according to Ibn Khaldun, Imam Malik calls as one of the most just governors.<sup>1</sup>

Also about half a century later when al-Nafs-al-Dhakiyah raised the banner of revolt against Abu Jafar al-Mansur, he received the open support of Imam Malik and Abu Hanifah, although it is abundantly clear that he was fighting for the supremacy of the Alids and not for the restitution of Islamic democracy.

Thus after the fall of the Pious Caliphate, the idea of the democratic caliphate passed into monarchical system without any ideological conflict.<sup>2</sup> The First Civil War between 'Ali and 'Ayshah and between 'Ali and Mu'awiyah, and the second Civil War between Ibn Zubayr, 'Abd al-Malik and Mukhtar al-Thaqfi were not fought for principles but for the seizure of political power.

The Ummayyads respected the first two principles of Islamic polity, but abrogated the third and the fourth and effected a practical compromise between monarchy and the original caliphate. They, however, took pains to preserve the original pattern of succession by nomination and limited

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1 Ibn Khaldun, p. 206

2 *Ibid.*, p. 206



election within the House of Umayyad. This Umayyad innovation received general approval and became an established principle of Islamic polity for later times.

Further, since the Umayyad rule had been established with force and military might, capture of political power by force was accepted by theologians and jurists as another fundamental principle of Islamic polity.

When the Abbasids came to power they adopted all the Umayyad traditions and made important additions to them. They calumnised the Umayyads as profane and sacrilegious and pretended themselves as defenders of the Faith. And as a necessary corollary of this attitude, they soon developed the idea of divine right and became absolute, and cherished to imitate the ancient imperialism of Persia and Rome. 'Abdullah bin al-Muqaffa', the famous secretary of state in the court of Abu Ja'far al-Mansur, addressing the Caliph in a famous epistle, says:<sup>1</sup>

“Now as regards our thesis about the exclusive obedience to the Imam, it pertains to matters of opinion and deliberation and to the political power whose reins are entirely given in the hands of the Imam: the power which no one else can possess to command and seek obedience. These matters are: attack and withdrawal; collection of taxes and their distribution; appointment and dismissal (of officers of state) ; giving of personal judgment in matters for which there is no directive in the Shari'ah; the enforcement of the criminal provisions and other injunctions of the Quran and the Sunnah; fighting the enemy and employment of strategem against him; imposition of levies on the Muslims and conferment of stipends on them. In these matters and others like them obedience to God is obligatory, and no one has

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1 Ibn Al-Muqaffa', *Risalah fi al-Sahabah*, Published in *Jamharat Risa'il al-'Arab*, Vol, III, p. 31



got the right to command this obedience except the Imam.”

Continuing in the same epistle Ibn-Muqaffa' says that out of His great mercy and benevolence God has given us a Shari'ah to guide us in the general conduct of life and then he remarks:<sup>1</sup>

“Then after giving this guidance He left the rest to human deliberation and opinion, and sanctioned the use of this opinion for rulers alone; the people have got no right in this regard at all, except that they shall offer their counsel when demanded, and extend their response when invited, and strive to do good to the Imam behind his back.”

Ibn al-Muqaffa' is one of the greatest political thinkers in early Islam; and in spite of the heretical charge for which he was executed, posterity has always remembered him with love and admiration.<sup>2</sup> His opinion, therefore, on political theory is of immense importance. And from the above passages it is clear that from the very beginning the Abbasids surrounded themselves with the halo of divine sanctity. It should also be remembered that although the Abbasids were Sunnite they based their state on the Shi'ite theory of Imamate, which was nothing but the crudest form of theocracy and absolutism. Sunni political thinkers were, therefore, deeply influenced by this theory because the Abbasid rule lasted for six long centuries.

Next we come to Imam Abu Yusuf (d. 182 A.H.). He was appointed as Chief Justice of Baghdad during the reign of al-Mahdi and continued in that office till almost the end of al-Rashid's reign. His great learning and experience in public life made him eminently fitted to express his opinions on matters of state. He did not write any book on political science, but his *Kitab al-Kharaj* addressed to Harun

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1 *Ibid.*, p. 32

2 Ahmad Amin, *Duhal al-Islam*, Vol. I, pp. 206-7



al-Rashid, ranks as a monumental work on state finance in early Islam. In the introduction to this he dilates at length on the theory of state, and carries the ideas of Ibn al-Muqaffa' with greater force and clarity.

He emphasises complete and unconditional obedience to the Caliph, and quotes numerous traditions from the prophet and his Companions; for instance:

“One who obeys me, indeed he obeys God; and one who obeys the Imam, indeed he obeys me.”<sup>1</sup>

“Even if a nose-cleft negro slave is made your sovereign, hearken to him and obey him.”

He urges that loyalty to the Imam is essential even if he happens to be a tyrant, because it is in keeping with the will and desire of God. He narrates from Ibn 'Abbas that the Prophet said: “When God intends good to a people, He appoints over them governors who are forbearing and puts their properties in the hands of tolerant men; and when He wants to put them to ordeal, He appoints over them stupid governors and entrusts their goods into the hands of avaricious men.” This means that if tyrants and adventurers seize upon political power the people have no right to revolt against them, for that would be going against the will of God. In another tradition the Prophet is reported to have said, “The Imam is a shield which serves as a foil in war and behind which protection is sought; so if he seeks to be Godfearing and does justice, he will win the reward of it, and if he does otherwise he will earn the sin thereof” (P.10). This obviously means that the Caliph is not responsible to the people at all, but wields absolute power.

Still in another tradition the Prophet says, “Do not abuse your governors, for if they do good, for them is the reward and for you is to be grateful; and if they do evil, on

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1 *Kitab al-Kharaj*, p. 10



them lies the responsibility and for you is to endure; and indeed they are the vengeance of God, with them He strikes anyone He likes; therefore do not invite the vengeance of God with your defiance and anger, but welcome it with submission and humility" (P.11). This view completely overrules any theory of rebellion.

Permanent and unquestioning obedience to the Imam is therefore essential, for he represents the will of God on earth. Addressing the Caliph, al-Rashid, Abu Yusuf says "Verily God has entrusted thee with the affairs of this nation." That is, the Caliph is responsible to God alone. Further he says, "Verily God has made the governors His representatives in this earth and made them the light that reveals to the subjects what seems obscure to them, and clarifies what appears ambiguous to them." In other words, the Imam is the principal and exclusive source of guidance to mankind.

Abu Yusuf then proceeds to define the duties and obligations of the caliph and quotes profusely from the sayings of the Pious Caliphs. He, however, does not lay down any direct and material check which may restrain the caliph from absolute despotism. The caliph is responsible only to God. After asserting this view, Abu Yusuf vainly attempts to warn the caliph against the judgment of God on the day of Resurrection. On the one hand, he glorifies the irresponsibility and absolutism of the Caliph, and on the other persuades him with all the rhetoric at his disposal to listen to the opinions and advice of his subjects, and cites the example of 'Umar. There is a story that once an ordinary person sat down to advise 'Umar, and after he had spoken for hours together there was another person who asked him to stop his tongue and let the Caliph have his peace. Thereupon 'Umar remarked, "Let him alone, there is no good in people if



they don't advise us (rulers) and there is no good if we don't listen."

From this it is clear that in early times the principal source of political theory was traditions. And these traditions were nothing more than moral teachings and general maxims for common guidance.

But, as a matter of fact and as a historical truth, the definition of the theory of Caliphate and the elaboration of its details took a long course of evolution, and were intimately connected with the sectarian and juristic polemics during the third century of the Hijrah. Or, in other words, it may be said that the problem of the Caliphate played a most astounding role in the birth and development of politico-religious sects in Islam. The Sunnites were, often blamed for owing allegiance to Caliphs who were not entitled to the high office of the Pontiff. The jurists were, therefore, driven to invent arguments and theories to defend or justify historical events. They took refuge in the alleged saying of the Prophet that, "My followers as a whole would not agree on misguidance." This principle of innocence of the Muslim community was availed of opportunity by every generation to create new political precedents, and the jurists took great pains to incorporate all these precedents into the ever-developing generalised theory of the Caliphate.

In spite of all that has been said, Abu Yusuf's writings on political theory and divine right are vague and involved. The clearest enunciation of the Abbasid theory is found in the *Risalat al-Khamis* of the Ahmad bin Yusuf written for al-Mamun. From the days of al-Mansur it had become customary that every Abbasid Caliph in the beginning of his reign, sent to the people of Khurasan a special epistle, which was read in public, at the provincial capital of Merv, at a special ceremony celebrated with great pomp



and festivities. The epistle was called *Risalat al-Khamis*; it laid down the main lines of Abbasid propaganda; gave out convincing arguments to prove that the people most deserving to inherit the Khilafat of the Prophet were the Abbasids, that is, the Prophet's uncle and his descendants; its principal theme was to extend support to the present Caliph, recount his merits and achievements and impress that he was the most suitable person in the House of 'Abbas to inherit the high office of Khilafah; finally it paid glowing tributes to the services and loyalty of the Khurasanians to the Abbasid cause and empire, and demanded special allegiance and sacrifice from them. Ibn al-Nadim mentions the epistles of al-Mansur<sup>1</sup> and Ibn Tayfur<sup>2</sup> quotes the full prologues to the epistles of al-Mansur and Ibrahim bin al-Mahdi. Other texts have not been mentioned in histories and other compendiums because of their close similarity.

Al-Mamun's epistles, after recording the praise of God. His special grace to Adam and his progeny, and His unbounded mercy in guiding mankind through His Prophets, proceeds thus :<sup>3</sup>

“And the choice of people of excellence from his (Prophet's) own kith and kin and his relations for the inheritance of his Khilafah was occasioned by the great attachment which the Messengers of God have always felt towards Him, as he describes it in His

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1 Ibn al-Nadim, *Al-Fihrist*, p. 183

2 Ibn Tayfur, *Ikhtiar al-Manzum wal-Manthur*, Vol. 12, p. 173

3 *Risalat al-Khamis*, written by Ahmad bin Yusuf for al-Mamun, published in *Jamharat Risa'il al-'Arab*, Vol. III, pp. 383-85



revelation.<sup>1</sup> And the Beneficent and Almighty specially favoured His Prophet, may He bless him and rest him in peace, by ordering him to ask his followers to extend their love to his relations, as a return for the message he brought and the guidance to which he led them out of error. Thus their superiority was established by the will of God, the Almighty and Great, Himself, and not by the asking of the Prophet, may God bless him and rest him in peace. He commanded His Prophet to convey this message of love to His people, and enjoined upon them to accept it with submission ; for says the Almighty and Great (to his Prophet) : 'Say, I ask you for no requital for my work except love for the relations.'<sup>2</sup> And what affirms His choice

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1. Refers to the prayer of Zakariya : Then (O God) grant me from Thy Grace an heir who may inherit me and inherit the descendants of Ya'qub'' (Al-Quran, 19 : 6)

This logic is obviously ridiculous because Zakariya neither wielded any political power nor does he refer to it in his prayer. The legacy which he wants to bequeath is the duties and knowledge of Nubuah, nothing else. Moreover, if this thesis were accepted, it would cut at the very root of Islam, for the Prophet did not come to the world to found an empire for his family, but to take the message of God to mankind, that is, to purify them and teach them the Book and Wisdom (Al-Quran, 3 : 164).

This is why he said, "We the prophets are not inherited ; what we leave behind is public charity."

2. This verse (Al-Quran, 42 : 43) was revealed as an answer to the infidels of Mecca, when they accused the Prophet that he had been working to get a return for his services. The revelation rebutted them that the Prophet wanted no reward for his work ; he simply wanted that the people should love his relations and not harass them because they were also their relations, and this demand was no reward ; it was a basic teaching of Islam. All the houses in Mecca were related in blood to the Prophet ; so when the Quraysh persisted in annoying him and opposing him, he invoked the famous Arab tradition and said : you are my own people, hence you ought to have been the first to respond to my call, but if you have failed in it, respect my relationships with you and at least do not decry me and annoy me. Therefore the words "fil-qurba" do not mean "my relations" but "the respect of relationship." These words may also mean devotion and submission to God. (al-Zamakhshari, *Kashshaf*, Vol. IV, pp. 219-21).



of them is the information He gives that He has purified them and absolved them of sin ; for says the Almighty, 'Allah certainly wishes, O people of the House of the Prophet! to absolve you of sin and purify you completely.'<sup>1</sup> And what firmly establishes their right to inherit the Khilafah is the clear revelation of God : 'And bloodrelations inherit one another according to the Book of Allah.'<sup>2</sup> Further he has decreed that if He is obeyed they also must be obeyed along with him ; for He says, 'Obey God and obey the Prophet and those who rule from among you.' And He bestowed on them the nobility and fame, which advanced their cause high up, and exalted their name, for He preferred to point out to them and direct towards them ; for says the Almighty and Great, 'God wishes for you ease, and does not wish for you hardship.'<sup>3</sup> And if the Imams entrusted with the affairs of His creation were obscure in descent, meagre in resources, with no special excellence making them in the eyes of the world superior to others, their claim and their choice for the caliphate would not have been imposed by God on the entire Muslim

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1. The context of the verse is most clear. This entire passage (Al-Quran, 33 : 33) is addressed to the wives of the Prophet ; there is no reference to the clan of the Prophet. Moreover the promise of purification and absolution from sin is preconditioned with the performance of prayer and giving of alms, it is not a hereditary award. Indeed it is one of the greatest achievements of Islam that it holds everyone responsible for his action, and does not absolve anyone of sin, for God Himself says to the Prophet, "So that He may forgive thee thy sins, those that thou hast committed, and thou mayest yet commit" (Al-Quran, 48 : 2).

2. This argument is obviously ridiculous. This is not the purport and purpose of the Quran.

3. The verse (Al-Quran, 2 : 185) refers to the concession of abandoning fast in Ramadhan to the sick and the traveller. It has absolutely no political significance.



community or on part of it. For, if all the people of the East and the West without distinction were to choose an Imam for themselves, there is little hope that they would arrive at an agreement till the end of time, on account of the differences and dissensions prevalent in them. And if the election were to be made by a special electorate, the common people would soon require to know about the conditions of this election, as well as about the persons to be thus elected, because people of world-renown but of dubious origin seeking political power would not easily come to a common agreement. And the common people would like to know all these things for the fulfilment of their expectation before fully applying their discretion to probe and inquire into the real state of affairs, and on account of the necessity of ascertaining the opinion of provinces, and for the purpose of testing the real worth of talented people, and due to the suspicious nature of the election and because of the mutual differences about the prospective candidate for the caliphate. Thus the people would destroy one another by mutual wrong and perish by the invasion of neighbouring nations when there would be none to protect them and defend them. Therefore when it is proved that there must be some one to establish the religion, to organise the fulfilment of the rights of the Muslims, and to fight against their enemy, the infidel, there can be no question of their being the arbitrators of the Khilafah over them. And when there is true knowledge, there can be no doubt about the compassion of God, about His mercy and kindness, and about His wisdom in exonerating mankind from what lies beyond their scope and beyond their reach ; and about His sufficiency in appointing their rulers for them, because they are utterly unable to inquire about and scrutinise them ; and about His responsibility in raising the status of these rulers to the highest by connecting their



lineage to the Prophet, and making it obligatory on mankind to extend their love to them. And the ignorance of people did not befool them as to the purpose of this obligation, for they were not obliged to recognise anyone else other than these rulers ; and the Imams of guidance have ever since followed one after the other as a normal course, and their succession has been unbroken, each generation inheriting from its predecessor and bequeathing to its successor, until it has now reached the Commander of the Faithful.”

The political ideas of Abu Yusuf were mainly derived from the actual practice of the Abbasids and their frequent declarations of State policy. His sanction to the political ideas of the Caliphs gave them the stamp of religious sanctity, which served as the standard of reference for the next two centuries and a half.

The most remarkable change in political theory took place in the beginning of the fourth century when the Buwayhids seized Baghdad, and appropriated all temporal authority to themselves. The Caliphs were only left with the Khutbah, the seal, and their names on the coins. The Buwayhids, however, did not very much disturb the structure of the Caliphate ; they allowed the Caliph to remain the symbol of political and religious unity in the Muslim world and ruled in his name as the mayors of the palace. This dyarchy had no parallel in the past, but it was an established fact and, therefore, had to be adjusted in political theory of the day. This was admirably done by al-Mawardi.

## II—AL-MAWARDI'S THEORY—GENERAL

Al-Mawardi was born in Basrah (c. 386 A.H.) In those days Basrah was one of the principal seats of learning and education in the Muslim world. He, therefore, got all this education there and rose to literary renown at an early



age. He specially prepared himself for the judicial profession and got an appointment in the state service. As a judge he served at various places and was finally posted in Baghdad. In the year 429 A.H. the Caliph, al-Qadir, summoned four jurists representing the four schools of Islamic law to write a legal epitome. Al-Mawardi was chosen to represent the Shafi'ite school and he wrote *Kital al-Iqna'*, al-Quduri produced his famous *al-Mukhtasar* for the Hanafites. The other two books were of no importance. The Caliph, however, recognised al-Mawardi's work as the best and in appreciation of his merit appointed him as the Aqd al-Qudat.<sup>1</sup> This designation was objected to by many leading jurists like Abu al-Tayyib al-Tabari and al-Simyari, who said that it did not become anyone except God. But al-Mawardi took no notice of these objections and retained the designation till his death in 450 A.H., because the same jurists had previously approved the title of Malik al-Muluk al-A'zam for Jalal al-Daulah, the Buwayhid chief.<sup>2</sup>

The interesting and remarkable thing is that al-Mawardi positively disapproved the pompous title of Jalal al-Daulah, but the Buwayhid instead of being displeased with his daring was awe-struck by his intellectual majesty and honoured him more than ever.<sup>3</sup>

And although al-Mawardi was a staunch Sunnite and Shafi'ite jurist, he had the good fortune of being equally favoured by both the Buwayhids and Abbasids. But the Shi'ite Buwayhids favoured him out of diplomacy, because he was often helpful in settling their everyday quarrels

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1 Al-Ya'qub, *Mo'jam al-Udba'*, Vol. 5, p. 407

2 *Ibid.*

3 M. Kurd Ali, *Kunuz al-Ajdad*, p. 243



with the palace ; for writes Yaqut, "And he was held in great esteem by the Buwayhid sultans who deputed him to negotiate between them and their opponents, and were pleased with his mediation, and affirmed his settlements."<sup>1</sup>

Al-Mawardi was acclaimed as one of the ablest men of his age. He was not only a distinguished judge but also a distinguished author. He wrote mostly on law and politics. His well-known extant works are : *Kitab al-Hawi al-Iqna'*, *Siyasat al-Mulk*, *Qawanin al-Wizarah*, *Adab al-Dunya wal-Din*, and *Al-Ahkam al-Sultaniyah*. But it is this last work on which his fame chiefly rests. In Islamic history it is the first scientific treatise on political science and state administration. A detailed discussion of this work will be taken up in the following pages.

Here a note of explanation seems to be necessary. Ibn Khallikan quotes a report that none of al-Mawardi's writings were published in his lifetime because the author had grave doubts as to whether he was really honest and correct in his speculations.<sup>2</sup> This report cannot be accepted as true, particularly with reference to *al-Ahkam al-Sultaniyah*, because there exists another book with the same title by Abu Ya'la al-Farra', who was a contemporary of al-Mawardi and who died in 456 A.H. Abu Ya'la's book is almost an exact replica of al-Mawardi's work so far as its pattern and subjects of discussion are concerned. Even the language and arguments are almost the same as in al-Mawardi in most places. It is therefore certain that Abu-Ya'la had seen the published work of al-Mawardi while the latter was still alive, because their dates of death are so approximate to one another, and because it is not proved that Abu Ya'la had personal relations with

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1 Al-Yaqut, Vol. 5, p. 407

2 Ibn khallikan, *Wafayat al-A'yan*, Vol. 1, p. 324

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al-Mawardi. This conclusion is further strengthened by the fact that Yaqut who died in 626 A.H. does not mention this story, and the authority of Ibn Khallikan who died in 681, cannot be accepted in this matter.

#### HIS POLITICAL THEORY

Al-Mawardi's main political thought is embodied in his *Al-Ahkam al-Sultaniyah*. Only a small portion of the work is however devoted to political theory, the rest of it discusses the details of public administration and rules of government. But this small portion is extremely important because it is the first attempt in Islamic history at evolving a comprehensive theory of the state, and because it has left an enduring influence on the course of Muslim political thought up till our own day.

Further, although we know that al-Mawardi profited a good deal from previous sources, in the elaboration of his theory, for he says that it is the epitome of the views of various schools of jurisprudence, we do not possess in our hands today any source discussing the problem of the Caliphate dating back beyond the fifth century of the Hijrah. There is of course the *Usul al-Din* of 'Abd al-Qadir al-Baghdadi which gives fuller and a more comprehensive discussion of the Imamate than al-Mawardi's book, but al-Baghdadi (d. 439 A.H.) was a contemporary of al-Mawardi. Hence the conclusion is that most of al-Mawardi's ideas are partly a heritage of the past and partly a clever manipulation of the opinions current in his own time.

A closer examination of his work, however, discloses that he is not a mere recorder of facts handed down to him but a shrewd statesman and diplomat. There is enough historical data to sanction the view that on many fundamental questions al-Mawardi's opinions were dictated by the exigencies of his time and the special circumstances of his life. In the preface to his *Al-Ahkam al-Sultaniyah* he



writes, "Since these principles of royalty are mainly concerned with the conduct of rulers, and since the direct application of these principles to the entire business of government prevents the rulers from an inquiry into their true nature, and because these rulers are too much engrossed in state affairs and diplomacy, I have brought out a separate book discussing all these principles, in obedience to the behest of one whose allegiance is essential in order that he may be informed of the different schools of law and may know what the people owe to him so that he may demand its fulfilment, and what he owes to them so that he may try to fulfil it. (And he has asked to be informed about these things) out of love for justice in his enactments and decisions, and for the sake of equity in his imposts and rewards."<sup>1</sup> The mention of authority in this passage refers to the Caliph, especially because al-Mawardi had been raised to the high office of *Aqda al-Qudat*,<sup>2</sup> and represented the Caliph<sup>3</sup> in his negotiations with the Buwayhids.

Further, it is necessary to point out that the declining power of the Buwayhids, in the beginning of the fifth century because of internal conflicts and insurrections in the army and because of Mahmud of Ghaznah's solicitations for the Abbasids, made the Caliph al-Qadir, and his son al-Qa'im, aspire to regain the lost glory of their forefathers. The first step in this direction was the legal definition and exposition of the powers and prerogatives of the Caliph which had well-nigh been forgotten and fallen into oblivion.

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1 Al-Mawardi, *Al-Ahkam al-Sultaniyah*, p. 1

2 Literally "the greatest judge" but paradoxically enough the office was subordinate to that of the *Qadi-al-Qudat*, the Chief Justice (Yaqt, 5 : 407).



The historical situation explains al-Mawardi's efforts to propound a theory of the Caliphate in which everything depends on the authority of the Caliph, in an age in which the prestige of the Caliphate had fallen to its lowest ebb. As opposed to this, some historians try to impress that al-Mawardi's endeavours were directed to the theoretical discussion of an ideal state. This view is, however, untenable on account of the fact that al-Mawardi is, truly speaking, not a philosopher at all, and that he is least interested in abstract thinking. He is a jurist and builds on the opinions of his forbears, and gives a wider scope to these opinions and uses his own wisdom to apply them intelligently to the special conditions of his own times. His greatest merit, therefore, lies in the fact that he abstains from abstract speculation, and correlates the opinions of the jurists to the historical perspective of his age. Similarly, as already remarked, he is not a mere compiler or interpreter of the opinions of his predecessors, but often shows his independence of opinion and expresses views opposed to the views of earlier authorities, or gives out opinions altogether original.

Now it will be useful to pick up the main points in al-Mawardi's theory and compare them with the contentions of the ancient jurists on the one hand and with the contemporary political conditions on the other; this will give us a true estimate of al-Mawardi's achievements.

(1) The institution of the Imamate is necessary as a requirement of the Shari'ah and not as a requirement of reason. The appointment of an Imam by the concensus of the Muslim community is obligatory.<sup>1</sup> There is a similar passage in al-Baghdadi,<sup>2</sup> who remarks that this is

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1 Al-Mawardi, p. 3

2 *Usul al-din*, p. 272.



al-Ash'ari's opinion and is opposed to the Mu'tazilite view.

(2) The Imamate is instituted by means of election. The electoral college shall consist of persons with special qualifications.<sup>1</sup> Also the candidates for the Imamate must fulfil certain conditions.<sup>2</sup> This election principle of the Imamate is obviously opposed to the Shi'ite claim of bequeathal or divine nomination. Al-Mawardi, however, omits the case when a licentious person is elected as Imam. Al-Baghdadi says that the election will be void, even if it has taken place through a properly constituted electoral college. Al-Mawardi's omission is deliberate, being a concession to the Buwayhids who appointed the Caliphs to suit their selfish ends.

(3) The right of franchise is not enjoyed only by the people in the capital. The Caliph is, however, traditionally elected in the capital because the death of the previous Caliph is first known there, and political considerations require the immediate appointment of a new Caliph, and because most of the people possessing the necessary qualifications for the Imamate generally reside there.<sup>3</sup> This principle was hotly contended by the Khawarij who believed in complete democracy and universal franchise.

(4) Among the seven conditions which according to al-Mawardi must be fulfilled by a candidate, the seventh one, that is, the Qurayshite descent, is very important. Al-Mawardi lays great stress on it and says that if anyone

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1 These qualifications are three : justice with all the conditions pertaining to it ; knowledge of religion and of the interests and policy of the nation ; and wisdom. Al-Mawardi, p. 4.

2 These conditions are : Justice, learning, integrity of physical senses, integrity of physical organs, wisdom, bravery and Qurayshite descent (al-Mawardi, p. 5.)

3 Al-Mawardi, p. 5.



objects to it on the ground that it excludes non-Qurayshites from the Caliphate such an objection would not be considered, because it was this Qurayshite descent that was presented by Adu Bakr as an argument for preference in the election of Saqifat Bani Sa'idah.<sup>1</sup> This unnecessary emphasis on the Qurayshite descent is a secret hit on the claims of the Fatimids. Although now it has been conclusively proved that the Fatimids were really not Fatimids, the Abbasids took great pains to prove and propagate this idea, because once it was established that it was so, the Fatimids' claim to the Caliphate could easily be challenged and the masses provoked against them. Al-Mawardi has tried to give legal authority to Abbasid propaganda.

(5) The Imam is appointed in one of the two ways :<sup>2</sup>

(a) he may be elected by the Electoral College ;

(b) he may be nominated by the ruling Imam.

In the first case some scholars say the Imam must be elected by all the members of the Electoral College in all the cities. Others oppose this view and say that Abu Bakr was elected only by the citizens of Madinah. Still others assert that only five persons are sufficient to elect the Imam, as happened in the case of Abu Bakr and Uthman. In al-Mawardi's opinion even one person is enough to elect the Caliph.<sup>3</sup> He cites the tradition of 'Abbas in evidence. 'Abbas said to 'Ali, "Stretch your hand, I will swear my allegiance to you, and when people come to know that the Prophet's uncle had sworn his allegiance to his nephew nobody would object to your Imamate." This opinion has also been corroborated by al-Ash'ari.<sup>4</sup>

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1 *Ibid.*, p. 5.

2 *Ibid.*, p. 5

3 *Ibid.*, p. 7.

4 Al-Baghdadi, pp. 275-77



(6) The above extreme opinion has been advocated by al-Mawardi to advance another important opinion in the next chapter, where he discuss the case of two candidates equally qualified for the Imamate. He says that the electoral college may nominate anyone of the two as Imam without assigning any reason.<sup>1</sup>

(7) The election of a less qualified person in the presence of a more qualified person is perfectly legal, provided the former fulfils all the conditions of the Imamate.<sup>2</sup> It was this principle under which most of the rotten and worthless Caliphs took refuge. It was also directed against the Shi'ah, who believe that an inferior person cannot have precedence over a superior one. They coined this theory to assert that since 'Ali and his descendants in the Fatimid line were superior to the rest of mankind, anyone who assumed the caliphal power was a mere usurper. The refutation of this dogma was essential to establish the Abbasid claim. Hence al-Mawardi's anxiety to enunciate the above doctrine. But he is not alone in this respect, for this is the agreed opinion of Sunnite jurists and theologians.

(8) If there is only one suitable candidate for the Imamate, he automatically becomes the Imam, and no election is required.<sup>3</sup> Al-Mawardi seems to be inclined to this view ; the jurists and scholars, however, assert that election must be held even if there is only one candidate for it, for otherwise the Imam cannot acquire legal status. This insistence on election is obviously directed against the Shi'ite theory of divine appointment.

(9) The existence of two Imams contemporaneously is

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1 Al-Mawardi, p. 9

2 *Ibid.*, p. 10

3 *Ibid.*, pp. 10-11



illegal.<sup>1</sup> Al-Ash'ari opposes this view and says that two Imams at a time are possible if their territories are far-flung and widely separated by an ocean, which hinders easy communication between the two. But al-Mawardi insists in his view to rule out the Fatimids and the Umayyads of Spain.

SUCCESSION

(1) The ruling Imam can nominate his successor. There is complete concensus on this point in the Muslim community.<sup>2</sup> The Muslims accepted 'Umar as the next caliph not on the suggestion of Abu Bakr but in obedience to his order as caliph.<sup>3</sup> Similarly when 'Umar appointed a limited council to elect his successor, it was an order from the Imam and there was no choice for the Muslims to do otherwise.<sup>4</sup>

(2) The Imam can nominate any suitable person as his successor, provided he does not happen to be his father or son. The concurrence of the *Ahl al-hall 'aqd* is not necessary.<sup>5</sup> In case he nominates his father no concurrence is required, but if he nominates his son, the concurrence must be obtained.<sup>6</sup> Also, he can nominate any other relation without requiring the concurrence.<sup>7</sup>

It was this theory of nomination that cut at the very root of democratic ideals in Islamic polity, It has been persistently resorted to by every Muslim ruler after the days of the Pious Caliphate, to perpetuate dynastic and despotic rule among the Muslim peoples. Thus apparently the

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1 Al-Mawardi, p, 11

2 *Ibid.*, p. 13

3 *Ibid.*, p. 14

4 *Ibid.*, p. 14

5 *Ibid.*, p. 14

6 *Ibid.*, p. 15

7 *Ibid.*, p. 15



structure of the Caliphate was maintained by the Ummayyads, the Abbasids, the Fatimids, and the Turks but the spirit of Islamic democracy was buried in the coffin of 'Ali, the last of the Pious Caliphs.

Al-Mawardi's contention that Abu Bakr's nomination of Umar could not be challenged by the Companions, for it was the valid enactment of a valid Imam, is nothing but historical fiction having no basis in historical fact. One of the earliest and most reliable authorities on this period, *i.e.*, Ibn Qutaybah, reports in his *Al-Imamah wal-Siyasah* that when symptoms of death approached Abu Bakr he became very anxious as to who should succeed him to the caliphal authority. After much deliberation he decided to nominate 'Umar to succeed him. He called Uthman to his bedside and dictated to him the deed of succession. When the news spread, people flocked to him from every quarter and began to question his choice. Thereupon he said, "If God asked me about this matter, I would tell Him that I appointed over them one whom I considered as the best of them." After this he ordered a general assembly of the people; and when they gathered together, he addressed them and said that he had chosen for them a person with such and such qualities and then said, "If you so desire you may sit together and elect a person whom you like; but if you wish that I should use my discretion in the matter, on your behalf, then I assure you by One other than Whom there is no God, I will spare no pains in doing you the best service." He then stopped and wept and the people wept with him and said, "You are the best and most informed amongst us, so you chose or us." And when the crowd dispersed he called for 'Umar and gave him the deed of succession and said, "Go of the people and inform them that this is my suggestion, and ask them if they hear it and obey it," 'Umar took



that document and went to the people and addressed them. They all said, "We are all ear and obedience to it."<sup>1</sup> This testimony of Ibn Qutaybah is most unequivocal and decisive. It completely abrogates al-Mawardi's theory of nomination. It is quite obvious that Abu Bakr did not deprive the people of their democratic right to elect the head of the state freely. He simply gave his personal opinion and only at the instance of the people. The people could accept this opinion as well as reject it. There was no political bar in their way, no caliphal decree to prevent the exercise of their right of franchise.<sup>2</sup>

Al-Mawardi's second argument in support of his thesis—that the limited college of electors prescribed by 'Umar had the sole right of nominating the new Caliph<sup>3</sup> is nothing but a deliberate effort to interpret ancient practice

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1 *Al Imamah-wal-Siyasah*, pp. 19-23

2 In one of his pilgrimages to Mecca once 'Umar heard a report that a person was saying. "By God ! if 'Umar died I would declare my allegiance to so and so, and by God, Abu Bakr's election was certainly defective but it was made effective later on." 'Umar got enraged at this report. He returned to Medinah and ordered all the judges, governors and chiefs of the army to proceed to the capital. When all had come, a public assembly was held where the Caliph delivered one of the most important addresses of his life. After saying many important things on this occasion, he said :

"Let not anyone be deceived to say that the election of Abu Bakr was defective and later on it became effective, for indeed it was so, but God saved us from the evil consequences of it. And among you there is none like Abu Bakr towards whom the people may look with love and reverence, therefore, if any one of you swears allegiance to a person without consulting the general body of Muslims, such person shall not be deemed as elected ; and the likelihood is that both these persons may be slain."

Ibn Hasham, *Al-Sirat al-Nabawiyah*, Vol. IV, pp. 308-9

3 Al-Mawardi, pp. 13-14



to justify later historical phenomena. Of course, 'Umar did nominate the limited council at the suggestion of 'Aysha, to prevent civil strife after his death.<sup>1</sup> He knew full well that the probable candidates for the Caliphate were the very persons whom he nominated for it. Not only that ; he was perfectly sure that either Uthman would be elected or 'Ali.<sup>2</sup> Therefore to facilitate the new election he fixed a procedure that was least pregnant with evil and the best guarantee against civil discord. The stern warnings which he gave to the dissentient members of the electoral college, and the strict directions which he issued about the conduct of the election were but the last symbols of his great overriding authority over the hearts and minds of people, by means of which he so wonderfully ruled half the world for twelve years. But he did not lay down a permanent principle of Islamic polity, for this he could not do, since there was no warrant for it in the Quran or the Sunnah. Even Abu Bakr could not devise the theoretical foundations of the Caliphate, for during the last moments of his life said that the one great regret he had was that he could not ask the Prophet to enlighten him on three problems. He said, "I should have asked : who would succeed him in political power after him ? If he nominated anyone, nobody could challenge his nominee on this issue. And I should have asked him whether the Ansars were entitled to any share in the political power."<sup>3</sup>

'Umar's arrangement was therefore dictated by purely prudential considerations. A proof of this assertion is that he categorically declared that the Ansars were not entitled

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1 Ibn Qutaybah, p. 23

2 *Ibid.*, p. 25

3 Ibn Qutaybah, p. 19



to any share in the sovereign power,<sup>1</sup> although Abu Bakr was doubtful on this issue, and although many of the later jurists did not accept 'Umar's ruling on this point. The truth is that 'Umar took this extraordinary step for the defence of the state and not for the defence of a principle, for there was no clear principle before him. Hence the construction of a political theory out of his ruling can neither be justified nor appreciated as an achievement in political thought.

But al-Mawardi was not very much concerned about theory. He was a leading Sunnite legal doctor of the Shafi'ite school, and was intimately associated with the Abbasids ; hence his chief interest lay in emancipating the Sunnite caliphate from the Shi'ite tyranny of the Buwayhids. This explains why he gave the stamp of validity to the monarchical system of the Abbasids. He had already before him the precedent of the Umayyads. Moreover the jurists had, by the force of circumstances, reconciled themselves to the imperialistic order of the day, and given it the form and sanction of religious authority. Al-Mawardi, therefore, found no difficulty in taking his cue from his predecessors, and from the prevailing ideas of his time. His main contribution to Islamic political thought lies in the transformation of these ideas into a system, directly related to historical practice. He was not a visionary and idealist like the jurists or the scholastics, and like them did not sit to speculate in vacuum. He was a man of the world and so tried to solve its problems as best as he could.

3. The nomination of a person as heir-apparent becomes effective only when he declares his consent to it. The Imam cannot withdraw the nomination until there

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1 *Ibid.*, p. 24



occurs in this heir-apparent some important change which invalidates him legally. So also an Imam cannot be deposed until a similar change occurs in him.<sup>1</sup> Now these are only logical deductions from the fundamentals of the Shari'ah for there are no historical precedents to vouchsafe them.

4. The Imam can appoint the Electoral College as well as the persons who may contest for the Imamate.<sup>2</sup> This opinion is based on the election of 'Uthman by means of a limited Shura appointed by 'Umar. Whatever might have been the political consideration before 'Umar, the derivation of a general principle out of it is certainly most dangerous to sound polity and to the stability of a state. The piety, honesty, intelligence and statesmanship of 'Umar could very well be relied upon. The same cannot be said of another personality after him in Islamic history. Notwithstanding this, historians have criticised that 'Umar was mistaken in taking this step.<sup>3</sup> It is a well-known fact that most of the members of the Shura who came out unsuccessful in the contest, at once started plotting against 'Uthman and began to aspire for the Caliphate.<sup>4</sup> But apart from this historical fact, if the right of nominating the electorate as well as the candidates is conceded to the Imam, it is bound to make him absolute and despotic. In truth it was this theory that developed into divine right with the Alids and the Abbasids. And it was this theory that throttled the growth of democracy in Islamic polity.

5. The Imam can nominate two or more heirs-apparent to succeed him one after the other. The argument

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1 al-Mawardi, p. 16

2 *Ibid.*, p. 21

3 Rafiq Bek, *Ashhar Mashahir-al-Islam*, Vol. 1

4 Ibn Qutaybah, p. 48



has been derived from the Battle of Muthah, in which the Prophet appointed Zayd bin Harithah as the Commander of the Islamic forces and said that if he fell in fighting he was to be succeeded in command by Ja'far bin Abi-Talib who was to be succeeded by Abd-Allah bin Rawahah. If Ibn Rawahah also fell then the Muslims could choose any one from among themselves as their commander. Apparently the citation of this incident in support of a fundamental issue like that of the Caliphate is but a fake reasoning.<sup>1</sup>

This practice of appointing two or more heirs-apparent proved to be the greatest political evil in Muslim polity. It often engendered palace intrigues and induced destructive internecine wars and dynastic feuds.

DESIGNATION AND PRIVILEGES

1. When a person is duly elected as Imam the people should entrust all their affairs to him and must give him their unquestioning obedience. The Imam may not consult them in the affairs of state, yet they must obey him.<sup>2</sup> This is again a most ridiculous position. It is the clearest example of despotism for which the orient is notorious. It certainly cannot be a principle of Islamic polity. The Islamic idea is that the people must be consulted and must be given their full share in the governance of the state. It was the violation of this right that led to the assassination of 'Uthman. And it is the suppression of this right that has always exposed the Muslim state to disruption and decay.

2. The Imam may be addressed as the Khalifat Allah, but the majority of jurists say that this title is forbidden, for no human being can represent God on earth, since man

1 al-Mawardi, p. 22

2 *Ibid.*, p. 27



is mortal and imperfect. Hence the Imam may either be called a mere Khalifah or Khalifa Rasul-Allah.<sup>1</sup> Once when Abu Bakr was addressed as Khalifat-Allah he exclaimed, "Do not address me as Khalifat Allah but as the Khalifa Rasul-Allah."

DUTIES AND FUNCTIONS OF THE IMAM<sup>2</sup>

The Imam has the following ten principal duties to perform :—

1. The safeguard and defence of the established principles of religion as understood and propounded by the consensus of ancient authorities. If anyone innovates an opinion or becomes a sceptic, the Imam should convince him of the real truth and correct him with proper arguments and make him obey the injunctions and prohibitions of the Shari'ah, so that the people at large may be saved from the evil effects of such heresies.

This is undoubtedly the foremost duty of the Imam under the Shari'ah. But unfortunately it is under the cover of this pretext that throughout the last thirteen centuries, adventurers and self-seekers have striven to carve out political fortunes for themselves. The second civil war of Islam was fought by the Ummayyads, the Hashmites, and the Zubayrites under this same pretext. When the Abbasids came to power they called themselves the Defenders of Faith, and crushed every political dissentient in the name of religion, and sent many an innocent soul to the gallows to save Islam. The Alids have always claimed that they are the sole repositories of religion and Islam is safe only in the hands of their Imams. When they founded the Fatimid empire and later the Safwid dynasty in Persia, they wiped out their political opponents with unthinkable cruelty

1 *Ibid.*, pp. 27-28

2 *al-Mawardi*, pp. 28-31



and butchery. In fact every now and then the Muslim world is sorely disturbed by new champions of Islam. Even today there can be evinced a great effervescence for religious revival in all the Muslim lands, but everywhere the undertone is political and not religious. The great Sinusi movement, which stood for puritan Islam, and which culminated in the installation of Idris al-Sinusi as the hereditary King of Libya in 1051, should serve as an eye-opener to uninformed enthusiasts.

Al-Mawardi's enumeration of these duties, however, was very effective and timely, since it came out as a stern warning to the Buwayhids, who had overpowered the Caliph in Baghdad, and who professed a heretical faith.

2. The dispensation of justice and disposal of all litigations in accordance with the Shari'ah. He should curb the strong from riding on the weak, and encourage the weak to take his due in face of the strong.

3. The maintenance of law and order in the country to make it possible for the people to lead a peaceful life, and proceed in their economic activities freely, and travel in the land without fear.

4. The enforcement of the criminal code of the Quran to ensure that the people do not outrage the prohibitions of God, and that the fundamental rights of men are not violated.

5. The defence of the frontiers against foreign invasions to guarantee the security of life and property to Muslims and non-Muslims both in the Islamic state.

6. The organisation and prosecution of religious war against those who oppose the call of Islam or refuse to enter the protection of the Islamic state as non-Muslim subjects. The Imam is bound by the covenant of God to establish the supremacy of Islam over all other religions and faiths.

7. The collection of Kharaj and Zakat taxes in accor-



dance with the laws of the Shari'ah and the interpretation of the jurists, without resorting to extortion or pressure.

8. The appointment of allowances and stipends from the state treasury (Bayt-al-Mal) to those who are entitled to them. This money should not be expended with extravagance or stinginess, and must not be either prepaid or delayed.

9. The appointment of honest and sincere men to the principal offices of state and to the treasury to secure sound and effective administration and to safeguard the finances of the state.

10. The Imam should personally look into and apprise himself of the affairs of his dominions so that he may himself direct the national policy and protect the interests of the people. He should not entrust this responsibility to others and engross himself in luxury or religious devotion.

Any when the Imam has carried out all these duties efficiently, the people must offer him two things principally: obedience and help.

This enumeration of the tenfold functions of the Imam is arbitrary. Ten has been particularly chosen, for it is an ominous and mystical number. The notable fact here is, however, that while his predecessors and Successors lay great emphasis on the first two points, viz., the safeguard of religious principles and the dispensation of justice, as the principal duties of the Imam, al-Mawardi lays the main stress on the administrative responsibility of the Caliph. In his opinion the Caliphate is not merely a religious institution for the carrying out justice but also the greatest social organisation to help promote the corporate life of man on this earth. In other words, the management of the state machinery is of basic importance to him. This explains why he devotes only one-tenth of his book to the exposition of the theory of the Caliphate, and uses the rest of his work to elaborate



the detailed apparatus of government which hinges on the central authority of the Caliph. The nebulous nature of the dispersion of state power had led to the dreadful tussel between the Buwayhids and the Abbasids. The Buwayhids, who had no legal claim to sovereignty, and who had not clarified their position, had long been intriguing to overthrow the Caliphate outright. Al-Mawardi's attempt, therefore, at defining in detail the responsibility and scope of caliphal power in relation to normal administration, was most plausible and a direct hit at the Buwayhids. Further, he made his treatise an inviolable document by reinforcing it with the argument of earlier historical practice, dating back to the time of the Prophet, and by basing it on the opinions of the leading jurists of Islam. It is significant to note that al-Mawardi hardly anywhere quotes any of these jurists, but since he was the Greatest Judge of Baghdad, this declaration in the preface was taken as sufficient guarantee of his veracity. There is no ground to question his *bonafides* yet it would have been more commendable if had given the actual authorities.

THE DEPOSITION OF THE IMAM

Al-Mawardi has given a detailed consideration to the subject. In the first place, arguing on the basis of legal deduction from the fundamentals of the Shari'ah, he says that once a person is elected as Imam, he cannot be removed from that office until there has occurred some definite change in him.<sup>1</sup> Then after discussing the duties of the Imam, he reverts to the subject and dilates on it at length. He says that the Imam loses his title and authority on account of one of the following reasons:—

(1) If there occurs a change in his moral status, technically known as 'Adalah' (sense of justice). The moral

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<sup>1</sup> al-Mawardi, p. 16



change is of two kinds:

(a) The one connected with his body; that is if he becomes a slave to his inordinate desires and is given over to his sensual passions and flouts openly the prohibitions of the Shari'ah. In such an event a person can neither be elected as Imam nor can continue as such.<sup>1</sup> Abu Ya'la rejects this opinion and holds the opposite view.<sup>2</sup>

(b) The one connected with his faith. That is, if a person holds opinions contrary to the established principles of religion, or holds such twisted opinions as amount to an abrogation of the accepted principles, he can neither be initiated as Imam nor can continue to hold that office.<sup>3</sup> In this there is a clear denunciation of the stand of the Buwayhids and the Shi'ite and Fatimid claims to the Caliphate,

(2) If there occurs a change in the person of the Imam.<sup>4</sup> it is of three kinds: loss of physical senses, loss of bodily organs, and loss of ability to supervise and direct.

(a) Among the defects which occur in the physical senses, the two most important ones which preclude a person from election to the Imamate or make him unfit to continue in office, are the loss of the mental faculty and the loss of eye-sight. The first case is obvious and needs no comment. But the second has had a profound bearing on the course of Islamic history. The practice of putting out the eyes with hot iron to prevent a person from wearing the imperial purple, was undoubtedly borrowed from

1 al-Mawardi. p. 31

3 *Ibid.*, p. 32

2 Abu Ya'la, p. 4

4 *Ibid.*, p. 32



the Byzantine Empire; the opinion of the Muslim jurists on the issue, however, gave it an added importance as an instrument of tyranny in the oriental lands. The dreadful effect of this foul practice can be gauged from the fact that about two dozen Abbasid Caliphs were thus blinded to dethrone them from the caliphal seat. The juridical opinion referred to above is that a blind person is unqualified to give witness or sit as a judge in a court of law ; he is therefore much more unqualified to serve as the head of the state.<sup>1</sup>

(b) Loss of bodily organs. It is of various kinds. If it does not hinder the performance of normal duties, and does not disfigure the features or the external beauty of the body, it will be of no account. For instance, the loss of the male organ will not invalidate a person, because the Quran praises the prophet Zakariya who was impotent.<sup>2</sup>

In certain cases when the loss of organs renders a person helpless and makes him incapable of doing anything, he can neither be elected as Imam nor continue in that office. Such is the loss of the two hands or of the two feet.

Al-Mawardi discusses the details of other losses too, but they are not pertinent to our purpose here.

(c) The loss of personal ability to supervise and direct is of two kinds :

(i) If the Imam is overpowered by one of his counsellors and assistants, who appropriates all authority to himself, but does not openly defy the Imam, the Imam will continue in his office, provided the usurper rules in accordance with the injunctions of the Shari'ah, and in

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1 Al-Mawardi, p. 33.

2 *Ibid.*, p. 35.



deference to the accepted norms of justice. This is to ensure that the functions of the Imamate should continue to be performed, and that the people do not fall a prey to the ways of evil on account of the non-enforcement of the laws of the Shari'ah.<sup>1</sup> But if his conduct is opposed to the principles of religion and justice, he will not be tolerated in that status. and the Imam shall have to seek the help of a person who can oust the usurper and restore supreme authority to the Caliph.<sup>2</sup>

This principle has been elaborated by al-Mawardi with great care and legal acumen. In the following chapter he takes it up again and discusses it in full detail<sup>3</sup> This principle which had no sanction in ancient authority or in the opinions of the jurists, was dictated by the force of circumstances in which the Abbasid Caliphate had been placed during the two centuries preceding the death of al-Mawardi. The Buwayhid usurpation in Baghdad and the falling of the caliphal power into insignificance necessitated the evolution of a formula which suited the exigencies of the times and recognised the *de facto* relation that existed between the Buwayhids and the Abbasids. This was a clear departure from the principle for the Caliphate enunciated by al-Mawardi in the earlier part of his book. But he devised a *via media* to remove this glaring contradiction. If the Absolute Governor or the usurper (Amir bil-Isti'la) declares his allegiance to the Caliph and promises to maintain the unity of the Caliphate, enforces the laws of the Shari'ah, and co-operates with the Imam against the foes of Islam, the Caliph shall recognise his absolution by conferring on him the deed of investiture formally and publicly.

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1 *Ibid.*, p. 37.

2 al-Mawardi, p. 38

3 *Ibid.*, pp. 67-70.



Though this arrangement is opposed to established tradition, it shall be deemed perfectly legal, because it envisages the safeguard of the injunctions of the Shari'ah which cannot be let go by default, and because of the unavoidable condition created by the act of usurpation.<sup>1</sup> In this theory there is, on the one hand, an overt recognition of the situation prevailing in Baghdad and on the other an unconcealed warning to the Buwayhids that if they transgressed their limit they could be brought to book with the help of the Ghaznawid power which was an open ally of the Abbasid Caliphate. In the passage where al-Mawardi says that in case the usurper shows an uncompromising and rebellious attitude the Caliph can call in the help of one who can relieve him of the straits, the person referred to is none but Mahmud of Ghaznah.

There is a little doubt that al-Mawardi was influenced by the circumstances of his environment in the enunciation of this theory, but this deviation from the original principle completely nullified the true conception of the Imamate as demonstrated in the days of 'Umar the Great. Nay, it contributed directly to a political theory which encouraged adventurers and ambitious men to impose themselves on the will of the people with brute force and sheer might. Further, if it served as one of the main incentives for the dismemberment of the Abbasid empire, it also very greatly influenced the suppression of democratic thought and practice in the Muslim World. Al-Mawardi may have been good-intentioned but the legacy he left, completely changed the concept of Muslim polity in the centuries that followed. And the change that occurred was simply un-Islamic, undemocratic, and vicious.

(ii) If the Imam falls a prisoner into the hands of an

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1 *Ibid.*, p. 68.



enemy, it will be the duty of the entire Muslim people to endeavour to emancipate him;<sup>1</sup> and as long as there is any hope of his deliverance he will continue as Imam, and another person may be elected to officiate in his absence. But if all hope is lost, he will be deemed to have relinquished his office, and a new election shall take place.

If the Imam is captured by a Muslim rebellious army, and the rebels have not appointed an Imam of their own, the captured Imam shall continue to command the loyalty of the people, and an acting Imam shall be appointed by him, if possible, or by the electoral college. But if the rebels have appointed an Imam of their own, the existing Imam shall forfeit his claim to the Imamate, and the responsible men (*Ahl al-hall wal aqd*) shall elect a new Imam according to their discretion.<sup>2</sup>

Al-Mawardi's wording in this passage is full of meaning. He means to say that a victorious rebel leader does not automatically become the Imam. The reference is clearly to the Fatimids who threatened Baghdad in those days. The Abbasids had, through a propaganda of centuries, ingrained in the minds of people that only they were the rightful claimants of the Caliphate. Moreover, they had given wide publicity to the idea that the Fatimids were not the true descendants of Fatimah, and were therefore disqualified for the Imamate, and were rebels and impostors. This clearly explains al-Mawardi's dictum.

#### THEORY OF REBELLION

Even in the ancient and mediaeval tribal and monarchical systems it was recognised that if the patriarch or the monarch ruled with tyranny and inequity, the people had a right to overthrow him and choose a new leader or

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1 al-Mawardi, p. 38.

2 al-Mawardi, p. 40.



sovereign in his place. The act of rebellion in such an eventuality was, therefore, not regarded as a crime but as a vindication of the natural rights of people. The idea of rights and democracy were necessarily dim, nevertheless they were there.

When Islam came upon the scene of the world, it shone like a radiant sun and cleared the dimness that had so long benumbed the spirit of man. It brought out a complete revolution in human thought and in the conception of human destiny. It welded politics with religion in a remarkable way that was at once susceptible to reason and most conducive to human good. It defined the proper dignity and status of man in this universe, his relations and obligations to God, and His privileges as the lord of creation. It taught for the first time the ideas of universal brotherhood and complete equality of man. In short, it made world-wide democracy a reality and a fact. The great Republic of Madinah was built on the highest and purest ideals of democracy. It was not embellished with the accoutrements and paraphernalia of modern republican states, yet in its spirit and in its working it was more modern and humane than any modern state. The only sad thing about it was that it was too short-lived, and that it could not get time for proper growth and consolidation and to work in full flourish. It was nipped in the bud. The consequences of the premature extinction of the Republic of Madinah were dire and far-reaching. The fast-developing ideals of Islamic democracy were blasted and superseded by the imperialistic systems of the Ummayyads, the Abbasids, the Fatimids and others. A struggle ensued between the state and society. The society strove to reflect the principles of Islamic life and polity, while the state tried to emulate the traditions and ways of Byzantine and Sasanid empires. For one hundred years of Ummayyad



rule the struggle between these two forces continued. But the coming into power of the Abbasids signalled the victory of the state over religious ideology. The emperor or the caliph became the spiritual and temporal head of the state, his wishes and whims became laws, and he was responsible to none. The people had no right except to obey and endure.

When the new order came to stay, the Muslim jurists, political thinkers, statesmen and diplomats tried to adjust themselves to the new conditions. They invented a political theory which effected a superficial and sophisticated compromise between the two forces. The compromise was given religious sanction and justification, so it became permanent and unchallengeable. It was supported by twisting the texts of the Quran and fabricating numerous traditions along with ingeniously prepared chain of transmitters. Some of these traditions quoted by Abu Yusuf in his *Kitab al-Kharaj* have already been cited in the introductory portion of this article.

When al-Mawardi wrote his book, this compromise had clearly worked successfully for two centuries. Therefore, while dealing with the right of the people to revolt against a tyrant, he is largely influenced by the juridical and political ideas of his age. Yet he does not believe in the divine right of rule, for despite his anxiety for the restoration of sovereign power to the Abbasid Caliphs, he nowhere supports their claim, or the claim of the jurists to unchallenged obedience to the head of the state.

(1) In the very first chapter of his Book he quotes the following tradition from Abu Hurayrah : the Prophet said, "After me there will be appointed rulers over you ; their must good as well as bad deeds will go by them ; but you must obey every order from them that is based on righteousness ; for if they rule with fairness the good of it will accrue to them



and to you both, (and) if they rule with inequity you will get the benefit of it and they, the evil consequences thereof."<sup>1</sup> In al-Mawardi's opinion, obedience is due only when the order of the ruler is in keeping with truth. The same tradition has been narrated by Abu Yusuf in another way, wherein he omits the words "that is based on righteousness." The omission of these words by Abu Yusuf seems to be deliberate in the same way as their citation by al-Mawardi is intentional, for from other texts it is clear that the authors represent different view-points on this issue. Al-Mawardi is very cautious not to bring forth any comment on the above passage, although there is only a veiled reference in it to the right of revolt.

(2) He clearly advocates revolt when the Imam either falls an open prey to sensual passions or becomes sceptic of the basic creed of Islam.<sup>2</sup> But it is not clear how a tyrant or heretical Imam can be deposed. No machinery has been proposed by means of which the will of the people may be ascertained or the Imam may be voted out of power. There is no precedent in Islamic history when an Imam may have been removed from office by legal or peaceful means. And since the Imam is the supreme authority, not responsible to any tribunal, it is obvious that he cannot sit to impeach himself or allow others to interdict him. On the contrary, there are numerous examples in history when tyrant Imams persecuted pious and innocent people and even sent them to the gallows. Al-Mansur got Malik bin Ans beaten in public and Abu Hanifah prisoned in jail. Al-Rashid wiped out the entire house of Barmak without any explicit reason. Yahya bin Yahya, the greatest jurist of Spain, had to go underground to save his skin against the

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1. al-Mawardi, p. 4

2. *Ibid.*, pp. 31-32



tyranny of Hakam bin Hisham. Al-Mutawakkil got the tongue of Ibn Sikkit, the famous grammarian, pulled out of his throat for a little act of displeasure. And Ibn Taymiyah had to wear out his last days in a dungeon. The provision of this rule is, therefore, only a literary conceit, having no practical value.

The only thing that is clear from al-Mawardi's writings is that he is opposed to the claim of undisputed obedience to the Caliph. He, however, does not elaborate a detailed theory of rebellion, nor discuss the fundamental rights of man. He is very careful in choosing only those traditions which suit his purpose. He could have very easily established from the tradition of the Prophet as well as from the practice of the Pious Caliphs that Islam has given an open charter of rights to humanity, and that it has unambiguously defined the limits of state-power and freedom of the individual.

First of all, he could have noted that the famous verse of the Quran, "Obey God, and obey the Prophet, and obey the ruler who is from amongst you"<sup>1</sup> does not give a license of despotism to rulers, for the same verse continues, "if you quarrel on any issue, bring it to the judgment of God and the Prophet, provided you believe in God and in the day of Judgment." Obedience to the head of the state is, therefore, bound by the condition that he obeys the injunctions of God, that is, rules with truth and justice. And in the preceding verse in the same context, the Quran says, "Verily God orders that you return securities to their rightful owners, and that when you are called upon to rule over people, rule with justice."<sup>2</sup> In another verse the Quran says, "Their (the Muslims') affairs are decided by

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1 Al-Quran, 4 : 58

2 *Ibid.*, 4 : 57



mutual counsel amongst themselves,"<sup>1</sup> and not by the arbitrary will of a ruler. Still on another occasion God orders the Prophet, "...and take their counsel in the affairs of the state."<sup>2</sup> Numerous other verses can be quoted to prove that the Quran bestows the right of revolt on the people if the rulers become arbitrary and despotic. Similarly the traditions of the Prophet are replete with instances exhorting the people to oppose and overthrow a tyrant, A few examples will suffice.

Abu Bakr reports that the Prophet said, "Indeed if the people see evil and do not rise to ward it off, it is just probable that the vengeance of God may overtake them all."<sup>3</sup>

Abu Sa'id narrates that the Prophet said, "Surely the most loved and nearest person to me on the Day of Judgment shall be the just Imam, and the most hated and damnable person to me on the Day of Judgment shall be the tyrant Imam."

It must be remarked here that the proportion of genuine traditions to fabricated ones is so small that the latter have overwhelmed the former, and to an inexperienced person it would appear that falsehood is more true than truth itself.

Besides these theoretical considerations the practice of the Prophet and the Caliphs most vividly reflects the meaning of the Islamic democracy and the concept of human rights. The Prophet, who was directly guided by God, consulted his people on every important occasion. Some of the poorest and lowliest of men like Bilal, Suhayb, Abu Dhar, Salman, 'Ammar and Abu Hurayrah

1 *Ibid.*, 42 : 38

2 *Ibid.*, 2 : 159

3 Abu Yusuf, p. 12



were among the best of his companions. A poor blind man, Ibn Umm Maktum, was his Mue'zzin and favourite. In the battle of Muthah he gave the command of the Islamic army to Zayd bin Harithah, a freed slave. And just before his death he appointed Uthman bin Zayd as the supreme commander of the expeditionary force that was being sent to the Syrian frontier to avenge the death of Zayd. After the battle of Hunayn, when he distributed the spoils of war among the new converts of Makkah, the Ansar felt disgruntled against it and were not satisfied until the Prophet cleared his position. During his last illness he addressed the congregation and said that he was soon going to depart to his Master, so if any one had any due against him, he might take it back. Thereupon an ordinary person rose and said that the Prophet had once hit him inadvertently with his whip, so now he wanted to take his revenge. The Prophet at once uncovered his back and asked the Beduin to beat him in retaliation. Such cases can be multiplied *ad infinito*.

When Abu Bakr was elected Caliph, he said in his policy speech, "Obey me as long as I obey God, but when I disobey Him, you are no longer bound to obey me." In the same speech he continues, "and I am just like one of you so when you find me on the right path, follow me, but if you see me deviating, set me right."<sup>1</sup>

The democratic practice of 'Umar is too famous to need comment. Even an old poor woman could challenge his authority, when he made an innovation by fixing the amount of matrimonial money chargeable on the husband. An unknown mediocre could threaten him with disobedience until he had explained how he got his shirt made out of the

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<sup>1</sup> Ibn Qutaybah, p. 16



small Yemenite sheet he had received as his share of booty of war. It is a well-known fact that he never decided any matter of moment without consulting the general body of the citizens of Madinah.

In this early period of Islamic history there was a general and strong feeling among the Muslims that there existed a solemn covenant between the state and the people, that the state was conducted by the elected representatives of the people, and that it existed only to protect and promote their interest. So when the rulers broke this covenant, and violated the principle of representation and threw overboard the interest of the people, the people thought it as their inherent right to crack down such rulers and snatch political power from them. It was the infringement of this covenant that eventually led to the assassinations of Uthman and 'Ali and to the sudden collapse of the powerful Ummayyads. The Abbasid rise to power killed these ideas altogether and the concept of the covenant was completely forgotten.

Al-Mawardi's failure, therefore, to elaborate a theory of rebellion is wilful, for if he wanted to propound a theory, he could have found abundant sanction for it in early thought and practice. But he perforce could not do so, because it would have entailed a criticism and disqualification of the imbecile and impotent Abbasid Caliphs who, in his time, did not wield any political power even within the four walls of their palace. Al-Mawardi's intention was not to expose the weakness of the Abbasids but to hide it.

It may, however, be noted here that the idea of rebellion has always been most abhorrent to Muslim rulers throughout history, because after the regime of the Pious Caliphs, they have always denied the right of the people to participate in the affairs of the state. The emergence of democratic and conscientious rulers like 'Umar bin Abd al-Aziz, Hisham I



of Spain, Muhammad Tughlaq and Aurangzeb has been most infrequent and exceptional. The most remarkable thing is that no democratic movement was ever started in the Muslim lands through the long span of these thirteen centuries, although Islam advocates the highest ideals of democracy and humanism. One of the causes of this long political sickness of the Muslim people is the misleading writings like those of al-Mawardi and Nizam-al-Mulk al-Tusi. In particular, since al-Mawardi was a well-known jurist, Muslim legal and political writers have closely followed in his footsteps, and in matter and content have not differed an inch with him. The result is that Muslim political thought has almost been frozen since the days of al-Mawardi. And this retardation in political speculation has had its effect on the development of the worst kind of despotism and autocracy of the East.

#### CONCLUSION

After the above enquiry and criticism it has now become imperative to give the final picture of al-Mawardi's achievement and failings.

1. First of all it has to be admitted that al-Mawardi was the founder of the science of politics in the Islamic world. He was not very original in what he did. His greatness lies in the fact that he received political opinions and traditions of the past and transformed them into a coherent logical system. For four hundred years the Muslims were engaged in conquest and empire-building, but during this long stretch of time they could not evolve any concrete idea or theory of state or any definite pattern of governmental administration. There were many political institutions and many ideas about them, but there was no clear conception of anything, and nothing carried the force of law. Al-Mawardi's achievement is that he gave shape and definition to what was unshapely and undefined. Moreover,



he assembled his ideas in writing, therefore, his book *al-Ahkam al-Sultania* became a standard work of reference on political and administrative practice.

2. In spite of the untenable position in which al-Mawardi had to labour, one cannot fail to admire his effort to work out a political system essentially based on the fundamental thought and early political practice of Islam. He did not very much succeed in his effort, but his advocacy of the supremacy and dominant role of religion over temporal authority has never allowed any Muslim ruler to build an exclusively secular state. And if anyone has tried to do so in recent times, he has earned the general reprobation and outright censure of the whole Islamic world.

3. Al-Mawardi's great contribution is that he has given a detailed account of the administrative machinery of government. And he depicts not only what exists but what ought to exist. This idealistic touch made his work popular with every regime and every generation that came after him. His administrative details also offer a valuable source of studying the political and social institutions not only of the Abbasid caliphate but of all Muslim states until the Mongol invasion.

4. Whatever the merits and demerits of al-Mawardi's work, his elaboration of the theory of Caliphate saved the Muslim people, for a long time to come, from the extravagant and illogical claims of the Shi'ah, the Khawarij, the Mu'tazilah, and other extremist sects in Islam. His Catholic taste and cosmopolitan sympathies went a long way to pacify and propitiate the general body of intellectual opinion in his own day and the opinion of Muslim political thinkers and writers almost up till our own times.

5. His immediate aim of emancipating the Sunnite caliphate of the Abbasids from the Buwayhid tyranny was so providentially realised in his own lifetime, that it must



be counted as one of his great achievements.

6. Al-Mawardi very well knew that the Abbasids could not fully retrieve the lost ground and could not regain the glory of their early ancestors. To compensate this irretrievable position he instituted the theory of absolute governorship which provided a handy instrument of self-protection to the Abbasid Caliphs against the attempt of possible adventurers who aspired to overthrow the caliphate.

7. Perhaps the most valuable contribution of al-Mawardi to political theory was that he based his account on historical practice, and like the jurists and the scholastics, did not indulge in empty speculation.

8. But with all the good points that can be said about al-Mawardi, he had one short-coming—he was not a political thinker, and hence could not evolve a philosophic conception of the state. He could not develop the full idea of the state. He does not discuss the meaning, scope, jurisdiction, responsibilities and obligations of the state, gives no conception of sovereignty, and seems to be completely ignorant of the idea of a constitution. The lack of a constitutional theory has not only very much reduced the value of al-Mawardi's work but has its deadening effect on the later development of Islamic political thought.

9. As already discussed above, al-Mawardi seems to have no conception of democracy. His theory of election, dealing only with the appointment of the Caliph, is wholly undemocratic. Moreover, he is very particular about the rights and prerogatives of the caliph but pays scant attention to the rights and claims of the people. Lack of the idea of fundamental rights of men has been one of the principal sores in Muslim polity for ages, and has been mainly responsible for almost complete absence of the growth of democratic life in Muslim lands.

10. The evolution of a democratic constitutional theory



incorporating the precepts and requirements of Islam was just possible. But it was possible only at the hands of a great genius like Ibn Khaldun, if he had attempted it. Al-Mawardi was incapable of achieving it. On the reverse, he has based his opinions on mere pragmatic considerations and dogmatic theology. His inquiry is, therefore, not inspired by any dynamism or principle of growth. As a result Muslim writers and thinkers have, through these toiling centuries, never dared to question his authority or tried to present a single new concept in political thought.<sup>1</sup>

Even the recent upsurge of revivalism in the Muslim world has broken no ground. It goes on repeating the propositions of al-Mawardi blindly. It has utterly failed to grasp the driving democratic force of ancient Islam. It has not realised in the least that the mission of the Holy Prophet Muhammad is for all climes and for all times. The Quran and the Sunnah, therefore, must be reinterpreted so as to solve the major problems of man in modern society. But to recognise these problems and to wish that the present-day world may direct its affairs according to dogmas and traditions which have no reality in fact and experience, is to expect too much of human forbearance.

But the sin of all this cannot lie on the shoulders of al-Mawardi. He made a great beginning and he had his faults, as every great author has. The later ages ought to have added to his achievement, rectified his errors, brought in new ideas, and opened fresh avenues of thought ; but

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1 For instance, so late an authority as Shah Wali Allah al-Dehlavi (d. 1174 A.H.), one of the greatest political thinkers in Islam, does not go one step beyond the original thought of al-Mawardi. His *Izalat al Khafa'*, in spite of its voluminousness, does not contain any new political idea at all.



they did nothing of the sort, and for it al-Mawardi is not wholly responsible. The real causes which steeped the Muslim world in ignorance and intellectual darkness, must be sought in the political, economic and religious conditions of the Muslim society after the third century of the Hijrah. Al-Mawardi flourished and shone in the midst of this darkness, but his brilliance was not powerful enough to disperse and drive it away.

