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THE CONCEPT OF THE IMAMATE
IN THE WORKS OF AL-MĀWARDĪ

By

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A Thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfillment of the requirements
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ABSTRACT

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Title   :   The Concept of The Imamate in the Works of al-Māwardī

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This thesis deals with al-Māwardī's concept of the imamate as expounded not only in *al-Aḥkām al-Sulṭāniyyah*, but also in his other political treatises which are related to the subject. It is divided into a long introduction, two chapters, and a conclusion. After first introducing the controversial issue of the imamate and its historical background, the introduction exposes al-Māwardī's life, career and works, and discusses views on him expressed by modern scholars. The first chapter discusses the nature of the imamate focusing on its origin and necessity, the methods whereby the imam comes to power, the imam's duties and the possibilities for him to be deposed. The second chapter examines the political subdivision within the imamate and its consequences, namely, the presence of other institutions : the wazirate and the amirate. The conclusion sums up the general concept of the imamate in the works of al-Māwardī.

RÉSUMÉ

Auteur   :   Muhammad Nafis

Titre   :   Le concept d'imāmat dans l'oeuvre d'al-Māwardī

Département   :   Institut des études islamiques

Diplôma   :   Maîtrise *ès* Arts

Ce mémoire porte sur le concept d'imāmat dans l'oeuvre d'al-Māwardī tel qu'il est présenté, non seulement dans son *al-Aḥkām al-Sulṭāniyyah* mais aussi dans certains de ses autres traités politiques qui abordent ce sujet. La division de ce mémoire est la suivante: une longue introduction, deux chapitres et une conclusion. L'introduction, après avoir cerné la controverse qui entoure le problème de l'imāmat et l'arrière-plan historique, poursuit avec la vie d'al-Māwardī, sa carrière et son oeuvre, et discute de différents points de vue exprimés par des chercheurs contemporains sur notre auteur. Le premier chapitre discute de la nature de l'imāmat en centrant la discussion sur son origine et sa nécessité, sur les méthodes par le biais desquelles l'Imām arrive au pouvoir, sur les devoirs de l'Imām et sur les chances qu'il a d'être déposé. Le second chapitre examine la subdivision politique qui existe à l'intérieur de l'imāmat de même que les conséquences auxquelles elle mène, c'est-à-dire la présence d'autres institutions: le vizirat et l'émirat. Quant à la conclusion, elle résume le concept général d'imāmat tel qu'il se présente dans l'oeuvre d'al-Māwardī.

ACKNOWLEDGEMENTS

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INTRODUCTION

The concept of the imamate[1] has been the most controversial issue in Islamic history. This controversy did not operate in a vacuum, but was conditioned by its own circumstances. It has been a product of religious, political, social as well as cultural factors. Therefore, it is not surprising that this controversy resulted in different conceptions of the imamate.

The absence of details and of a complete explanation of the imamate in the *Qur'ān* is one reason why such a controversy developed.[2] The *Qur'ān* has not, indeed, explicitly defined any organized structure for the imamate. H.A.R. Gibb is right when he says that "neither in the *Qur'ān* nor in the Sunna of the Prophet are there to be found precise instructions as to the forms and institutions by which the unity of the Umma as a political organization should be expressed and maintained."[3] Consequently, Muslim scholars have sought to find an appropriate interpretation of the *Qur'ān* and the Prophet's traditions *(al-Sunnah)* in order to find out the basic principles of the imamate.[4] Such attempts have left room for different interpretations and have made the institution of the imamate more complicated.

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[1]Throughout this study, the term "imamate" rather than "caliphate" will be used to denote an Islamic political institution or supreme leadership of the Muslim community after the death of the Prophet. In a certain case, especially when discussion comes to the problem of the necessity of the imamate, this term will also be employed to indicate any organized political institution.

[2]Qomar-ud-Din Khan, "Al-Māwardī's Theory of the State," *Iqbal* 3, no. 3 (January 1955): 39; reprint, Lahore : Bazm-i Iqbal, n.d., 1

[3]H.A.R. Gibb, "Constitutional Organization," in *Law in the Middle East*, ed. Majid Khadduri and Herbert J. Liebesny (Washington, D.C.: The Middle East Institute, 1955), 4.

[4]Maḥmūd ᶜAbd al-Majīd al-Khālidī, *Qawāᶜid al-Niẓām wa al-Ḥukm fī al-Islām* (Kuwayt: Dār al-Buḥūth al-ᶜilmiyyah, 1980), 8.

Another factor that resulted in the controversy over the imamate is the fact that the concept of the imamate was first and foremost the result of real political development. From the very beginning, following the death of the Prophet, the Muslim community was challenged by a political crisis as to who should exercise leadership. The majority of the people believed that the Prophet did not nominate a successor and did not lay down any specific procedure by which his successor would be elected.[5] As to why the Prophet acted in such a manner, Arnold suggests that " It is more probable that he was a child of his age, and fully recognized the strength of Arab tribal feeling, which recognized no hereditary principle in its primitive forms of political life, and left the members of the tribe entirely free to select their own leader." [6]

In contrast, the Shi'ites claimed that just before his death, the Prophet declared his son-in-law, 'Alī, to be his successor. This claim is based principally upon their account of an event at Ghadīr Khūm which took place in the month of Dhū al-Ḥijjah in the year 10 A.H.[7] If this account is justified, why did not 'Alī demand his right after the death of the Prophet? To this question,

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[5]Ibn Qutaybah, *Al-Imāmah wa al-Siyāsah* (Beirut: Dār al-Ma'rifah, n.d.) 1: 19; Thomas W. Arnold, *The Caliphate* (Oxford: The Clarendon Press, 1924; reprint, New York: Routledge & Kegan Paul, Ltd., 1965), 19; Bernard Lewis, "Politics and War," in *The Legacy of Islam*, ed. Joseph Schacht and C.E. Bosworth (New York, London, Toronto: Oxford University Press, 1974), 157.

[6]Arnold, *The Caliphate*, 19.

[7]Dwight M. Donaldson, *The Shi'ite Religion* (London: Luzac & Co., 1933), 1; 'Allamah Tabataba'i, "The Imam and the Imamate," in *Shi'ism: Doctrines, Thought and Spirituality*, ed. Seyyed Hossein Nasr, Hamid Dabashi and Seyyed Vali Reza Nasr (Albany: State University of New York Press, 1988), 160; Moojan Momen, *An Introduction to Shi'i Islam* (New Haven, London: Yale University Press, 1985), 15.

the Shiʿites maintained that "ʿAlī was too gentle to cope with the prevailing deceit and treachery."[8]

Apart from this controversy about Ghadīr Khūm, one cannot neglect the *Saqīfah* meeting in which different concepts of leadership were expressed. It was just after a serious and lengthy debate at *Saqīfah* that the Muslim community came to elect Abū Bakr as the first successor to the Prophet.[9] The way in which Abū Bakr was elected as the caliph was commonly viewed as fundamental, for it represented one of the main sources for conceptualization of an Islamic political thought in later times with the notable exception, of course, of the Shiʿite concept of the imamate. The method of election was that the ruler was selected through nomination, mutual consultation and an oath of allegiance by the community.[10] In other words, the political system relied on the consent of the community. These principles did not change throughout the period of the Rightly-Guided Caliphs (*al-Khulafāʾ al-Rāshidūn*).

It should be mentioned that the reigns of ʿUthmān and ʿAlī, the last two of the Rightly-Guided Caliphs, were plagued by dissension, factionalism and civil wars. The unity of the Islamic state was fragmented with the appearance of religious and political groupings polarized by the question of the legitimate political authority of the head of state and the succession to the office of the caliphate.

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[8]Andrea M. Farsakh, "A Comparison of the Sunnī Caliphate and the Shiʿī Imamate," *The Muslim World* 59, no. 1 (January 1969): 55.

[9]See Ibn Qutaybah, *Al-Imāmah wa al-Siyāsah*, 1: 12-7; Ḥasan Ibrāhīm Ḥasan, *Al-Nuẓum al-Islāmiyyah* (Cairo : Maktabat al-Nahḍah al-Miṣriyyah, 1939), 33-5, for a discussion of the extent to which this debate took place.

[10]Paydar Manouchehr, "Aspects of the Islamic Norms and Political Realities," (Ph.D. Diss., University of Utah, 1972), 43.

The end of the first civil war witnessed the emergence of political factionalism based on different political views. The Khawārij, a group which originated from ᶜAlī's army, but rejected his decision to accept arbitration,[11] and who eventually became distinct sects, was the first faction. They advocated among other things the free election of the caliph by the Muslim community and maintained that the caliph could be any member of the Muslim community who fulfilled the requirements of competence and justice.[12] The caliph was not restricted by other considerations such as family, social status, race or sex; he, therefore, could be a freeman or a slave, Arab or non-Arab. Indeed, they held the view that obedience to the caliph was incumbent upon Muslims as long as he acted justly and rightly; if not, it was obligatory to rebel or depose him from the office.[13]

At the opposite extreme were the Shiᶜites, staunch supporters of ᶜAlī who may at this early time more properly be called "Proto-Shiᶜites," to use Arjomand's term.[14] As proved by Marshall G.S. Hodgson, they began as a minority party and could not in some ways be called an exclusive sect because divisions among Muslims with comprehensive perspectives of the faith did not yet exist. And it was only some two or three centuries later, that they were

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[11]This arbitration took place in Adruh between ᶜAlī and Muᶜāwiyah following the battle of Siffīn. Basing themselves upon a slogan "There is no rule except that of Allāh," the Khārijī maintained that those who accepted this arbitration had violated the ordinance of Allāh and were regarded as infidels.

[12]Akram Ruslan Dairanieh, "The Classical Concept of State in Islam," (Ph.D Dissertation, Howard University, 1975), 144; Abul Ala Maudoodi, "Political Thought in Early Islam," in *A History of Muslim Philosophy*, ed. M.M. Sharif (Wusbaden: Otto Harrassowitz, 1963), 668.

[13]Maudoodi, *Political Thought in Early Islam*, 668.

[14]Said Amir Arjomand, *The Shadow of God and the Hidden Imam*, Publication of the Center for Middle Eastern Studies, 17, ed. Richard L. Chambers (Chicago, London: The University of Chicago Press, 1984), 33.

divided into several exclusive sects distinguished by specific characteristics.[15]

Unlike the Khawārij, the Shiʿites maintained that legitimate succession to the

caliphate belonged solely to the descendants of ʿAlī through a divine hereditary

designation. [16] The Shiʿite plus the Khawārij opposition to the established

caliphate, although each was independent of the other, became a source of major

difficulties for the ruling power and often created chaos in the state's affairs

throughout the Umayyad caliphate.

The majority of Muslims, although disturbed by the series of civil wars,

political assassinations and violence, reconciled themselves to the status quo.

They were concerned about the the restoration of order and the maintenance of

Islamic unity.[17] They disagreed with the Shiʿites in regard to the divine

authority of the caliph and with the violent activities of the Khawārij. They gave

their support to the Umayyads; they became, according to Fazlur Rahman, "the

King Party, referring to those who accepted the rulership of Muʿāwiyah."[18]

Having taken a middle stand between the two extremes of the Shiʿite and

Khawārij, they adopted the consensus of the community as a source for political

legitimacy.

In so far as the method of electing the caliph was concerned, the

significant change occurred when political power was transferred to the house

of the Banū Umayyah, the Umayyads. This significant change was embodied in

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[15]For more detail see, Marshall G.S. Hodgson, "How Did The Early Shiʿa Become Sectarian?," *Journal of The American Oriental Society* 75 (1955): 1-13; see also W. Montgomery Watt, "Shiʿism Under the Umayyads," *The Journal of the Royal Asiatic Society* (1960): 158-72.

[16]Dairanieh, "Classical Concept of State in Islam," 143-4.

[17]Muḥammad S. El-Awa, *On the Political System of the Islamic State* (Indianapolis: American Trust Publications, 1980), 61.

[18]Fazlur Rahman, "The Post-Formative Developments in Islam," *Islamic Studies* 1, no. 4 (December 1962): 3.

the introduction of the hereditary principle to the office of the imamate by Muᵓāwiyah, the founder of the Umayyad dynasty.[19] Although this change was clearly contrary to the practice of the previous caliphs, hereditary succession continued throughout the caliphal period, in the reigns of both the Umayyads and the Abbasids.

The change in the political system from the "patriarchal to the monarchical" pattern was further complicated by another political development. That was the rapid expansion of Islam throughout Arabia and other parts of the Middle East, Mesopotamia, North Africa and Central Asia which resulted in new circumstances. The presence of conquered peoples consisting of Persian and Byzantine subjects who were culturally different from the Muslims, within the Islamic empire accelerated a cultural interaction.[20] This cultural interaction created the possibility for the inter-change of information among the people in almost all aspects of human life. The adoption of some of the Perso-Byzantine court ceremonies and the formation of judicial institutions-the market inspector and the judge's courts by the Umayyads-indicated the extent to which such an inter-change took place.[21] In such a process, it is not hard to imagine that certain external influences, Hellenistic and Sassanian patterns of government for example, were embodied in the conceptualization of the imamate. Gibb points out that "During the Umayyad caliphate, among the influences which were

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[19]Arnold, *The Caliphate*, 22; Bernard Lewis, *The Arabs in History* (New York: Harper and Row, Publishers, 1967), 66.

[20]Ira M. Lapidus, "The Arab Conquests and The Formation of Islamic Society," in *Studies on the First Century of Islamic Society*, ed. G.H.A. Juynboll (Carbondale, Edwardsville: Southern Illinois University Press, 1982), 67.

[21]John L. Esposito, *Islam and Politics*, Contemporary Issues in the Middle East (Syracuse: Syracuse University Press, 1984; reprint, 1991), 15.

shaping the governing institution of Islam, were in the earlier period the Hellenistic, and towards its end the Sasanian, traditions of government."[22]

Coupled with the Umayyads' efforts at the establishment of a central authority and a dependable system of control over the vast territories based on an "Arabism policy", there were increasing demands for the equality of all members of the Islamic community regardless of race and for economic reforms. This is a logical development when any expanding movement reaches the limits of its expansion.[23] A strong demand for a broader scope of state machinery that could adapt itself to the new reality came onto the scene. The fall of the Umayyads was caused primarily by their failure to fulfill these demands.[24] This trend had been successfully manipulated by the Abbasid propagandists in launching their revolution against the Umayyads. The Abbasids brought hope of reforms to achieve an equal distribution of power and wealth among the people. The concept of the divine rights of king was employed to attain these goals.[25]

As far as the structure of the state was concerned, there was no significant change, for the Abbasid administration and the state machinery which was developed by the Umayyads were strongly influenced by the Sasanian form of government.[26] However, the strong leaning of the Abbasid

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[22]H.A.R. Gibb,"The Evolution of Government in Early Islam," *Studia Islamica* 4 (1955): 16.

[23]Gibb, "Evolution of the Government," 5.

[24]Herbert Mason, "The Role of the Azdite Muhallabid Family in Marw's Anti-Umayyad Power Struggle," *Arabica* 14 (1967): 193.

[25]A.K.S. Lambton, "Islamic Political Thought," in *The Legacy of Islam*, Ed. Joseph Schacht and C.E. Bosworth (Oxford: The Clarendon Press, 1974), 407; S.D. Goitein, "A Turning Point in the History of the Muslim State," *Islamic Culture* 22 (1949): 130; idem, *Studies in Islamic History and Institutions* (Leiden: E.J. Brill, 1966), 156.

[26]Lewis, *Arab in History*, 63-4.

dynasty, at least in the early period towards bringing religious matters into the structure of government and the expanded possibility for non-Arabs to share power in the government brought about a new religio-political development in the state and facilitated the perpetuation of Abbasid power. Having presented themselves as belonging to the family of the Prophet, or more precisely to the descendants of al-ᶜAbbās, the Prophet's uncle, as the basis of legitimacy, the Abbasids began to crush the radical wings, the Shiᶜite and Khawārij, and other rival powers. On the other hand, in turning the reform of the state into reality, they attached themselves to religious orthodoxy, while maintaining an emphasis on the theocratic nature of the state.[27]

It was in this transitional period between the Umayyad and the Abbasid caliphates that a number of theoretical formulations on the nature of the imamate and Islamic government were elaborated by Muslim jurists, philosophers and administrators. The fall of the Umayyads and the rise of the Abbasids confronted the community with a question: what is the nature of the Islamic state? To some extent, their elaborations represented a combination between Islam as a basic doctrine and pre-existing concepts of the state, namely Hellenistic and Sassanian traditions, in the light of real political development; and of course these elaborations varied according to the emphasis in their conceptualization. As Lambton points out, for jurists, the what becomes orthodox Islamic teachings based on the *Qur'ān*, the Prophet's traditions, and some of the practices of the early Muslim community were more emphasized than others. While philosophers were concerned more with philosophical discussions than with religious norms, others such as administrators,

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[27]D. Sourdel, "Khalīfa," in *The Encyclopaedia of Islam*, ed. C.E. Bosworth, E. Van Douzel, W.P. Heinrichs (Leiden: E.J. Brill, 1989) 4: 939.

emphasized the divine right of the caliph and practical ways of dealing with the nature of the Islamic state.[28]

The rise of the Abbasid caliphate did not, however, succeed in barring the appearance of conflicting ideas about the nature of the imamate. As suggested by Montgomery Watt, for instance, in the early Abbasid Caliphate, there were two rival groups, "the autocratic and constitutionalist blocs," each of which produced different ideas.[29] The autocratic bloc maintained that an autocratic caliph is necessary to rule over the vast territory in which he could promulgate any necessary law regarding the state's affairs, while constitutionalists, who consisted of the people who insisted on maintaining the Prophet's tradition, were willing to limit the caliph's power by the divine law. This, in turn, resulted in controversy over obedience and disobedience to the caliph.[30] The first bloc mostly encouraged blind obedience to the caliph regardless of whether he acted in accordance with the divine law or not. In contrast, the latter employing the tradition that "there is no obedience to the creature who disobeys God," attempted to make the caliph subject to the tenet of the divine law under which the caliph should act in accordance with the revealed law.

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[28]A.K.S. Lambton, *State and Government in Medieval Islam, An Introduction to the Study of Islamic Political Theory : The Jurists*, London Oriental Series, 36 (Oxford, New York, Toronto: Oxford University Press, 1981; reprint 1985, 1991), xvi-xvii.

[29]W.Montgomery Watt, *Islamic Political Thought*, Islamic Surveys 6 (Edinburgh: Edinburgh University Press, 1961), 67, 74, 85; idem, *The Formative Period of Islamic Thought* (Edinburgh: Edinburgh University Press, 1973), 174.

[30]This controversy was well recorded by Ibn al-Muqaffaᶜ in his *Risālah fī al-Saḥābah*. See Muḥammad Kurd Amīn, ed., *Risālāt al-Bulaghāʾ* (Cairo: Maṭbaᶜat Lajnat al-Taʾlīf wa al-Tarjamah wa al-Nashr, 1954), 120-1.

It is necessary to note only that a philosophical approach towards the state came onto the scene and found its ground in the hands of Mu°tazilite doctors. Although, at first, they favored the constitutionalist bloc, they later tended to support the autocratic bloc, and their philosophical discussions found a proper place in Shi°ite academic circles. They engaged only in a philosophical discussion which probably alienated them from the people.[31]

Concerning the imamate, the Mu°tazilites held that it was obligatory for the community to establish the imamate in order to organize its worldly affairs. The way the imām should be appointed rested with the community so that it was the community's choice which validated his appointment. Significant for the Mu°tazilite scholars was the duty for the community to rebel against or depose an unjust imām, with force if necessary, because otherwise public security and social justice would be compromised.[32]

Parallel with these conflicting ideas was the political reorientation within moderate Shi°ism, subsequently known as the Imāmiyyah (Twelvers), towards dealing with the concept of the imamate. Namely: the Shi°ites began to adopt a quietistic attitude concerning the political realities of the time. Muḥammad al-Bāqir and Ja°far al-Ṣādiq, the fifth and the sixth imams, are believed to have laid down the new principle that it was the permanent need for humankind to have a divinely guided imām who theoretically enjoyed both religious and political authority. However, his accession to the imamate was legitimized by explicit designation (naṣṣ) by his predecessor based on the special knowledge he

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[31]W. Montgomery Watt, "The Political Attitudes of the Mu°tazilah," *The Journal of the Royal Asiatic Society* (1963): 45-6.

[32]Maudoodi, *Political Thought in Early Islam*, 670; Wilferd Madelung, "Imāma," in *The Encyclopaedia of Islam*, ed. C.E. Bosworth, E. Van Dozel, W.P. Heinrichs (Leiden: E.J. Brill, 1989) 3: 1165.

possessed and was not necessarily dependent upon real political rule.[33] Together with this doctrine, orienting the Shiʿite followers to a more religious perspective received much emphasis. An element of cohesiveness developed among the followers that led to the appearance of a distinct sect. The role of the imām was mainly to give them guidance and to make the final decision in regard to all aspects of human life. Therefore, it was not necessary for the imām to rebel or to try to become de facto ruler.[34] In consequence, the imamate, which in earlier times had encouraged many oppositional movements and rebellions to occur, was now depoliticized and became a quietistic religious movement in a purer sense.[35] At the same time, the Shiʿite followers were allowed to serve an illegitimate government and in the case of a dangerous situation, they were even allowed to practice *taqiyyah* (dissimulating one's faith to assure survival).[36]

However, this does not mean that radical political attitudes which encouraged the use of armed force to establish the imamate disappeared. This radical tendency rather remained unchanged; in fact, it actually increased in the hands of Qarmathians and Fatimids. Both claimed to have originated from the same branch of the Shiʿite, the Ismāʿīlī, and they even had close ties at first in establishing a state independent of Abbasid control.[37] After the Fatimid conquest of Egypt in 969 A.D. and of Syria in the following year, their cooperation somehow broke off. In regard to the concept of the imamate, they were involved in a more speculative approach and emphasized the quality of the

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[33]Hodgson, "How Did The Early Shīʿa," 10-1; Madelung, "Imāma," 1166.

[34]Hodgson, "How Did The Early Shīʿa," 11.

[35]Arjomand, *Shadow of God*, 34.

[36]For further details, see Etan Kohlberg, "Some Imāmī-Shīʿī views on Taqiyya," *Journal of The American Oriental Society* (1975): 395-402.

[37]Farhad Daftary, "Carmathians," in *Encyclopaedia Iranica*, ed. Ehsan Yarshater (London: Routledge & Kegan Paul Limited, 1987) 4: 823.

hierarchical spirit of the imam in which he, as a religious as well as a political leader, became a mediator to explain and interpret the exoteric and the esoteric aspects of Islam.[38]

Following the growth of religious institutions slightly more independent of the state,[39] the constitutionalist bloc was strengthened. The emergence of the Muslim schools and various religious circles was particularly important because they brought the ʿulamāʾ into a decisive position to determine the proper interpretation of Islamic teachings. Not only did the ʿulamāʾ play their roles in governmental posts such as that of judge, but also, and seemingly more important, they directly kept in touch with the people and the problems which they faced. The people themselves eventually turned directly to the ʿulamāʾ for moral instruction and religious guidance. Such a relationship between the ʿulamāʾ and the people made the former capable of exercising considerable influence upon the latter whether in terms of religious, social or political matters. Realizing this fact, the caliph had no choice but to support the constitutionalist bloc if he did not want to lose the support of the people.[40] It was not until the end of the ninth century that the constitutionalist view was predominantly attached to the conceptualization of the imamate. It would, however, be far from the truth to set out the constitutionalists' political theory in a single form, for it is known that a variety of views concerning the imamate emerged among them.

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[38]Wilferd Madelung, *Religious Trends in Early Islamic Iran*, Columbia Lectures on Iranian Studies 4 (Albany: Bibliotheca Persica, 1988), 93-5; Farhad Daftary, "The Earliest Ismāʿilis," *Arabica* 38 (July 1991): 242.

[39]Lapidus devoted himself to the discussion of the nature of religious development in the early Abbasid period. See Ira M. Lapidus, "The Separation of State and Religion in the Development of Early Islamic Society," *International Journal of Middle Eastern Studies* 6, no. 4 (October 1975): 363-85.

[40]Watt, *Islamic Political Thought*, 85.

As guardians of those religious matters which affected the problems of the people, the constitutionalists were in a difficult position. On the one hand, they were obliged to maintain Islamic unity and the security of the public interest and to enforce the divine law in daily life; on the other hand, they were forced to justify the actual situation. Eventually, basing themselves upon an attitude of moderation in the understanding of any event and upon the infallible authority of consensus in the Muslim community which were both based on the revealed law and the political reality of the time, they developed a moderate and compromising doctrine regarding the imamate. Although in the early Abbasid times, most of constitutionalists adopted the view of the ᶜUthmāniyyah,[41] restricting the Rightly-Guided Caliphs to the first three caliphs, and rejecting the caliphate of ᶜAlī, by the middle of the ninth century they accepted ᶜAlī as the fourth caliph. Later the validity of the four Rightly-Guided caliphates became an unquestionable Sunnite political dogma as the most excellent imamate.[42]

At the same time, under the precepts of the less excellent imamate, constitutionalists found grounds on which to accommodate and justify the validity of the imamate which followed the Rightly-Guided caliphate.[43] It was an easy task for them, therefore, to participate in the state's affairs during the Abbasid period. However, their main concern was how to incorporate the revealed law into the state law and to make it the official standard in judging the state's problems.[44]

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[41]The ᶜUthmāniyyah were a party that consisted of loyal supporters of the Abbasids. This party was concerned to discuss political events that happened before and during the Abbasid Caliphate. So, it had nothing to do with ᶜUthmān, the third Rightly-Guided Caliph.

[42]Madelung, "Imāma," 1164; Lambton, *State and Government,* 17.

[43]Madelung, "Imāma," 1164; Lambton, *State and Government,* 17.

[44]Watt, *Islamic Political Thought,* 84-5.

This process of the conceptualization of the imamate continued throughout the entire period of the Abbasids and the Islamic empires which came afterwards. It is necessary to mention here that when the Abbasid caliphate reached its peak, Muslim scholars had fertile ground for conceptualizing the nature of the imamate. This is due to the fact that the Abbasid caliphate could be set up as a sound basis for determining what the Islamic political institution should be and according to which the detailed explanations of the nature of the imamate would be laid down. However, as soon as the Abbasid caliphate began to decline, and even worse, the caliph himself had fallen under the influence of his military guard and later become a puppet of a local dynasty, the Muslim scholars faced difficulties concerning whether they should maintain their previous views or take the new political realities into account in the conceptualization of the imamate. In such a situation, it is not surprising that some treatises on the nature of the imamate consisted of idealistic views which were widely separated from political reality; others were intended to maintain the established political structure of the time.

It was in this mainstream of Islamic political thought that al-Māwardī developed his concept of the imamate. His fulname was ᶜAlī b. Muḥammad b. Ḥabīb, Abū al-Ḥasan being his patronymic, and al-Māwardī his family surname.[45] He was born to an Arab family in Baṣrah, one of the great centers of Islamic learning in the Middle Ages, in 364 A.H./974 A.D. His birthday witnessed a phase in which the supremacy of the Abbasid caliphate declined and the caliph came under the tutelage of the Buwayhid dynasty.

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[45]Ibn al-Jawzī, al-Muntaẓam fī Tārīkh al-Mulūk wa al-Umam (Hyderabad: Dā'irat al-Maᶜārif al-Uthmāniyyah, 1359 A.H.) 8: 199-200; al-Baghdādī, Tārīkh Baghdād (Cairo: Maktabat al-Khanjī, 1931) 12: 102; Ibn al-Athīr, Al-Lubāb fī Tahdhīb al-Insān (Cairo: Bāb al-Khalq, 1356 A.H.) 3: 90.

Little information is available concerning al-Māwardī's childhood. What is available tells us that al-Māwardī had a close relationship with Aḥmad b. Abī al-Shawārib, a famed *qāḍī* of Baṣrah. This relationship developed in such a way that al-Māwardī regarded Ibn Abī al-Shawārib as a father, and he was in turn regarded by the latter as a son.[46] It is not impossible that this relationship might have influenced al-Māwardī's future judicial career at Baghdād, for it is known that Ibn Abī Shawārib, having been chosen by the caliph, occupied the highest judicial office of chief judge in Baghdād for 12 years.[47] Since he grew up and did his early study in Baṣrah, where grammarians, poets, theologians, ascetics, commentators of the *Qur'ān*, and transmitters of the Prophet's traditions gathered and resided, it is plausible to assume that these circumstances created a strong eclectic spirit which influenced his thinking. In Baṣrah, he is reported to have learned various Islamic sciences from the scholars and intellectuals of the time. He is said to have studied jurisprudence under Abū al-Qāsim ᶜAbd al-Wāḥid al-Ṣaimarī (d. 386 A.H.), a learned theologian and a leading Shafiᶜite jurist, and al-Ḥadīth under Ḥasan b. ᶜAlī b. Muḥammad al-Jabalī, a traditionist and jurisconsult of Baṣrah, Muḥammad b. ᶜAdī b. Zajr al-Minqarī, Muḥammad b. Muᶜallā al-Azdī.[48] When he moved to Baghdād, he continued the advanced study of jurisprudence, Arabic grammar, literature and poetry under Abū Muḥammad ᶜAbd Allāh al-Bāfī (d. 398 A.H.), a famous theologian of Baghdād

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[46] Ibn al-Jawzī, *al-Muntaẓam*, 8: 26.

[47] Ibn al-Jawzī, *al-Muntaẓam*, 7: 270, 8: 26.

[48] Al-Dhahabī, *Siyar Aᶜlām al-Nubalāʾ*, ed. Shuᶜayb al-Arnaʾūṭ and Muḥammad Naᶜīm al-ᶜArqasūsī (Beirut: Mu'assasat al-Risālah, 1986) 18: 64; Qazi Ahmad Mian Akhtar, "Al-Māwardī: A Sketch of His Life and Works," *Islamic Culture* 18, no. 1-4 (1944): 285.

and under Shaykh Abū Ḥamīd al-Isfarāyinī (d. 406 A.H.), an eminent Shafiᶜite jurist.[49]

Having concluded his studies in Baghdād and become well-read in various sciences: Qur'anic commentary, al-Ḥadīth, theology, Arabic literature and grammar and, last but not least, Islamic jurisprudence, he held the office of judge in various towns and was afterwards promoted to the high post of *Qāḍī al-Quḍāt* (Supreme Judge) at Ustuwā, a place north east of Nīshāpūr,[50] and eventually went back to Baghdād, where he was still in charge of the post of *Qāḍī al-Quḍāt*. Although the time of his departure from Ustuwā is not clear it can be definitely placed before the year 422 A.H./1031 A.D., for it is known that at sometime during the 1020s, al-Māwardī taught his pupils his *Adab al-Dunyā wa al-Dīn* in Baghdād. Furthermore, representing the Shafiᶜite jurists of Baghdād, he wrote his *Iqnāᶜ* at the order of the caliph al-Qādir (991-1031 A.D.), and the caliph himself had great praise for him.[51] It is not surprising that al-Māwardī was afterwards chosen as a counselor of the caliph concerning the appointment and dismissal of judges throughout the state. Of equal importance in considering his honorable position was that in the year 429 A.H./1038 A.D., the caliph gave him the title *Aqḍā al-Quḍāt* (the Most Eminent Judge or Grand

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[49]Ibn Khallikān, *Wafayāt al-Aᶜyān wa Anbāʾ Abnāʾ al-Zamān*, ed. Iḥsān ᶜAbbās (Beirut: Dār al-Ṣadr, n.d.) 3: 282; al-Subkī, *Ṭabaqāt al-Shāfiᶜiyyah al-Kubrā*, ed. Maḥmūd Muḥammad al-Ṭanāḥī and ᶜAbd al-Fattāḥ al-Ḥalābī (Cairo: ᶜĪsā al-Bābī al-Ḥalabī, 1967) 3: 303-4.

[50]Al-Dhahabī, *Al-ᶜIbar fī Khabar Man Ghabar*, ed. Fuʾād Sayyid (Kuweit: Dār al-Kutub al-Miṣriyyah, 1961) 3: 223; al-Ṣafadī, *Al-Wāfī bi al-Wafayāt*, ed. Muḥammad al-Ḥajīrī (Beirut: Maṭbaᶜat al-Mutawassiṭ, 1988) 21: 452; C. Brockelmann, "Al-Māwardī," in *The Encyclopaedia of Islam*, ed. Bosworth, C.E., E. Van Douzel, W.P. Heinrichs (Leiden: E.J. Brill, 1989) 6: 869.

[51] Yāqūt, *Kitāb Irshād al-Arīb ilā Maᶜrifat al-Adīb*, ed. D.S. Margoliouth (Cairo: Maṭbaᶜat al-Hindiyyah, 1928) 5: 408; al-Ṣafadī, *Al-Wāfī bi al-Wafayāt*, 21: 452.

Judge).[52] While some jurists such as Abū Ṭayyib, al-Ṭabarī and al-Ṣaimarī, who considered that al-Māwardī had usurped God's title, protested, he ignored their opinions and enjoyed the title until his death.[53]

In addition to his judicial career, al-Māwardī is said to have played an important role as a diplomatic emissary of the caliph entering into negotiations with the various princes, who were the *de facto* rulers of local dynasties, concerning their oath of allegiance to the caliph as well as serving on other peaceful missions.[54] It is reported that when al-Qā'im came to power as the 26th Abbasid Caliph of Baghdād in 422 A.H./1031 A.D., al-Māwardī was sent to Abū Kālījār b. Marzubān, the Buwayhid amīr, to ensure his oath of allegiance to the new caliph, and to have the caliph's name recited in the Friday sermon (*khuṭbah*) in his territory. This recitation was important, for it was the primary symbol of the caliph's sovereignty. Al-Māwardī had a difficult task when Abū Kālījār asked for the title *Sulṭān al-Muʿaẓẓam Mālik al-Umam* (The Great *Sulṭān*, Lord of the Nations) in return for his recognition of the new caliph. After a long discussion, al-Māwardī succeeded in convincing the amīr that such a title was suitable only for the caliph, and in return the amīr was given the title *Mālik al-Dawlah* (Lord of the State). Al-Māwardī's negotiation was successful, and he was given valuable gifts when he returned to Baghdād.[55]

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[52]A post of *Aqḍā al-Quḍāt* was for the first time created for al-Māwardī by the caliph in which the holder of this post seems to have been a special envoy of the caliph negotiating on his behalf with the local rulers or playing arbiter in the disputes among various princes and between the princes and the caliph. See Mafizullah Kabir, "Administration of Justice During the Buwayhids' Period," *Islamic Culture* 34, no. 1 (January 1960), 20.

[53]Yāqūt, *Irshād*, 5: 407.

[54]Ibn al-Jawzī, *al-Muntaẓam*, 8: 116; Lambton, *State and Government*, 83.

[55]Ibn al-Jawzī, *al-Muntaẓam*, 8: 65; Ibn al-Athīr, *Al-Kāmil fī al-Tārīkh* (Beirut: Dār al-Ṣadr, 1966) 9: 417.

Since the Islamic empire had been fragmented into several local dynasties and amīrs or sulṭāns had become *de facto* rulers, rivalry and wars inevitably occurred among them. A rivalry between Jalāl al-Dawlah and his nephew, Abū Kālījār, for instance, occurred when the latter annexed Irāq to his own territory. When the enmity between these two Buwayhid princes reached its peak and signs of war appeared, al-Māwardī was again sent by the caliph to make peace between them. Upon his intervention, the princes agreed to end their enmity.[56]

An equally important event occurred when the Abū Kālījār and the first Seljuq Sulṭān, Ṭughril Beq, were engaged in war against each other. Ṭughril succeeded in gaining control over Rayy after much destruction of life and property, and al-Māwardī was sent on behalf of the caliph on a mission of peace which again was concluded successfully.[57]

After the year 436 A.H./1045 A.D., however, the sources are silent regarding al-Māwardī's political activity, and it is very likely that he concentrated his energies on teaching and writing. He died in May 1058,[58] when Baghdād was in a terrible situation because al-Basāsīrī, a Shiᶜite Turkish general, had occupied the city, arrested the caliph and proclaimed the recognition of the Fatimid caliphate, instead of preserving the Abbasid caliphate.[59]

Given that al-Māwardī often got involved in political activities as the caliph's envoy, there can be little doubt that he won a special place in the eyes of the caliph and was, on the other hand, well acquainted with the political realities

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[56]Ibn al-Athīr, *Al-Kāmil*, 9: 455.

[57]Ibn al-Jawzī, *al-Muntaẓam*, 8: 116; Ibn al-Athīr, *Al-Kāmil*, 9: 522.

[58]Ibn al-Jawzī, *al-Muntaẓam*, 8: 200; Akhtar, "Al-Māwardī," 292.

[59]Al-Basāsīrī ordered the *khuṭbah*, a symbol of caliphal sovereignty, to be read for the Fatimid caliph, the black flag replaced by the white. See Ibn al-Athīr, *Al-Kāmil*, 9: 641; Ibn al-Jawzī, *al-Muntaẓam*, 8: 191-3.

of the time. The extent to which his political experiences are echoed in his political writings will be discussed later, although this issue will not necessarily be the focus of this study.

In the development of Islamic thought, most people think of al-Māwardī as a prominent figure; this judgment is not at all surprising, for he was one the most prolific writers in the field of the Islamic political thought. He composed several books, including *Naṣīḥat al-Mulūk*, a book which was intended to guide a ruler toward good behavior; *Adab al-Dunyā wa al-Dīn*, a work that discusses how one must act in dealing with worldly as well as religious affairs; *Tashīl al-Naẓr wa Taʿjīl al-Ẓafr*, a book designed as a guide about what should be done by the rulers when dealing with governmental affairs, a volume which was regarded as a kind of mirror for princes; *Qawānīn al-Wizārāt wa Siyāsat al-Mulk*, where he gives advice to the agents in the service of the caliph; and his magnum opus, *al-Aḥkām al-Sulṭāniyyah*, a monumental work intended to be a precise public law concerning the state's affairs.

As far as the theory of the imamate is concerned, al-Māwardī developed his theory in the above mentioned books, namely, *Adab al-Dunyā wa al-Dīn*, *Naṣīḥat al-Mulūk*, *Tashīl al-Naẓr wa Taʿjīl al-Ẓafr*, *Qawānīn al-Wizārāt wa Siyāsat al-Mulk* and his magnum opus, *al-Aḥkām al-Sulṭāniyyah*. Systematically, however, al-Māwardī's main views on the theory of the imamate are propounded in his *al-Aḥkām al-Sulṭāniyyah*. Although only a small portion of the treatise is devoted to the theory, while the rest is focused on the art of administration and the rules of government, this small portion is regarded as the first systematically developed theory of the imamate[60] and the first

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[60]Qomar-ud-Din Khan, "Al-Māwardī's," 1; Asghar Ali Engineer, "Islamic State Through Medieval Age," *Islam and Modern Age* 10, no. 3 (August 1979): 62-3; Watt, *Islamic Political Thought*, 101-2.

representative academic exposition of the concept of the imamate.[61] Its presence

is said to have marked a strong influence among Muslim political thinkers in the

medieval age. Explicitly or implicitly, this is borne out by the fact that many

Muslim thinkers base their writings upon al-Māwardī's *al-Aḥkām al-*

Sulṭāniyyah such as ʿAbd al-Raḥmān (d. 1193 A.D.), al-Nuwayrī (d. 1332

A.D.), and Ibn Jamāʿah (d. 1333 A.D.).[62]

In modern times, having been edited and published by Maxmillian

Enger in 1853, al-Māwardī's *al-Aḥkām al-Sulṭāniyyah* attracted the attention of

scholars. Consequently, numerous scholarly works appeared on the scene.[63] It

is necessary to note here, that in regard to the extent that historical circumstances

are echoed in this treatise, what Donald P. Little writes is true, that there are two

factions: the first asserts that this treatise totally disregards political

circumstances, while the other says otherwise, namely, that it was influenced by

the historical background.[64] Included in the first faction is Alfred Von Kremer

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[61]H.A.R. Gibb, "Al-Māwardī's Theory of the Caliphate," *Islamic Culture* 11, no. 3 (July 1937): 291; reprint in *Studies on the Civilization of Islam*, ed. Stanford J. Shaw and William R. Polk (Boston: Boston Beacon Press, 1962), 151; E.I.J. Rosenthal, "Some Aspects of Islamic Political Thought," *Islamic Culture* 22, no. 1 (January 1948): 1-2.

[62]John H. Mikhail, "Māwardī: A Study in Islamic Political Thought," (Ph. D. Diss., Harvard University, 1968), 99-101.

[63]It should be acknowledged here that having access to no works other than English and Arabic, I have had to neglect many valuable works. These works include : S. Keijer, *Mawerdi's Publiek en Administratif Regt van den Islam met een in leiding over de Toepasselijkheid van dat Regt in Nederlandsch Indie* (The Hague: H.C. Susan, 1862); Leon Ostrorog, *El-Ahkam es-Solthaniya: traite de droit public musulman*, introduction part (Paris: Ernest Leroux, 1906); Louis Gardet, *La cité musulmane* (Paris: Librairie Philosophique, 1954); Émile Tyan, *Institutions du droit public musulman : le califat* (Paris: Recueil Sirey, 1954); Idem, *Institutions du droit public musulman: sultanat et califat* (Paris: Recueil Sirey, 1957); Henri Laoust, "La pensée et l'action politique d'al-Māwardī (364-450/974-1058)," *Revue des Etudes Islamiques* 36 (1968): 11-92.

[64]Donald P. Little, "A New Look at al-Aḥkām al-Sulṭāniyya," *The Muslim World* 64, no. 1 (January 1974), 2-3.

who states that "although al-Māwardī drew upon his experience as a diplomatic agent in the service of the caliph, he wrote in total disregard of the political circumstances of the time and the possible danger that he might face from the Buyid rulers to his views." [65] Thomas W. Arnold holds the same opinion when he says that "Māwardī saw the caliphate at the lowest ebb of its degradation, and the theoretical character of his account of it is in striking contrast to the actual historical fact of the case."[66] H.K. Sherwani, having presented al-Māwardī's political thought as a representative of conservative Arabism, concluded that al-Māwardī entirely ignored the political changes before his very eyes, namely, the degradation of the Abbasid caliphate.[67]

Scholars such as H.A.R. Gibb, E.I.J. Rosenthal, Qomar-ud-Din Khan, Henri Laoust, A.K.S. Lambton, Saʿīd Binsaʿīd and Aḥmad Mubārak al-Baghdādī all represent the second faction who argue that the treatise was dictated by historical fact, the exigencies of his life and his political experiences. In the first part of his article, Gibb analyzes the reasons behind the composition of the treatise and concludes that this treatise was written at the request of the caliph in relation to his effort to restore the dignity of the Abbasid caliphate and to release himself from the tutelage of the Buwayhid prince.[68] Another reason given by Gibb in the last part of the article is based on the chapter, *Imārat al-Istīlāʾ*, where al-Māwardī justified the presence of the amirate by seizure under the principles of necessity and expediency. Even further, Gibb alleges that al-

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[65]See Little, "New Look at al-Aḥkām al-Sulṭāniyya," 2.

[66]Arnold, *Caliphate*, 70.

[67]A.K. Sherwani, "Some Precursors of Nizamu'l-Mulk Tusi," *Islamic Culture* 8 (January 1934): 34.

[68]Gibb, "Al-Māwardī's," 291-2.

Māwardī was the person who was responsible for twisting the sharīʿah to suit political necessity and expediency.[69]

Gibb's approach in this matter has been followed by many scholars. E.I.J. Rosenthal, for instance, views al-Māwardī's thought in the framework of general Islamic political development, particularly the influence of the doctrines of necessity and expediency, expounded by al-Māwardī, upon succeeding scholars, namely al-Ghazālī and Ibn Jamāʿah.[70] At the same time, Qomar-ud-Din Khan contrasts al-Māwardī's political thought with the ideals of Islamic political practice during the life of the Prophet and the Rightly-Guided Caliphs. In his view, al-Māwardī was heavily dependent upon the political reality of the time, therefore conceded a lot to it, instead of preserving the ideal values of an Islamic political system.[71] Of equal importance in applying this approach is Henri Laoust's thorough study which is a serious attempt to seek a correlation al-Māwardī's political thought with his political activities. Laoust concludes that al-Māwardī's political thought had a close relationship with the reassertion of the caliphal power during the reigns of al-Qādir (991-1031 A.D.) and al-Qāʾim (1031-75 a.D.).[72] More recently, this approach was strongly embodied in the work of Lambton. Having exposed al-Māwardī's *Imārāt* and *Wizārāt*, Lambton concludes that al-Māwardī could not avoid the political reality of the time which demanded a solution. The only way for him to achieve it was to wrap the power structure in the garb of Islamic teachings. This led al-Māwardī to give legal

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[69]Ibid., 299.

[70]E.I.J. Rosenthal, *Political Thought in the Medieval Islam* (Cambridge: Cambridge University Press, 1958), 27; Idem, "Some Aspects of Islamic Political Thought," 2.

[71]Qomaru-ud-Din Khan, "Al-Māwardī," 20-1.

[72]See Little, "New Look at al-Aḥkām al-Sulṭāniyya," 3-4.

authority to the amirate by seizure under the principles of necessity and expediency.[73]

Viewing the arguments advanced by the second faction, it is clear that the historical facts influenced him in composing the treatise. Although al-Māwardī, like many other Muslim scholars, was very much concerned with the maintenance of the Muslim community (*ummah*) under a single imamate, he was forced to look for an alternative, for the reality was that a number of Muslim states was ruled by a variety of amīrs having only a nominal loyalty to the caliphate. In fact, he did not have much choice but to accept this reality by justifying their existence and legitimacy which was so radically different from the ideal.

Another thing that is important to note is that the popularity of al-Māwardī's *al-Aḥkām al-Sulṭāniyyah* developed in such a manner that it inevitably resulted in a very narrow perspective on his political thought. This is apparent in the fact that almost all scholarly writings that have discussed al-Māwardī's political thought are based only on *al-Aḥkām al-Sulṭāniyyah.*. This trend is clearly apparent in the works of Von Kraemer, A.K. Sherwani, A.H. Siddiqi, Gibb, Rosenthal, Qomar-ud-Din Khan and Lambton. It is worth noting that Gibb, basing himself on *al-Aḥkām al-Sulṭāniyyah*, analyzed not only the reason behind the composition of the treatise, as already mentioned, but also al-Māwardī's political doctrines in the light of previous Sunnī political notions, especially Ashᶜarite doctrines as expounded in al-Baghdādī's *Uṣūl al-Dīn*. Rosenthal and Qomar-ud-Din were concerned with discussing al-Māwardī's political thought in the broader context of Islamic development and the development of Islamic political thought, while Lambton concentrated her

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[73]Lambton, *State and Government*, 102.

discussion only on al-Māwardī's *Imārāt* and *Wizārāt* with some comments on them.

Relying on these facts, it is not surprising that al-Māwardī's political thought has been classified as representing a juristic view toward the institution of the imamate. This conclusion is certainly justified by the fact that al-Māwardī in his *al-Aḥkām al-Sulṭāniyyah*, demonstrated a strong leaning toward juristic views in discussing the theory of the imamate. However, if one reads his political writings other than *al-Aḥkām al-Sulṭāniyyah* more thoroughly, one cannot deny the strong Hellenistic and Persian content in these writings. In his *Tashīl al-Naẓr wa Taʿjīl al-Ẓafr*, for example, al-Māwardī incorporated Persian and Hellenistic views concerning the concept of the state and its processes as well as the idea that rulers should behave correctly.

It is in the hands of John H. Mikhail[74] Saʿīd Binsaʿīd[75] and Aḥmad Mubārak al-Baghdādī[76] that al-Māwardī's political writings, other than *al-Aḥkām al-Sulṭāniyyah,* received satisfactory attention. Mikhail devoted himself almost exclusively to the relationship between revelation and reason in al-Māwardī's political thought. He also attempted to explore al-Māwardī's concept concerning the reaction to injustice. These matters are discussed in the light of previous, contemporary and succeeding approaches to this problem. Binsaʿīd in his study attempts to prove as to what extent Ashʿarite doctrines were echoed in

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[74]John H. Mikhail, "Mawardi: A Study of in Islamic Political Thought," (Ph.D. Diss., Harvard University, 1968).

[75]Saʿīd Binsaʿīd, *al-Fiqh wa al-Siyāsah, Dirāsat fī Tafkīr al-Siyāsī ʿind al-Māwardī* (Beirut: Dār al-Ḥaddāthah, 1982.

[76]Aḥmad Mubārak Al-Baghdādī, "The Political Thought of Abū al-Ḥasan al-Māwardī," (Ph.D. Diss., University of Edinburgh, 1981); idem, *Al-Fikr al-Siyāsī ʿInd Abī al-Ḥasan Al-Māwardī* (Beirut: Dār al-Ḥaddāthah, 1984).

his political writings. Al-Baghdādī concentrates his study on the analysis of each of al-Māwardī's political writings.

The present study, following Mikhail's, Binsaᶜīd's and al-Baghdādī's approach, aims at dealing with al-Māwardī's theory of the imamate drawing not only from his *al-Aḥkām al-Sulṭāniyyah*, but also from his other works which are related to the topic. This study will not aim at producing an original contribution to scholarly writing; rather it will attempt to expose al-Māwardī's theory of the imamate in a more comprehensive manner. Al-Māwardī's original works will be used extensively, while the result of earlier research including books and articles will also be utilized in the study.

Al-Māwardī's views of the imamate will be discussed in the first chapter of this study. This part will include the following matters: the necessity of the imamate, the requirements and duties of the imām, the system of succession and the deposition of the imām. The necessity of the imamate will be the first essential point to be considered. Is the imamate required by an injunction of the *sharīᶜah*, or is it required by reason? Many scholars such as Gibb, Rosenthal, Qomar-ud-Din Khan, and Lambton believe that in al-Māwardī's view the imamate is required by the *sharīᶜah*, while Mikhail and al-Baghdādī hold that the imamate is obligatory on the basis of both reason and revelation. This controversy will be critically discussed. In addition to the question of the necessity of the imamate, the qualifications and duties of the imām must also be considered. Among the other factors in so far as the qualifications of the imam are concerned, such as justice (*al-ᶜadālah*), and juridico-theological knowledge (*al-ᶜilm*), the requirement that the imām be a descendant of the Quraysh tribe remains an interesting point. Was the stipulation that the imām be Qurayshī intended to restore the dignity of the Abbasid caliphate, or was it a mere juristic

deduction? Furthermore, the system of succession is also important. The following questions will be considered : in what ways should the imamate be contracted?, who are to have responsibility and what will be their qualifications in choosing the imām?, and, what are the processes which apply to the appointment of the imām? In regard to the deposition of the imām, a number of questions arise: what are the factors that can lead to the deposition of the imām?, what is the legal process that enables the people to depose him?, who have the responsibility of declaring that deposition?, what is to be done after the deposition?, what are the significant points that al-Māwardī makes in regard to these matters?, are there any historical justifications for his opinions, or are they juristic deductions?

The last point that will be discussed in this study is the concept of the imām's auxiliaries; i.e., the discussion will focus on the wazirate and the amirate. Apart from describing the functions of these offices and the qualifications of the office holders, the discussion will stress the nature of the relationship between the wazirate and the amirate, on the one hand, and between both wazirate and amirate and the imām, on the other hand. The question must be asked: do these relationships represent an imperative or consultative line?

Chapter One

THE INSTITUTION OF THE IMAMATE

The Origin and the Necessity of The Imamate.

The debate about the origin of the imamate has occupied Muslim thinking for many centuries. It began when the Muslim community was challenged by controversial issues concerning the nature of the imamate as an organized and orderly political institution. When discussing issues such as the validity of the Rightly-Guided Caliphs, the legitimacy of subsequent caliphates, and the question of who should be legitimately in charge of the office, it was inevitable that a discussion about the origin of the imamate would surface. Since the controversy over the nature of the imamate is the product of religious, political, social and cultural factors, it follows that a discussion of its origin also emphasized those issues.

Al-Māwardī's view of the origin of the imamate significantly departs from two basic arguments which were given in different places in his treatises. First of all, he adduces an argument that the imamate was derived from the consensus of the community, or that it may be called a "social contract" in modern sense. But he also sets forward another argument that the imamate was derived directly from God through delegation. As for the first argument, he begins to develop his concept of the origin of the imamate by discussing the nature of humankind in terms of the relationship between men in a society. Al-Māwardī asserts that God created man as a social being who cannot live alone, for he was created in need of others.[1] Al-Māwardī even argues that, in

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[1] Al-Māwardī, *Adab al-Dunyā wa al-Dīn*, ed. Muṣṭafā al-Saqqā (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1973), 132.

comparison with other creatures, man is the most in need of outside help, because many animals, for instance, can live alone, independent from other animals of their species. Since man always needs others, this mutual interdependency is continual and everlasting.[2]

In order to survive, man has innumerable needs to fulfill. His needs for food, drink, clothing, shelter and so forth are almost without limit. For this purpose, God has provided men with basic material requirements to make their life on earth possible; but these basic material requirements were not ready yet to use. Therefore, God has imbued them with reason that leads to knowledge which enables them to use these basic material requirements efficiently.[3] Yet, since man's needs are numerous, man becomes weak and he is neither physically nor mentally capable of satisfying his needs alone. He, therefore, needs the cooperation of others in procuring his needs.[4]

On the other hand, says al-Māwardī, there are natural differences in mental and material abilities among men. These differences form the basis which makes cooperation necessary, for if men were equal, mutual interdependence would not be necessary, and societies would not exist.[5] However, these differences also create competition and consequently bring about conflicts. Al-Māwardī asserts that "there is in the nature of man a love of competition and a striving for that which he prefers, a desire for subduing those whom he opposes, such that he is not restrained except by a powerful and persistent deterrent."[6]

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[2]Ibid.

[3]Ibid., 133.

[4]Ibid., 132.

[5]Ibid., 135.

[6]Ibid., 137.

While independently pursuing their various needs, aims and interests, men may clash and collide. Different persons may wish to do the same thing or possess the same object. Each seeks to gain as many advantages as possible and subdue his rival, since it is almost impossible for all to attain equal satisfaction. Their ambitions, then, bring them into conflict which must be restrained if they are to survive.

In spite of the fact that God has given men reason and revelation (religion), which should be sufficient guidance for solving their conflicts and problems, reason and revelation are often overcome by their passions.[7] Under such circumstances, men might come to an agreement to help each other and to choose a person as their ruler who will act as an intermediary for composing their conflicts. In carrying out his duties, this ruler makes and enforces the laws that will restrain conflicts. In Māwardī's view, this ruler, who acts as a competent authority, is the most effective means of dealing with differences, human passions and contentions. Through his presence, divergent passions and contentions are reconciled.[8]

When this agreement remains constant, the method by which the people are satisfied develops into practices and procedures which must be repeated continually. By virtue of repetition. these practices and procedures become accepted and institutionalized as the rules of the game. In a broader context, because of the group dynamics under which people co-operate and compete, rules are developed into an organized and systematic institution which guarantees an orderly process for managing differences and contentions. In other words, the differences in men's natures, the inherent diversity of their

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[7]Ibid.
[8]Ibid.

passions, and the divergence of their opinions would be reconciled through an organized political institution. This is the basis upon which the imamate, as a systematic and organized political institution was established.[9] Munawir Sjadzali was therefore right when he said that the birth of the state in al-Māwardī's view was due to mankind's desire to meet common needs and to settle conflicts among them.[10]

To a certain degree, al-Māwardī's argument about the origin of the imamate, as already remarked, bears a similarity to arguments made by Muslim philosophers regarding the interdependence of individuals in a society and the society's subsequent development into a state. Al-Fārābī (d. 950), for example, states that there must be a state because man is in need of others. Alone, he cannot attain the necessities of life or his perfection and happiness which is the ultimate perfection; he depends on the help of others of his kind.[11] In order to achieve these goals, it is inevitable that men in a society must have a person (ra'īs) who is able to lead them to do so. This person, however, has to have power and supreme knowledge which enable him to guide and arouse another to achieving such goals.[12] So, the rule of this person is the supreme rule, and other human rulerships are inferior to it. If they form a nation, then the nation

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[9]Ibid.

[10]Munawir Sjadzali, *Islam dan Tata Negara* (Jakarta : UI Press, 1990), 61; its English version can be found under the title *Islam and Governmental System* (Jakarta: Indonesian-Netherlands Cooperation in Islamic Studies, 1991), 44.

[11]Abū Naṣr al-Fārābī, *Kitāb Arā' Ahl al-Madīnah al-Faḍīlah*, ed. Albīr al-Naṣrī Nādir (Beirut: Dār al-Mashriq, 1985), 117; idem, "The Political Regime," tran. Fauzi M. Najjar, in *Medieval Political Philosophy*, ed. Ralph Lerner and Muhsin Mahdi (New York: The Free Press, 1963), 32. See also E.I.J. Rosenthal, *Political Thought in the Medieval Islam* (Cambridge: Cambridge University Press, 1958), 125-6.

[12]Al-Fārābī, *Kitāb Arā'*, 122.

which is governed by the rule of this person is the virtuous nation. This is what al-Fārābī called "the unit of perfect assemblages, i.e., city or state."[13] Ibn Miskawayh (d. 1030) was another Muslim philosopher with an argument similar to al-Māwardī:

> Man is social by nature, which means that he needs a city with a large population in order that he may be able to realize perfect *saꜤādah* whether at the individual or at the social levels...A society having such ideals is bound by the very logic of its existence to develop into a state.[14]

It is important to note that al-Māwardī differs from al-Fārābī in his conception of the head of the state. In al-Māwardī's reading, the head of the state assumes his position as a result of a contract made by the people on the basis of consensus, while al-Fārābī's conception of the matter is attained through the ruler's possessing superior natural disposition, power and knowledge.[15] Furthermore, the head of the state in al-Māwardī's view does not dictate to his subjects their needs and their particular forms of happiness; while al-Fārābī holds that the head of the state is arbiter of individual destinies and not only determines the status of various classes of the society, their rights and duties, but also their ends and objectives.[16] In both cases, al-Māwardī and Ibn Miskawayh were of the same opinion.

In the light of the above analysis, there can be no doubt that al-Māwardī based his argument about the origin of the imamate on a contract made by the

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[13]Haroon Khan Sherwani, *Studies in Muslim Political Thought and Administration* (Lahore: S.H. Muhammad Ashraf, 1942), 76.

[14]Ibn Miskawayh, *Tahdhīb al-Akhlāq* (Cairo: al-MaṭbaꜤah al-Ḥasīniyyah, 1329 A.H.), 97-8; Badruddin Bhat, "Miskawayh on Society and Government," *Islamic Studies* 24, no. 1 (Spring, 1985): 29-36.

[15]Al-Fārābī, *Kitāb Arāʾ*, 122.

[16]Ibid., 119-21; Sherwani, *Studies*, 84-5.

people. It should not, however, be forgotten that he was probably not satisfied to use the contract as the sole basis leading people to establish an imamate. This is borne out by the fact that he sets up a different argument in his *al-Ahkām al-Sultāniyyah*:

> Truly, God (exalted be His omnipotence!) has delegated to the community a leader whom He has appointed as successor to the Prophet and through whom He protects religion. He has entrusted to him the government in order that all regulation proceed from lawful religion and that all opinion follow an authoritative voice.[17]

In the above statement, the origin of the imamate is derived directly from God because the authority of the imam as His agent has been delegated by Him. This delegation includes not only religious matters,[18] but governmental affairs as well. A corollary of this statement is that the imamate, as an institution in which the imam rules as a delegate of God, originated from God. Since God's will is believed to be embodied in the *sharīᶜah* (the revealed law), this leads to the conclusion that the imamate is derived from the *sharīᶜah* itself.

Al-Māwardī argues as follows: given that religion was often challenged by innovations that twisted its truth, the orderly processes of organized political institutions were often disturbed by disagreements and conflict of interests among the people. The pattern of history has been that the people often suffered when political instability occurred, the institution of the imamate as an organized

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[17]Al-Māwardī, *al-Ahkām al-Sultāniyyah*, ed. Maxmillian Enger (Bonn: Adolphus Marcus, 1853), 2; translated as in Darlene Rae May, "Al-Māwardī's al-Ahkām al-Sultāniyyah: A Partial Translation with Introduction and Annotations," (Ph.D. Diss., Indiana University, 1978), 133. Hereafter, references to this translation will be given in brackets next to the references to the original Arabic.

[18]It should be mentioned that this statement does not necessarily imply that the imam has an exclusive right to deal with theological as well as legal matters, for it is known that these matters are usually accomplished by ᶜulamāᵓ.

political institution is therefore obligatory.[19] As to whether the imamate is obligatory by reason or by the revealed law, al-Māwardī points out that there are differences of opinion. It is necessary to quote al-Māwardī's words on this point, since modern scholars have disagreed on their interpretation.

> There is a difference of opinion about the imamate's obligatory nature: whether it is obligatory by reason or by the revealed law. One group says that it is obligatory because of the disposition of rational people to submit to a leader who could prevent them from committing injustice against each other and would judge among them in cases of contentions and quarreling. Were it not for leaders, the people would surely find themselves in a state of anarchy, negligent and like a group of lost savages...Another group says, No, rather it is obligatory by the revealed law without the use of reason because the imam executes matters of the revealed law, and while reason would not permit him to reject the pious observance of them, it does not render them obligatory. On the contrary, reasoning makes it the duty of every rational person to prevent himself from causing injustice to another and severing relations with him and to apply the rules of justice in resolving litigations and continuing relations. For the rational person reflects with his own reasoning, not with the reasoning of others. But the revealed law delegated these matters to the rational person's guardian in religion.[20]

Because al-Māwardī's opinion regarding the necessity of the imamate is not explicitly stated, scholars have come to disagree about it. Gibb was the first to question al-Māwardī's opinion on the necessity of the imamate. He argues that in al-Māwardī's view the imamate is made necessary by the injunction of the *sharīᶜah*.[21] Gibb's view seems to have derived from his understanding of the general trend of Islamic political thought and the orthodox Sunnī doctrine in particular. Central to his thought is the view that "at the root of all Islamic

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[19]Al-Māwardī, *Aḥkām* 3; idem, *Adab*, 138.

[20]Al-Māwardī, *Aḥkām*, 5.

[21]H.A.R. Gibb "Al-Māwardī's Theory of the Chaliphate," *Islamic Culture* 11, no. 3 (1937); reprint in *Studies on the Civilization of Islam*, ed. Stanford J. Shaw and William R. Polk (Boston: Boston Beacon Press, 1962), 155.

political concepts lies the doctrine of the Umma."[22] He points out that "It is of essence of Sunnī doctrine that the Umma, the historic community, is based on the Sharia, that its historical development is divinely guided, and its continuity guaranteed by the infallible authority of ijmāᶜ."[23] From this basic reading that the Muslim community is based on the *sharīᶜah*, he goes so far as to say that "The Sharia, and by the common acceptance of its prescriptions and their implications on the part of all Muslims, supplies the authority, sanctions, and moral basis for the unity and constitution of the Umma as a political entity."[24] So, there seems to be no reason to doubt that the imamate, as a political entity that represented the supreme leadership of the Muslim community, is based on anything other than the *sharīᶜah*.

To rationalize this doctrine, it was incumbent upon the jurists and theologians, as guardians of the religious institutions, to construe the legal precepts of political organization in order to address political realities. The rationalization of the basic doctrine on the one hand, and of political realities on the other, was inevitable in order to bring the doctrine down to earth. Part of this rationalization was the acceptance of the existing caliphate as the supreme leadership of the Muslim community and acceptance of the existence of a number of the Muslim states and their legitimacy.[25]

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[22]Gibb, "Constitutional Organization," in *Law in the Middle East*, ed. Majid Khadduri and Herbert J. Liebesny (Washington: The Middle East Institute, 1955), 3.

[23]Gibb, "Some Considerations on the Sunnī Theory of the Caliphate," *Archives d'Histoire du Droit Oriental* 3 (1939): 401; reprint in *Studies on the Civilization of Islam*, 141.

[24]Gibb, "Constitutional Organization," 4.

[25]Ibid.

On the basis of this assumption, Gibb situates al-Māwardī in a general trend of juristic political theory, thereby arriving at the conclusion that al-Māwardī believed the imamate was mandated by the *sharīᶜah*. This is not to say that, in Gibb's reading, al-Māwardī was the representative Sunnī political figure, for he believed that al-Māwardī represented only the Ashᶜarī tradition of Islamic political thought.[26]

Gibb's argument has been embraced by many scholars such as Qomar-ud-Din Khan and A.K.S. Lambton,[27] and most notably, E.I.J. Rosenthal, who states that al-Māwardī's justification for the imamate on the basis of revealed law is supported by three passages in the Qurʾān (Q, II, 28; IV, 62; and XXXVIII, 25).[28]

This interpretation of al-Māwardī has been challenged by John H. Mikhail who thoroughly researched all of al-Māwardī's political writings.[29] Having found that the spheres of reason and revelation in al-Māwardī's thought are not mutually exclusive but are instead overlapping, he contends that al-Māwardī's imamate is necessary not only by the *sharīᶜah*, but also by reason.[30] To Mikhail, it is significant to consider al-Māwardī's statement that "concluding

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[26]Gibb,"Some Considerations," 142.

[27]Qomar-ud-Din, "Al-Māwardī," 60; Lambton, *State and Government*, 86. Both took Gibb's opinion for granted without setting forward an argument on the matter.

[28]E.I.J. Rosenthal, "Some Aspects of Islamic Political Thought," *Islamic Culture* 22, no. 1 (January 1948): 3; Idem, *Political Thought*, 28. The first verse talks about the creation of Adam as God's caliph on the earth; the second enjoins obedience to those set in command among Muslims; and the last describes the position of David as the religious and political leader, the caliph of God on the earth.

[29]John H. Mikhail, "Māwardī: A Study in Islamic Political Thought," (Ph. D. Diss., Harvard University, 1968).

[30]Ibid., 32.

the contract of the imamate with the one who is carrying it out in the community is considered obligatory by *ijmāʿ*.[31] The term "*ijmāʿ*," asserts Mikhail, is the only clue to al-Māwardī's stand on the question of the necessity of the imamate on which his opinion can be justified. Starting with and eventually being convinced by his finding that al-Māwardī was neither a Muʿtazilite nor an Ashʿarite, but that he was an independent thinker who put revelation and reason together as a means for the validity of theological and judicial matters, [32] Mikhail concludes that "though it is not explicitly stated, the basis of *ijmāʿ*, as may be deduced from Māwardī's views expressed elsewhere, is both reason and revelation."[33]

Mikhail's conclusion has been supported recently by Aḥmad Mubārak al-Baghdādī. The term "nadaba" which means "to give," or "to delegate power," as expounded in the *al-Aḥkām al-Sulṭāniyyah*, is, according to al-Baghdādī, a key term in understanding al-Māwardī's position. Al-Baghdādī argues that al-Māwardī's statement that "God has delegated the community a leader" could mean that He delegated him in such a way that leadership could be accomplished through revelation. But it could also mean that He delegated him in a manner to be achieved through reason.[34] He further concludes that the obligatory nature of the imamate in al-Māwardī's view was established as being through either revelation or reason.[35]

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[31]Al-Māwardī, *Aḥkām*, 4.

[32]Mikhail, "Māwardī," 17-19.

[33]Ibid., 32.

[34]Aḥmad Mubārak al-Baghdādī, "The Political Thought of Abū al-Ḥasan al-Māwardī," (Ph. D. Diss., University of Edinburgh, 1981), 140; idem, *Fikr al-Siyāsī ʿind Abī al-Ḥasan al-Māwardī* (Beirut: Dār al-Ḥaddāthah, 1984), 112-3.

[35]Al-Baghdādī, "Political Thought," 144; Idem, *Fikr al-Siyāsī*, 113.

A close examination of al-Māwardī's political writings reveals that he takes no clear-cut position on the basis for the necessity of the imamate. As already mentioned, al-Māwardī only exposed the differences of opinion among scholars regarding the obligatory nature of the imamate without providing any comment on them. The only thing that can be assumed safely is that al-Māwardī did not altogether reject the possibility of setting up the imamate on the grounds of both revelation and reason. This is borne out by the fact that revelation and reason, in al-Māwardī's view, are indispensible toward definite behaviour beneficial to life on the earth. Al-Māwardī states that reason is the basis of all knowledge, virtues and the source of all cultures.[36] Religion is also considered one of the effective means to encourage people to good living and to desist from bad.[37] But at the same time, revelation and reason are often weak and overshadowed by conflicts, passions and contentions. As a consequence, a powerful ruler who will enforce the laws and restrain conflicts becomes apparent and necessary. In this case, departing from a different angle, I find myself inclined to support Mikhail's and al-Baghdādī's stand that al-Māwardī recognized both reason and revelation as sources for the creation of the imamate.

In this respect, al-Māwardī differs from al-Baghdādī (d. 1037), al-Juwaynī (d. 1085), and Ibn Farrā⁾ (d. 1066).[38] Al-Baghdādī and al-Juwaynī, basing themselves upon Ashᶜarite doctrine, explicitly state that the imamate is obligatory by the injunction of the *sharīᶜah* because the *sharīᶜah* prescribes the obligation to propagate and maintain the Prophet's message (Islam). Such an

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[36]Al-Māwardī, *Adab*, 19; idem, *Aᶜlām al-Nubuwwah*, ed. Tahā ᶜAbd al-Ra⁾ūf al-Saᶜd (Cairo: Maktabat al-Kuliyyāt al-Azhāriyyah, 1971), 9.

[37]Al-Māwardī, *Aᶜlām*, 18-9; al-Baghdādī, "Political Thought," 104.

[38]These scholars were contemporaries of al-Māwardī.

obligation cannot be accomplished without the presence of the imamate, while reason does not necessitate such an institution.[39] Ibn al-Farrā², whose al-Ahkām al-sulṭāniyyah bears striking similarity in content to al-Māwardī's work of the same title, although written in light of Ḥanbalī teachings, was of the same opinion that the obligatory nature of setting up the imamate is based on divine order (masmūᶜ), and not reason.[40] Contrary to their opinion, in no place can one find such an explicit statement in al-Māwardī's political writings. However, as already demonstrated, al-Māwardī seems to have held the opinion that the imamate is not only an institution sanctified by the sharīᶜah, but is also necessary according to reason. It appears that al-Māwardī took a middle stand in arguing the necessity of the imamate. He then moves on to say that "if the obligatory nature of the imamate is established, then its obligatoriness is binding on the collective body of Muslims, as is the Holy war and the seeking of knowledge. So, when someone who is worthy of it undertakes it, it is no longer an obligation for the rest of the community."[41]

Apart from this controversy, there can be no doubt that al-Māwardī's main objective in most of his political writings is to subordinate all governmental affairs to the direct command of the divine law, or, at least, to

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[39]See al-Baghdādī, Uṣūl al-Dīn (Istanbul: Dār al-Dawlah, 1928), 272; al-Juwaynī, Ghiyāth al-Umam, ed. Fuᵓād ᶜAbd al-Munᶜim and Muṣṭafā Ḥilmī (Iskandariyah: Dār al-Daᶜwah, 1979), 17.

[40]Abū Yaᶜlā b. Farrā², al-Ahkām al-Sulṭāniyyah, ed. Muḥammad Ḥamīd al-Fīqī (Cairo: Maṭbaᶜat Muṣṭafā al-Bābī al-Ḥalabī, 1938), 4. Since its publication by al-Fīqī, this treatise has caused serious polemics among modern scholars for its title and many of its chapters resemble those of al-Māwardī. For a more detailed comparison and contrast of these two works, see Donald P. Little, "A New Look at al-Ahkām al-sulṭāniyya," The Muslim World 64, no. 1 (January, 1974): 6-15; Aḥmad ᶜAbd al-Bāqī, "Kitābān fī al-Ahkām al-Sulṭāniyyah," Al-Thaqāfah 319 (February, 1945): 13-17.

[41]Al-Māwardī, Ahkām 4 (136).

ascertain that the imamate is not divorced from the spirit of the divine law. It is therefore not surprising when he says that the imamate should be exercised in accordance with the religious ordinances and traditions. Otherwise, it will be corrupting and oppressive.[42]

In line with this statement, al-Māwardī argues that the imamate is set up to provide leadership for the Muslim community in succession to the Prophet for safeguarding religion and governing worldly affairs.[43] Al-Māwardī believed that the imamate, as a permanent organized political institution, would create possibilities of fulfilling the divine commandments as expressed in the *sharīᶜah* and of regulating and maintaining peace and order so that the people would feel secure in satisfying their needs and settling their conflicts. In the absence of the imamate and a strong imam, there would be continuous turmoil and disorder in which the stronger would prevail over the weaker thus perpetuating tyranny. In contrast, through the imamate the principles of truth and goodness may be known, conflicts that might happen among the people might be satisfactorily settled, and the administration of worldly affairs might be properly effected.[44] One concludes, then, that the imamate is responsible for undertaking and overseeing all matters related to the preservation, implementation and propagation of religious teachings, i.e., Islam, and also for supervising all governmental affairs as the Prophet had done. Consequently, it is the holder of the imamate, the imam, who decides about and supervises all the affairs of this world.

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[42]Al-Māwardī, *Adab*, 134-5, Mikhail, "Māwardī," 35.

[43]Al-Māwardī, *Aḥkām* 3 (135).

[44]Ibid., 2 (133).

Having defined the scope of the imamate as a vice-regency of the Prophet, al-Māwardī attempts to clarify the foundation of the imamate by asserting that it rests on three necessary and interrelated foundations: religion, power and money.[45] The first, religion, is by far the strongest foundation which warrants for the imamate the sincere obedience of all people. [46] This principle implies that if the imamate ignores religion, its existence will quickly collapse for one of three reasons. The first is that if the imamate is held by a person who is not an expert, or at least who does not have respect for religious teachings, he will violate that which is religiously confirmed. In order to protect their religious values, the people will either disobey him, or obey him only in a very superficial way, while in their hearts, they are in disobedient to him.[47] The second is that if the imamate neglects the roles played by religion and fails to act in accordance with religious obligations by implementing them, the imamate will become isolated from the people for whom the application of religious injunctions is the highest priority.[48] The last is that if the holder of the imamate confirms religious innovations, and prefers irreligious values, the genuine religious values will become alienated.[49] All these conditions will bring about mistrust on the part of the people. It is very likely that the growing mistrust of the people towards the imam will prove to be a factor of disturbance that contributes to the downfall of the imamate. In other words, when the interests of the people conflict with the

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[45]Al-Māwardī, *Tashīl al-Nazr wa Taʿjīl al-Zafr*, ed. Muḥyī Hilāl al-Sarḥān (Beirut: Dār al-Nahḍah al-ʿArabiyyah, 1981), 153.

[46]Ibid.

[47]Ibid.

[48]Ibid., 154.

[49]Ibid., 154-5.

interests of the imam, political stability will not last, and the imamate will be rejected by its subjects. This will finally result in the collapse of the imamate.

The second foundation of the imamate is power, understood in terms of the army. The dominance of the military usually occurs when governmental affairs and orders are not well-regulated so that the imamate comes to be controlled by those who have military power. i is necessary for the imamate to have a strong military power over which the imam is in continuous control. By controlling military power, he will be able not only to maintain peace and security, but also to subdue the enemies of the imamate. On the contrary, without having a strong military power, the imamate will easily fall into chaos. This might lead the imamate to breaking down.[50]

The third foundation of the imamate is wealth. Usurpation of power by monied interests takes place when people accumulate money and consequently seek power. In order to get power, they pay others in return for their obedience and submission. The imam is, without doubt, in need of money for the establishment of the imamate for whose functioning money is required, even necessary. Without money, he will be unable to carry out his duties properly. However, an imamate based on money, without other support, is no more than the play of an hour.[51]

Al-Māwardī suggests that in order for the imamate to be efficient and well established, the combination of these three foundations should be realized.[52] Paying attention to one while ignoring the others will cause disorder in the imamate. However, because religion is the strongest foundation, it is

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[50]Ibid., 155.

[51]Ibid., 156.

[52]Ibid., 157.

inevitable that it should be put forward as the priority; that is not to say that power and money will be excluded. The three foundations are interdependent. Al-Māwardī believed that, in conjunction, they would create the conditions necessary for the solid establishment of the imamate. In consequence, if one is missing, we might see deviation and disorder within the imamate. When the state's orders are violated, political instability ensues, paving the way for collapse of the imamate.

This interdependence proposed by al-Māwardī derives from his reading of historical experiences: the state was usually founded by force exercised to make the people obey their ruler. This step was then followed by the good conduct of the ruler in order to perpetuate his power. This stage in turn is followed by a stage of widespread deviation and weakness in the state, resulting in its downfall.[53] The "plant" is the symbol chosen by al-Māwardī to illustrate the rise and fall of the state. It begins to grow by receiving the elements necessary for its growth, then it gives its owner the fruit. As soon as it gives its fruit, it dies.

In order to perpetuate the imamate, al-Māwardī outlined six requirements: (1) proper application of religion; (2) a strong ruling power; (3) widespread justice; (4) peaceful maintenance; (5) continuous prosperity, and (6) far-ranging hope for survival. [54]

The relation between religion and the ruling power as the first two of these requirements necessitates discussion. As expressed elsewhere in his writings, al-Māwardī maintains that both religion and the ruling power are co-dependent. He first quotes Ardashīr's statement that "religion and a ruling

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[53]Ibid.

[54]Al-Māwardī, *Adab*, 136.

power are twins; one cannot be erected without the presence of the other, for religion is the foundation, while a ruling power is its guardian; thus they need each other. That which has no guardian is destroyed, and that which has no foundation falls into ruin."[55] He also incorporates Aristotle's letter to Alexander the Great: "Keep religion under the protection of your kingship, and do not take refuge in your religion to protect your kingship. Make this world a means of defense for your hereafter and do not make your hereafter a means of defense for your world."[56] Having quoted these two statements, al-Māwardī cynically raises the question: how can a ruler perpetuate his kingship and establish good conditions if his associates oppose him and his subjects are his enemy?[57] To avoid that condition, he holds that religion must be taken into consideration as a priority in managing worldly affairs and in establishing any organized political institution, for a religion that upholds appropriate values will lead the people to an orderly and peaceful process of government.[58] This conclusion derives from al-Māwardī's reading of historical experiences where "some kings have often neglected religion and relied in the management of their affairs on their might and the general number of their soldiery, not realizing that their soldiery, when they do not believe in obedience as a religious duty, could be more harmful than any adversary."[59]

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[55]Al-Māwardī, Tashīl, 149. This argument was widespread among Muslim scholars, see al-Jāḥiẓ (d. 883), Kitāb al-Tāj fī akhlāq al-Mulūk, ed. Fawzī Khalīl Aṭwī (Beirut: al-Shirkah al-Libnāniyyah, 1970), 11; Ibn Qutaybah (d. 889), ʿUyūn al-Akhbār (Cairo: al-Muʾassasah al-Miṣriyyah al-ʿāmmah, 1963) 1: 2, 5.

[56]Al-Māwardī, Tashīl, 150.

[57]Ibid.

[58]Al-Māwardī, Adab, 136.

[59]Al-Māwardī, Tashīl, 30.

On the other hand, however, he realizes that, although God has given men reason and revelation to be their guides in solving their problems, reason and revelation are often overcome by passion; religion and revelation are often overshadowed by contentions dictated by passion. In such circumstances, he acknowledges the need for a strong ruling power as the most effective means of dealing with differences, human passion and contentions. By the presence of a ruling power, religion can be protected from any change that violates its truth, and any deviation, any heretical or false beliefs can be fought:[60] "Divergent passions are brought closer together, different opinions are reconciled, various contentions for superiority are restrained, and those who are at enmity are subdued."[61] There can be no doubt, therefore, that religion and a strong ruling power need each other.

In addition to the first two requirements, as already mentioned, widespread justice and security are important. Both will result in intimacy among the people and mutual respect and loyalty towards their leadership. They will brighten people's lives and arouse their interest in achieving necessary goals. Widespread justice and security, first applied at an individual level by doing good deeds and avoiding the contemptible, and later extended to the social level in the establishment of a socio-political order, will lead to the prevalence of inner peace and the absence of fear among the people. Both are essential for nourishing the creativity of the people in their daily lives as well as for encouraging their participation in the country's affairs.[62]

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[60]Al-Māwardī, *Adab*, 138.

[61]Al-Māwardī, *Adab*, 137. See also, Mikhail, "Māwardī," 30, al-Baghdādī, *al-Fikr*, 86-7.

[62]Ibid., 141-6.

Continuous prosperity is also crucial because it will enable people to satisfy their needs for food, housing, shelter and the numerous items required for their lives. Furthermore, it will minimize conflict and struggle among the people by avoiding the negative consequences of their competition.[63]

These five requirements will cause the people to have a long-term hope for survival, the last but not least important requirement. Thus, they will think not only about their daily life, but will also prepare facilities and utilities for the next generation. Without this hope, people will not go beyond the provision of their daily needs, and will not care about the needs of the next generation.[64]

Considering the real motives and foundation of the imamate, it can plausibly be said that the ultimate goal of setting up the imamate is not only the fulfillment of the religious teachings, but also the fulfillment of the welfare of the community. A strong army and sufficient money are necessary in order to make these goals a reality. However, a concentration on power and money without paying attention to the fulfillment of religious teachings and to the welfare of the community will lead to the creation of an oppressive and corruptingimamate.

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[63]Ibid., 146.

[64]Ibid., 147.

The Accession to Power.[65]

The establishment of the imamate as a permanent systematic political organization is not possible without the existence of an imam as its agent. What has been pointed out regarding the real motives of the imamate would be difficult to conceive without his presence. Al-Māwardī, therefore, goes on to discuss the means whereby the accession of the imam to power can be fulfilled. He begins by discussing the qualifications necessary for a candidate to the imamate. To be able to carry out the real motives for setting up the imamate and to rule efficiently, a candidate must meet the following seven requirements :

1. Uprightness or justice in its all-inclusive conditions (al-ʿadālah).[66] In his discussion of the first quality the imam must possess, al-Māwardī first emphasizes its importance by stating that justice is one of the most important requirements, for it is known that without justice no orderly process and no goodness will exist within the imamate.[67] He then defines what he means by justice. He states that to have justice at the individual level means to have harmony and balance of the soul. This harmony is attained only when reason can restrain passion. Justice is thus applied towards himself, and it is possible only by continuously doing good deeds and desisting from evil without any exaggeration.[68] This justice should then be followed by justice

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[65]The issues of the accession of the imam to power and the possibility for him to be deposed are discussed by al-Māwardī mostly in his *al-Aḥkām al-Sulṭāniyyah*. In this part, the analysis will be very much concerned with the mentioned treatise, although some details will be cited from his other political writings.

[66]Al-Māwardī, *Aḥkām* 5 (137).

[67]Al-Māwardī, *Adab*, 142.

[68]Ibid.

towards others. One who does justice towards himself will usually do justice towards others by taking part in creating harmony and balance among the various groups of society.[69] Among other things, justice here is embodied in one's readiness to give precedence to an easier thing over a more difficult thing in solving any problem and to the truth over the imposition of an oppressive power.[70] Such an imam will be able to carry out his duties in a just way. The hope for a just polity will be attained because he will be doing justice towards others and will be paying attention to the interests of the ruled. This emphasis on justice is entirely in accord with al-Māwardī's concern elsewhere that a just polity should concentrate its efforts on promoting the prosperity of the people. This goal can be achieved only by a just imam. It is not at all surprising that al-Māwardī places this quality at the top of his list of the requirements.

2. The knowlegde (ʿilm) that qualifies one for independent reasoning needed to form opinions in litigation and to render judgments.[71] This requirement is closely related to the real motive of setting up the imamate, namely, the preservation and expansion of religion. If the candidate does not possess it, it is very likely that religious values will be excluded from governmental affairs, and this state of affairs could lead the imamate to collapse.[72] The requirement of possessing knowledge is probably intended to serve the ideal that the imam must play a role in judicial matters, for it is well known that, throughout Islamic history, the final legal decision regarding religious matters

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[69]Ibid.; idem, Tashīl, 46-7.

[70]Ibid.

[71]Al-Māwardī, Aḥkām 5 (137).

[72]Al-Māwardī, Tashīl, 153.

was very often in the hands of the imam to decide, although some input might have come from the ᶜulamā³ as guardians of religious affairs. This requirement might have been motivated by the desire to accommodate the strong tendency of the Abbasid caliphs, al-Qādir (991-1031) and al-Qā³im (1031-75), to reassert their authority, especially with respect to religious affairs. "The Qadirite Creed" proclaimed by al-Qādir and later by al-Qā³im as an official doctrine is a convincing indication of this tendency.[73]

3. Sound functioning of the hearing, vision, and speech in order that the imam be able to judge correctly whatever is directly perceived by these faculties.

4. Soundness of the members of the body from any defect that would prevent freedom of movement and agility in arising.

5. The judiciousness that leads to governing the citizens and managing their affairs. This quality, coupled with the second quality, ᶜilm, indicates to what extent al-Māwardī attempted to illuminate the distinction between competence in religious matters and governmental affairs which had been very much neglected by his predecessors. [74]

6. Courage and vigour that contribute to the protection of the territory of Islam and war against the enemy.

7. Descent from the tribe of Quraysh.[75] This requirement, according to al-Māwardī, is based on a textual stipulation that received unanimous agreement. This stipulation was clearly intended to challenge an idea

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[73]Mafizullah Kabir, *The Buwayhid Dynasty of Baghdad* (Calcutta: Iran Society, 1964), 207; D. Sourdel, "al-Kādir," *EI*, 436; and "al-Kā³im," *EI*, 457.

[74]To a certain degree, *Kitāb al-Kharāj* written by qāḍī Abū Yūsuf and devoted to the Abbasid caliph, Hārūn al-Rashīd, was the only exception.

[75]A-Māwardī, *Aḥkām*, 5 (137).

proposed by some scholars, especially Ḍirār,[76] stating that candidacy for the imamate was open to all Muslims. Al-Māwardī rejects the latter opinion on the ground that there is a clear tradition stating that "the imams should be from the tribe of Quraysh," and that this tradition, read by Abū Bakr, was unanimously accepted by the companions of the Prophet at the meeting of Saqīfat Banī Sāʿidah. Although the Anṣār at first advocated their claim to the leadership of the Muslim community, they eventually gave up their claim, acknowledging that the above sayings of the Prophet were valid.[77] Furthermore, they also accepted another of the sayings of the Prophet: "give preference to Quraysh, and do not put yourselves ahead of them." Basing himself upon these arguments, al-Māwardī concluded that the imam should be a Quraysh; that "no contestant can have any doubt about this accepted text nor can any opponent's word be taken into account."[78]

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[76]Ḍirār b. al-Ghaṭafānī (d. 200/815) is one of the Mutazilite scholars of the Baṣrah school who argued that, if faced with the choice between a Quraysh and a Black for the imamate, the preference should be given to the Black because his downfall would be easier to provoke if he sins. See May, "Al-Māwardī's,", 180, footnote 9.

[77]Al-Māwardī, Aḥkām 6 (138).

[78]Ibid.; Ibn Khaldūn (d. 1406), in his Muqaddimah, also emphasizes this qualification but he tends to be more rational. Instead of basing his standpoint only on the sayings of the Prophet, he asserts that in the life of the Prophet, the Qurayshite tribe had been the dominant and the more capable group which had the strongest group solidarity (aṣabiyyah). They were able, through their superior force, to force people to do what was expected of them. This superiority and capability is necessary to establish a strong and a great state. The Qurayshite descent then meant superiority and competence. When the Quraysh does not possess the superiority and competence, the supreme leadership would, therefore, belong to those who possess a strong sense of group solidarity, superior to that of their contemporaries. See Ibn Khaldūn, Muqaddimah, ed. M. Quatremère (Paris: Benyamin Duprat, 1858; reprint, Beirut: Maktabat Lubnān, 1970) 1: 352-4.

Having explained the requirements the candidate must possess, al-Māwardī goes on to say that the imam is chosen in one of two ways: (1) he may be elected by the electoral college (*Ahl al-Hall wa al-ʿAqd*); or (2) he may be designated by the ruling imam.[79] In the first case, the electoral college should consist of persons who possess the following three qualifications: (1) justice together with all its conditions; (2) knowledge by means of which one is able to recognize who merits the imamate on the basis of its acknowledged requirements; and (3) individual good sense and wisdom that can lead to electing the candidate who is the most suitable for the imamate and who will be the most competent and most knowledgeable about conducting the affairs of the people.[80]

On the number of members of the electoral college, says al-Māwardī, there are differences of opinion. One opinion says that the electoral college should be representative of the *Ahl al-Hall wa al-ʿAqd* of all cities. The majority of the ʿulamāʾ of Baṣrah asserts that five persons are sufficient to elect the imam. Alternatively, one of them may elect the imam, while the others give their agreement; this arrangement will also be sufficient as in the case of Abū Bakr's and Uthmān's elections.[81] Some ʿulamāʾ of Kūfah are satisfied with three members for the electoral college in which one of them elects the imam and others agree. Still others assert that even one person is sufficient to elect the imam.[82] On the number of members of the electoral college, al-Māwardī does

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[79]Ibid. (139); Qomar-ud-Din Khan, "Al-Māwardī's," 23; Rosenthal, *Political thought*, 301; Lambton, *State and Government*, 89.

[80]Ibid., 5 (137); Qomar-ud-Din Khan, "Al-Māwardī's," 22; Lambton, *State and Government*, 89.

[81]Ibid., 6-7 (139-40); Qomar-ud-Din Khan, "Al-Māwardī's," 23.

[82]Ibid., 7 (140).

not give a definite opinion. However, it can safely be speculated that he, at least, admits the validity of choosing the imam by a properly-qualified elector because a contract is, according him, a judgment and a judgment rendered by the only person who has legal force.[83]

Careful study of the qualifications of the candidates for the imamate is the first step taken by the electoral college when they meet to elect the imam. It follows that the preference and the *bayᶜah* will be given to those who have the greatest merit.and who best fulfill the qualifications, whom the people will be inclined to obey and to whom they will continue to pay allegiance.[84] It should be remembered, however, that this decision becomes effective only when the candidate declares his consent. According to al-Māwardī, this consent is essential because the imamate is a contract voluntarily concluded between the electoral college, as representatives of the people, and the candidate; neither compulsion nor coercion may enter into it.[85] So, if the candidate does not accept it, he cannot be forced to take the office. If he accepts it, then the contract of the imamate is concluded by the electoral college's *bayᶜah* to him. At this point, the entire community must participate in the act of the bayᶜah to him and submit to obeying him.[86]

If there are two equally-qualified candidates, the elder of the two is the more deserving of the imamate. However, al-Māwardī permits the *bayᶜah* to be given to the younger man, if the greater age is not a condition and if this

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[83]Ibid.

[84]Ibid. (141).

[85]Ibid.

[86]Ibid.

decision better serves the needs of the time.[87] In case one of the two is more learned and the other is more courageous, the needs of the time should be taken into consideration. At a time of threats from external enemies and of political disturbances, such as the appearance of rebels, the more courageous is more entitled to the imamate. If the need for the virtue of knowledge is greater because of the stagnation of the masses and the appearance of heretics, then the more learned is more deserving of the imamate.[88] If there is a deadlock because two candidates contest each other's right to the imamate, the majority of the ᶜulāmāᵓ suggested two methods of solving the problem. In the first, lots should be cast and precedence should be given to him who draws the better lot. The second solution is that the electoral college members may exercise their right of choice by giving the *bayᶜah* to whomever they prefer among the two without casting lots. However, in al-Māwardī's view, the second opinion is more appropriate because casting lots has nothing to do with the contract of the imamate.[89]

In the event that there is a properly-qualified person who fulfills all the requirements, with no one else sharing them, al-Māwardī asserts that the imamate should be conferred upon him, and it is not permissible to bypass him for someone else.[90] Instead of supporting some Irāqī scholars who justified the validity of such a person's imamate without a contract or an election, al-Māwardī tends to follow the opinion, held by the majority of the legal scholars,

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[87]Ibid., 8 (141).

[88]Ibid.; Rosenthal, *Political Thought,* 31.

[89]Ibid., 11 (147).

[90]Ibid., 9 (143).

that a contract or an election to the imamate is still required.[91] This is true because the imamate, according to al-Māwardī, can be entered into only through a contract in which the presence of the electoral college and of one who fulfills the conditions of the candidate are required. And it is only through this contract that the imam and his subjects are bound by the rights and duties of the imamate (state).[92]

According to al-Māwardī concluding the contract of the im...nate with one inferior in excellence is legally valid, provided one of three conditions is fulfilled: first, if there is one superior in excellence, but who is absent or ill when the contract of the imamate is concluded; second, if the inferior one does not fall short of fulfilling the qualifications of the candidate; third, if the inferior one inspires more obedience among the people or is dearer to their hearts.[93]

In addition to the election of the imam by the electoral college, the imam can be chosen and invested by the designation of the ruling imam. Al-Māwardī expresses this view by the term ᶜahd referring to the validity of the rule that the reigning imam can designate any qualified person as his successor.[94] He further states that there is a complete consensus on this point due to the fact that the

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[91]Qomar-ud-Din Khan ("Al-Māwardī's," 24) and Lambton ("State and Government," 90) argue that for al-Māwardī the only one suitable candidate for the imamate does not require a contract. Their statements seem to be misleading because al-Māwardī expresses such an opinion nowhere in his writings, not even in his *al-Aḥkāmal-Sulṭāniyyah.*

[92]Ibid., 7.

[93]Ibid., 8 (142). These conditions have been neglected by many scholars who studied al-Māwardī's political thought. It is therefore not surprising that Qomar-ud-Din Khan, for example, comes to the generalizing conclusion that the validity of electing a less qualified person in the presence of a more qualified one became a fertile ground under which most of the rotten and worthless caliphs took refuge. See Qomar-ud-Din Khan, "Al-Māwardī's," 24.

[94]Ibid., 12 (148).

Muslim community had accepted ʿUmar as the next caliph in obedience to Abū Bakr's order as the reigning caliph. They also accepted Uthmān as the next caliph chosen by the limited electoral council appointed by ʿUmar as the reigning caliph.[95]

There are certain requirements which must be met if this designation is to be valid. On the part of the imam-designate, besides the qualifications demanded for any candidate as mentioned above, he should also be of legal age and of good reputation at the time of his designation. If he is under age or dissolute at the time of his designation but becomes legally major and of good reputation at the time of the designating imam's death, his imamate will not be valid until the electoral college renews their *bayʿah* to him.[96] Indeed, he should be present when the designation occurs. If he is absent, this designation is permissible only if it is certain that the imam-designate is still alive. When the designating imam dies, the electoral college has the responsibility to authorize someone else to perform the duties of the imamate as the acting imam.[97] It seems likely that al-Māwardī stipulated this rule in order to protect the state's affairs from disruption due to disorder and chaos. However, he is silent as to the time limit during which the absent imam is still justified as the rightful imam.

The designating imam, whether the designated successor is his son, his father, or one of his relatives, must choose the most qualified person as Abū Bakr and ʿUmar had done.[98] Furthermore, having concluded the designation, he cannot depose the imam-designate so long as the latter's qualifications remain

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[95]Ibid.

[96]Ibid., 14 (152).

[97]Ibid.

[98]Ibid., 12 (148); Qomar-ud-Din Khan, "Al-Māwardī's," 25.

unchanged and so long as certain conditions that could result in the forfeiture of the imamate do not occur.[99] This is so because appointing a successor is a right belonging to all the Muslims for whom the designating imam is the acting representative. Therefore, so long as no change occurs on the part of the imam-designate which might invalidate his designation, the imam has no right to depose him.

In regard to the nature of the designation itself, al-Māwardī states that the designation is not valid until the imam-designate declares his consent to it.[100] The span of time during which he may accept is that between the time of his designation and the death of the designating imam so that the imamate would be immediately transferred to the imam-designate following the death of the previous imam. In the event that he withdraws his consent and the reigning imam accepts, this case must be looked into: if the designating imam finds someone else, the withdrawal of the imam-designate is permissible. If no one else is found, however, the first designation remains in effect.[101]

In the event that a person whom the reigning imam designates is neither the imam's father nor his son, the reigning imam is permitted to conclude the *bayᶜah* to him and to delegate the responsibility of the office to him without consulting any member of the electoral college. Furthermore, basing himself upon the *bayᶜah* given by Abū Bakr to ᶜUmar, al-Māwardī holds the opinion that the imam's *bayᶜah* to this person concludes the contract of the imamate, and

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[99]Ibid., 14 (151). "Certain conditions" refers to certain changes which invalidate him from holding the office of the imamate. These changes will be discussed later.

[100]Ibid., 13 (151); Gibb, "Al-Māwardī's," 157; Qomar-ud-Din, "Al-Māwardī's," 24.

[101]Ibid., 14 (152).

it does not need the consent of the electoral college.[102] In his view, the validity of this contract relies on the fact that the imam is more entitled than anyone else to conclude the contract, that his choice is more discerning and that what he says about it is more likely to be carried out.[103]

In cases where the imam-designate is the reigning imam's father or son, al-Māwardī states that Muslim scholars are divided into three opinions. The first is that it is not permissible for the imam to conclude the bay'ah to either his father or his son by himself unless he consults the electoral college about the candidate, who in turn judges the candidate qualified for the imamate.[104] In such a case, the imam's position is like that of a witness in a legal process in which he is not eligible to testify or witness concerning his son's or his father's problem. This stipulation is meant to avoid public suspicion of whatever natural bias a person might have towards his son or his father. The second opinion allows the imam to be the only person to conclude the contract. The position of the imam as head of the Muslim community who enforces his orders for their benefit has been viewed as a principle that predominates over the consideration of kinship.[105] Kinship therefore does not constitute a basis for suspecting a candidate's integrity or for opposing his selection. The third opinion states that the imam can conclude the contract only with his father, but not with his son, because the natural human disposition induces him to be inclined towards his son rather than towards his father.[106] On this issue, al-Māwardī does not give

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[102]Ibid., 12 (149).

[103]Ibid.

[104]Ibid., 13 (149).

[105]Ibid.

[106]Ibid.

an opinion. It is hard to understand why he chooses not to propose an opinion on this very crucial point. In fact, the early centuries of Islamic history witnessed the very practice that the reigning imam designated his son as the imam-designate; and later on when the reigning imam died, the son succeeded him as the next imam. Al-Māwardī's silence, then, could not mean that he disapproved this practice of succession. Rather he justified such a practice when he discussed the validity of the reigning imam's nominating two or more persons as the imam's designates as will be discussed later. So, it is not excessive to say that al-Māwardī tended to support the second opinion; i.e., it is legitimate for the imam to designate either his father or his son as the imam's designate.

It is interesting to note that al-Māwardī justifies the validity of the reigning imam's nominating two or more persons as the imam-designates to succeed him one after the other in a certain order.[107] The historical precedent of the Mu'tah Battle in which the Prophet appointed more than one person as commander-designate of the Muslim army, where one would succeed the other chronologically, is the main basis of al-Māwardī's argument in justifying such a designation. On this point, al-Māwardī claims that since the Prophet acted in this fashion with regard to the commandership of the army, it is also permissible to follow the same procedure for the imamate.[108]

Another historical precedent on which al-Māwardī bases the validity of this designation is that during the Umayyad and the Abbasid dynasties there were two caliphs who implemented this procedure without being rebuked by

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[107]Ibid., 18 (158); Gibb, "Al-Māwardī's," 157; Qomar-ud-Din Khan, "Al-Māwardī's," 29.

[108]Ibid., 19 (158).

any of the scholars of their day. The first was Sulaimān b. ᶜAbd al-Mālik who designated ᶜUmar b. ᶜAbd al-ᶜAzīz as his successor, and then Yazīd b. ᶜAbd al-Mālik as ᶜUmar's successor. The second was Hārūn al-Rashīd who designated three of his sons, al-Amīn, al-Maʾmūn and al-Muʾtamin respectively, to the imamate.[109]

Furthermore, al-Māwardī believed that such a designation is meant to protect the public interest and general welfare of the Muslim community.[110] However, he does not set up a clear standard for the public interest and general welfare, leaving much room for debate because the relationship between the designation and the public interest and the general welfare is complicated if one considers the possible changes in socio-political circumstances or the possibility that the reigning imam may have new interests. Although al-Māwardī did not set up a clear standard, he was aware of the possibility of such changes. He asserts that it is possible for an imam-designate, after becoming imam, to set aside the other imam-designates nominated by his predecessor in favour of his own nominee.[111] This power exists because if the imamate devolves upon one of the imam-designates in accordance with the established order of succession, he becomes, after the death of the previous imam, the sole possessor of the right to designate whomever he wants to the imamate. In other word, as a result of succeeding to the imamate, the new imam acquires an exclusive jurisdiction and the right to total obedience, for he has more right to the imamate than anyone

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[109]Ibid.

[110]Ibid.; Rosenthal, *Political Thought,* 34.

[111]Ibid., 20 (160); Gibb, "Al-Māwardī's," 158; Rosenthal, *Political Thought,* 35.

else, and he is more entitled than anyone else to designate someone else to it.[112]

Gibb, criticizing this view, states:

> Here the historical precedents were against al-Māwardī, and though he tries to explain away al-Manṣūr's action in the case of ʿIsā b. Mūsā, he neglects entirely ʿUmar's refusal to set aside Yazīd b. ʿAbd al-Mālik and al-Amīn's attempt to set aside al-Maʾmūn. It is very curious that he should have chosen in this instance to have followed legal *taqlīd*, and the reasons for his doing so are obscure, since it seems unlikely that he had any special contingency in view.[113]

Concerning the nomination of the imam, al-Māwardī seems to have based his view on a purely legal deduction, though he gives a specific historical precedent. Presumably, he was attempting to seek a legal justification under which the procedures of choosing an imam practiced by the Umayyads and Abbasids could be justified. Therefore, it is an exaggeration to argue-as Qomar-ud-Din does-that his theory of the nomination cut the roots of democratic ideals in the Islamic polity.[114] It would be more fair to say that his theory, developed at a certain historical juncture, was the product of his attempt to accommodate the political practices of his time and situate them within a legal framework.

It is interesting to note that the *bayʿah*, which is often translated as "oath of allegiance" or "swearing allegiance," played a significant role in al-Māwardī's political thought. Etymologically, the *bayʿah* derives from the root "*bāʿa*," meaning "to barter, to sell, or to buy."[115] Émile Tyan suggests that the *bayʿah*

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[112]Ibid.

[113]Gibb, "Al-Māwardī's," 158.

[114]Qomar-ud-Din Khan, "Al-Māwardī's," 35.

[115]Ibn Manẓūr, *Lisān al-ʿArab* (Cairo: Maṭbaʿat al-Kubrā al-miṣriyyah, 1891) 1: 299; Bernard Lewis, *The Political Language of Islam* (Chicago, London: The University of Chicago Press, 1988), 58; Maḥmūd al-Khālid, *Al-Bayʿah fī al-Fikr al-Siyāsī al-Islāmī* (ʿAmman: Maktabat al-Risālah al-Ḥadīthah, 1985), 17.

etymologically means the physical gesture which, in ancient Arab custom, symbolized the conclusion of an agreement between two persons or more on a certain matter.[116]

In the era of the Prophet, the *bay^cah* was usually applied to denote more or less the recognition of the religious and pre-established political authority of the Prophet. It was, however, after the death of the Prophet that the *bay^cah* started to play a significant role, not only in terms of recognizing the religious and political authority of the Muslim leaders, but also in concluding the contract of the imamate as the supreme leadership of the Muslim community. The *bay^cah* taken by the prominent leaders of the Muhājirūn and Anṣār at the Saqīfat Banī Sā^cidah, which brought Abū Bakr to power as the head of the Muslim community, has been regarded as an important principle under which the contract of the imamate could legally be established.[117] The *bay^cah* in this sense is said to have constituted a necessary element in the contract of the imamate and is regarded as neither an election nor an oath of allegiance.[118] In other words, without *bay^cah*, no imam would be considered legally installed. This practice was preserved on all subsequent occasions when the accession of the imam to power took place. However, one cannot neglect the historical fact

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[116]Émile Tyan, "Bay^ca," in *The Encyclopaedia of Islam*, ed. C.E. Bosworth, E. Van Dozel, W.P. Heinrichs (Leiden: E.J. Brill, 1989), 1113.

[117]Muhammad Nazeer Ka Ka Khel, "Bay^ca and Its Political Role in the Early Islamic State," *Islamic Studies* 20, no. 3 (Spring, 1981): 230; Al-Khālid, *Al-Bay^cah*, 54.

[118]This *bay^cah* was generally referred to as *bay^cat al-khaṣṣah* or *bay^cat al-in^ciqād*. The confirmation of this *bay^cah* by all members of the community, in the case of Abū Bakr given on the following day is referred to as *bay^cat al-^cammah* or *bay^cat al-Ṭā^cah*. See al-Ṭabarī, *Tārīkh al-Rusul wa al-Mulūk*, 3: 202; Ḥasan Ibrāhīm Ḥasan, *Tārīkh al-Islām al-^cāmm*, 260; Al-Khālid, *Al-Bay^cah*, 123-5.

that the *bay^cah*, during the Umayyad and Abbasid caliphates, tended to mean post facto nominal ratification by the Muslim community.

In al-Māwardī's view, it seems certain that the *bay^cah* is a necessary element in concluding the contract of the imamate. That is to say that the *bay^cah* constitutes a contractual agreement between the electoral college as a representative of the people in the case of election or the reigning imam in the case of designation, on the one hand, and the person who would be in charge of the office of the imamate, on the other hand. It is only through the *bay^cah*, al-Māwardī asserts, that the contract of the imamate can be legally concluded and the imam as the holder of its office can be firmly installed.[119] By the same token, mutual rights and duties to be performed by both sides become binding and should be implemented. It should be mentioned, however, that on the part of the imam, the right to be obeyed by the people and to command their full loyalty and help was very much dependent upon the extent to which he properly fulfills his duties. If the imam does not fulfill his duties, the people have the right not to obey him. If there occurs a change in his physical state, as will be discussed later, they even have the right to remove him from the office.[120]

As far as the *bay^cah al-^cāmmah* is concerned, it is clear that al-Māwardī considered it to be no more than a formal confirmation by the community at large of the *bay^cah* concluded by the electoral college or of the *bay^cah* given by the reigning imam. This *bay^cah* thus signifies only public acknowledgement of the community's loyalty to the new imam. It is therefore not at all surprising when al-Māwardī states that, after concluding the contract of the imamate, the entire community must participate in taking the *bay^cah* to the imam-elect or the

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[119]Al-Māwardī, *Aḥkām* 7 (141), 12 (149), 22 (163).

[120]Ibid., 25 (167).

imam-designate.[121] It is very likely that he bases his view only on a logical legal deduction; that is to say, that as long as the contract of the imamate is legally concluded in accordance with the injunction of the *sharīʿah*, there will be no reason for the community to do other than to accept it and to give their *bayʿah* to the imam. There is, however, still room to question what should be done if the community refuses to perform the *bayʿah*. Gibb notes that al-Māwardī, like other Muslim scholars, failed to construe the constitutional significance of the general *bayʿah* and the effect upon a contract for the imamate if this confirmation is refused.[122]

It is also interesting to note that al-Māwardī was concerned very much with the unity of the Muslim community under a single leader. This can be seen clearly from his statement that "if the imamate is contracted with two imams in two different regions, the contracts of their imamate are not valid because it is not permitted for the community to have two imams at the same time."[123] This statement clearly opposes the Ashʿarite view which allows for the possibility of setting up two imams at the same time, if their territories are far apart from each other and widely separated by an ocean which hinders an easy communication between the two.[124] This statement also deserves consideration, because during the lifetime of al-Māwardī, there were three independent caliphates, each of

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[121]Ibid., 7 (141).

[122]Gibb, "Constitutional Organization", 12.

[123]Al-Māwardī, *Ahkām* 10 (145); Gibb, "Al-Māwardī's," 156; Qomar-ud-Din Khan, Al-Māwardī's," 25; Lambton, *State and Government*, 90.

[124]See al-Baghdādī, *Usūl*, 274; Gibb, "Al-Māwardī's," 157; Qomar-ud-Din Khan, "Al-Māwardī's," 25; Rosenthal, , 32; Binsaʿīd, *al-Fiqh wa al-Siyāsah*, 92. Gibb's conclusion that al-Māwardī represented only one line of Islamic political thought, namely, the Ashʿarite tradition is clearly questionable. On other hand, this seems to confirm Mikhail's thesis that al-Māwardī was neither an Ashʿarite nor a Muʿtazilite.

which refused to recognize the others; the Abbasid caliphate in Baghdad, the Umayyad caliphate in Cordova, and the Fatimid caliphate in Cairo. It is on this basis that some scholars claimed that al-Māwardī's statement totally disregarded historical facts. Gibb, Qomar-ud-Din Khan, Rosenthal, Lambton, al-Baghdādī and Binsaʿīd, for example, have alleged even that his statement was aimed at challenging the legitimacy of caliphates other than the Abbasid.[125] Their allegation is based mostly on al-Māwardī's being a staunch supporter of the reassertion of Abbasid power during the reign of al-Qādir and of al-Qāʾim. This support is attested to by his acting as the caliph's emissary entering into negotiations with various princes over their allegiance to the caliph.[126]

It is true that three independent caliphates existed at the time when al-Māwardī came onto the scene; and it is also true that he played an important role as the caliph's envoy entering into negotiations with various princes, who were the *de facto* rulers of local dynasties, regarding their pledges of allegiance to the caliph. A serious difficulty arises, however, if we consider al-Māwardī's discussion of the criteria for the legitimate imam if there is more than one imam at the same time. Al-Māwardī opposed the faction which said that the real imam is he with whom the imamate had been contracted in the region where his predecessor died. He also disagreed with those who believed that both imams have to surrender the imamate in order to guarantee public safety and to avoid civil strife and that it was consequently incumbent upon the electoral college to elect either one of them or someone else. At the same time, he also contested the opinion that lots should be cast and that whoever triumphed in the casting of

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[125]Gibb, "Al-Māwardī's," 157; Qomar-ud-Din Khan, "Al-Māwardī's," 25; Rosenthal, *Political Thought*, 32; Lambton, *State and Government*, 90; al-Baghdādī, .*al-Fikr*, 121; Binsaʿīd, *al-Fiqh*, 92.

[126]For his political activities, see the introduction of this study.

lots had the right to the imamate. Rather, al-Māwardī was of the opinion that the imamate rightfully belongs to whomever was the first to receive allegiance and to conclude the contract of the imamate.[127] If the imamate was contracted to two persons at the same time, then neither of them was first, and both contracts were rendered null and void and the contract had to be renewed with either one of them or with someone else.

If al-Māwardī's statement about the necessity for a single imam was aimed at challenging either the Fatimid or Umayyad caliphates, then a number of questions arise: which one of the three is the rightful imam?, which one of them should be the first to receive allegiance and conclude the contract?, if the imamate had been contracted at the same time, then who should be responsible to elect the rightful imam? It is almost impossible to apply al-Māwardī's views on this issue to determine the validity of these caliphates. It is perhaps more plausible to say that, in this matter, al-Māwardī was very much influenced by political realities of his time in which the caliph had a strong tendency to reassert his authority vis-á-vis *de facto* rulers. Al-Māwardī, then, was aiming to protect the Abbasid caliph from any internal contender for the supremacy of Muslim leadership within his own territory.[128]

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[127]Al-Māwardī, *Aḥkām* 11 (146).

[128]The Ziyārids' attempt to destroy the Abbasid caliphate and replace it with that of Persian kingdom was the best example of such a case. Wilferd Madelung, "The Assumption of the Title Shāhanshāh by the Būyids and the Reign of the Daylam (*Dawlat al-Daylam*)," *Journal of Near Eastern Studies* 28 (january 1969), 89.

The Duties of the Imam.

When the imamate is firmly established either by election or by designation, the imam, who assumes the office, has certain public duties to perform. In his *Adab al-Dunyā wa al-Dīn*, al-Māwardī listed seven duties for the imam; while in his *al-Aḥkām al-Sulṭāniyyah*, he put forward ten duties. In his *Tashīl al-Naẓr wa Taʿjīl al-Ẓafr*, al-Māwardī threw a new light on the duties the imam, and put forward some detailed programs for managing governmental affairs. Before going further, however, a mention should be made that the duties of the imam paralleled both the real motives for setting up the imamate on the one hand; and the qualifications the imam should possess before assuming the office on othe other.

As mentioned above, the real motives for setting up the imamate are to safeguard religion and to govern worldly affairs. Therefore, it is incumbent upon the imam to perform these duties. This task can be performed only by someone who satisfies the qualifications required for so doing. And it is just on account of this explanation that the duties of the imam will be analyzed in a more categorical form according to these general motives, rather than in a numerical order. However, since al-Māwardī's chief motive in writing his political treatises was to articulate a theory that unifies the religious and political aspects of governing, one tends to find some overlapping regarding this analysis of categories.

First of all, the imam as the head of the Muslim community "must safeguard religion in accordance with its established principles and with that upon which the forefathers of the community have reached consensus."[129]

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[129]Al-Māwardī, *Aḥkām*, 23 (164-5),

Belief in one God and in the mission of Muḥammad, being the first of the five pillars of the Islamic teachings, should be protected from being disturbed by any heresy and deviation. Were it the case that a heresy or a deviation from the true religion should occur, the imam, having consulted with the ᶜulamāʾ, should set forth the convincing proof that distinguishes correct belief from that of the deviator and that refutes the falsehood. As much as possible, he must attempt to make those who assume heretical ways or deviate from the truth recognize the right path and the punishments that they are subject to under the law.[130] So long as those who deviate from the true path do not cease to demonstrate publicly their obedience to the imam and continue to perform their prescribed religious duties, war should not be waged against them.[131] However, it is permissible for the imam to discipline them with discretionary punishments (taᶜzīr), but not to go beyond that to execution or prescribed punishments (ḥudūd). If they neither obey the imam nor fulfill their religious duties, the imam must wage war against them until they return to the true path and render obedience to him.[132]

As to the other pillars of the Islamic teachings such as prayer, fasting, alms giving and pilgrimage, al-Māwardī was more concerned to speak of them at the social level, rather than at the individual one, Regarding prayer and fasting, for instance, he concentrated on daily collective prayers and the Friday prayer rather than on the private prayer and more on the fasting of Ramaḍān than on other kinds of fasting. In such cases, the imam must appoint reliable persons, then the so-called *muḥtasibs,* who are directly responsible for ensuring

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[130]Ibid.

[131]Ibid., 96 (317).

[132]Ibid., 98 (319).

proper observance of these religious practices.[133] The imam is also responsible for the appointment of the imams for daily collective prayers including the Friday prayer if the mosque is a government mosque.[134] In this respect, al-Māwardī seems to be the first who attempted to bring the institutions of daily collective prayers and of the Friday prayer under the authority of the imam.[135]

The same task should also be carried out by the imam in regard to the collection of alms. Since giving alms is a religious obligation, the imam should levy them in accordance with what the religious law has prescribed, either by explicit divine ordinance or by individual reasoning.[136] If a group of Muslims refuses to pay alms to the imam on the ground that they deny alms are an obligation, they become apostates, and the rules that apply to apostates, as will be mentioned later, become applicable to them. If they refuse to pay alms while recognizing them as an obligation, they are considered to be rebel Muslims who should be fought for their refusal to pay.[137]

Regarding the pilgrimage, the imam should arrange its management, supervising the registration, the departure, the journey and the performance of the ritual.[138] Since the caravans of pilgrims are threatened by acts of piracy,[139]

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[133]Ibid., 404.

[134]Ibid., 172.

[135]For a specific discussion about the nature of the Friday prayer and its relation with governmental affairs, see Norman Calder, "Friday Prayer and the Juristic Theory of Government: Sarakhsī, Shīrāzī, Māwardī," *Bulletin of the School of Oriental and African Studies* 69, part I (1986): 35-47.

[136]Al-Māwardī, *Aḥkām* 23(165); idem, *Adab*, 139.

[137]Al-Māwardī, *Aḥkām* 95 (315).

[138]Ibid., 185-6.

[139]The best example of such acts was the robbery and plundering of pilgrims by Carmathians, the name given to the adherents of a branch of the Ismāʿīlī

the imam should provide adequate protection and security by pacifying the road through which these caravans pass until they reach their destination safely.

Not only should the imam preserve the religion, he should also propagate and expand it. He should even wage holy war against whoever resists Islam after having been invited to accept it until he either converts to Islam, or takes on the status of a free (*dhimmī*).[140] It is forbidden to attack the unbelievers by surprise and kill them before inviting them to Islam. If the imam begins fighting them before inviting them to Islam, the imam becomes liable for paying the blood-money (*diyah*) for the lives lost.[141]

In regard to dealing with apostates,[142] if they do not separate themselves from the Muslim community, there is no need to fight them. The thing that must be done to stop their apostasy is to put forward clear arguments and proofs so that the truth becomes clear to them; and they in turn should repent for the error into which they have fallen. If they persist in their apostasy, however, they must be put to death.[143] In the event that they withdraw into a territory independent

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movement during the late ninth century and the first half of the tenth century. In 939 A.D., they invaded Mecca, massacred the pilgrims and the inhabitants, and carried off the sacred Black Stone to their new capital, Aḥsāʾ, where it remained for twenty years. See Ibn al-Athīr, *al-Kāmil fī al-Tārīkh*, 8: 153; A.H. Siddiqi, "Caliphate and Kingship in Medieval Persia," *Islamic Culture* 9 (October, 1935): 563.

[140]The *dhimmis* are the inhabitants of the conquered land who, probably because they were the possessors of previous revelations, were permitted to practice their religion and to run their local communities, but were subject to certain obligations such as the payment of a poll tax. See, Mikhail, "Māwardī," 38, footnote 115.

[141]Al-Māwardī, *Aḥkām* 62 (247). The fine is one hundred camels between one and four years of age, or one thousand gold dinars, or twelve thousand silver dirhams. See, May, "Al-Māwardī's," 289, footnote 31.

[142]Apostates are those who have adopted Islam as their religion, but who have then abandoned it.

[143]Al-Māwardī, *Aḥkām* 90 (309).

of the Islamic territory, it is obligatory to fight them for being apostates until they are either defeated or are brought to repent for their error.[144]

In addition to his religious duties, the imam should establish means which promote the prosperity of the state.[145] To fulfill this end, al-Māwardī asserts, the first concern should be to keep the lands fertile because the prosperity of the people was very much dependent upon them. The duties of the imam are to put in place an irrigation system, to protect the farmers from any kind of robbery and expropriation so that they will feel secure in their farming, and to levy the amount that should be taken as a judicial alms and do so justly.[146] Secondly, the imam should establish a good plan for communal housing.[147] This plan must be based on five principles: (1) housing should be affordable to commoners; (2) housing should protect the people's wealth from any destruction; (3) housing should protect them from any hindrance; (4) housing should satisfy their daily needs; and (5) housing should be appropriate for home industry.[148] Therefore, it is necessary, al-Māwardī continues, that communal housing should be : (1) near a satisfactory water supply; (2) near a satisfactory food supply; (3) medium in size which enables the holder to have healthy air conditions; (4) near the place of work; and (5) suitable for establishing a good security system.[149]

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[144]Ibid., 92 (311).

[145]Al-Māwardī, *Adab*, 139; idem, *Tashīl*, 158.

[146]Al-Māwardī, *Tashīl*, 159-60.

[147]Ibid., 161-2.

[148]Ibid., 162-3.

[149]Ibid.

In regard to the interests of the subjects, the imam must provide appropriate protection for them by strengthening the frontier fortresses with equipment to prevent any external attack and by enforcing a policy for regulating internal stability.[150] This protection is closely related to the establishment of the imamate itself. When the people feel that they are living comfortably, and when they feel protected from any kind of threats, this circumstance encourages them to fulfill their religious as well as social obligations. When their economic activities are guaranteed, they can be expected to continue to render their obedience to the imam and perform their duties as his subjects. These conditions ensure the continuity of the imamate and establish it on solid grounds.[151]

In so far as dissension among the subjects is concerned, the duty of the imam is to carry out judgments against those who are fighting each other and to resolve their disputes in just fashion so that no oppressor acts unjustly and no oppressed person is intimidated.[152] If this dissension concerns religious beliefs, it is recommended that the imam consult with the ᶜulamā᾽ before making a decision. In this way, the solution that he might adopt would have a strong religious basis that could convince the parties to the dispute and help resolve their conflict.

A necessary condition for the maintenance of the imamate is having a strong armed force.[153] This is the instrument by which the imam can provide the means for protecting the people. A strong army is essential for the creation

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[150]Al-Māwardī, Aḥkām 23 (165); idem, Adab, 139.

[151]Al-Māwardī, Tashīl, 167.

[152]Al-Māwardī, Aḥkām 23 (165).

[153]Al-Māwardī, Tashīl, 170.

and maintenance of peace and security. Moreover, it enables the imam to subdue

rebels and wrongdoers, and to fight against the enemies of Islam. Therefore, it

is necessary for the imam to control and monopolize the armed force because

any concentration of force which the imam does not control will amount to a

proportionate diminution of his power. However, the imam has to provide his

soldiers with religious as well as professional education.[154] Although it is

known that in Islamic history, Ibn al-Muqaffac (d. 759) was the first who paid

attention to the use of the army as an important element in managing a country's

affairs,[155] this idea would receive a more elaborate treatment by al-Māwardī. A

religious education, beside a professional one, is, according to al-Māwardī,

essential because "some kings have often neglected religion and relied in the

management of their affairs on their might and the great number of their

soldiery, not realizing that their soldiery, when they do not believe in obedience

as a religious duty, could be more harmful than any adversary."[156] On the other

hand, a professional education is also important in increasing their discipline

and in giving them the military skills necessary to protect Islamic territories and

defend the sacred places. So, through the combination of religious and

professional education, the armed forces would, on the one hand, render their

obedience to the imam on a religious basis and be able to distinguish between

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[154]Ibid.

[155]See Ibn al-Muqaffac, *Risālah fī al-Ṣaḥābah*, in *Rasā'il al-Bulaghā'*, ed. Muḥammad Kurd Amīn (Cairo: Matbacat Lajnat al-Ta'līf wa al-Tarjamah wa al-Nashr, 1954), 122-9; S.D. Goitein, "A Turning Point in the History of the Muslim State," chapter in *Studies in Islamic History and Institutions* (Leiden: E.J. Brill, 1966), 149-67; Gerarld Edward Lampe, Jr, "Ibn al-Muqaffac: Political and Legal Theories and Reformer," (Ph.D. Diss., The John Hopkins University, 1987), 72-3, 98-9.

[156]Al-Māwardī, *Tashīl*, 147.

bad and good, false and true according to the law; and they would, on the other hand, carry out their jobs professionally.[157]

Still central in this regard is that the imam must satisfy the military's needs: food, shelter and housing, especially by giving them their regular payments at a given time.[158] A delay in pay will bring on their intrusion into public economic affairs, cause them to neglect their jobs, or lead them to disobey the imam. If the imam satisfies their needs, the army will, its is hoped, not engage in daily economic activities and compete with the common people for their economic resources. If the imam allows them to be involved in economic activities, it is very likely that the common people will be disadvantaged and deprived of a fair share in the economic activities.[159] Furthermore, the imam and the army are responsible for guarding the secrecy of their military strategy so that the enemy will be unable to know the real strength of the armed force, or to attack them by surprise.[160]

As for the necessity of money, al-Māwardī believes that in order for the imamate to be well established, the imam must have sufficient money, primarily to finance governmental affairs. Therefore, al-Māwardī suggests that the imam must create a good financial plan.[161] It is well known that finance is a composite element in the political fabric, and al-Māwardī examines its components such as the payment of the army, the output of agricultural products, tax revenues, goods sold in the market. However, he concluded that a

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[157]Ibid., 170-1.

[158]Ibid., 173.

[159]Ibid.

[160]Ibid., 175.

[161]Ibid., 176.

good financial plan must consist of an accurate estimation of the state's revenues and expenditures to ensure a balance between the two.[162] Since economic activities are not confined to agriculture, but comprise trade, commerce, arts and crafts as well, the imam should carefully draw the state's revenues from these economic activities through, for example, levying a state poll tax, and a commercial tax, and through the collection of religious alms.[163] The implementation of the collection of taxes should be carried out according to just rules because arbitrary levies will lead to extortion and oppression. Under such a plan, not only will the imam protect the people from an exploitative policy, but he will also increase the state's revenues.

The state's expenditures should be based on an accurate calculation of regular expenditures, as well as provision for a certain percentage that should be allocated for emergencies. For example, the imam should assess the stipends and whatever sums of money are to be paid by the public treasury without extravagance or stinginess and make payment at the proper time neither in advance nor late. It should be borne in mind, however, that the state's revenue should be higher that its expenditure, or at least equal to it. The imam should be careful in managing the country's affairs, for, if not, he could easily be disturbed by a political crisis.

Basing himself upon the Qur'anic verse, "O David, indeed, we have made thee a viceroy on earth; so judge between men with truth, and follow not caprice lest it lead thee astray from God's path,"[164] al-Māwardī then moves on

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[162]Ibid., 179.

[163]Rosenthal noted that the poll-tax and the land tax constituted the principal sources of income of the state in Islam. See his article, "The Role of the State in Islam: Theory and the Medieval Practice," *Der Islam* (1973): 3.

[164]Q. XXXVIII, 26.

to a discussion of the right method for fulfilling the duties the imam must perform. First of all the imam must carry out personally the supervision of affairs and scrutinize current conditions in order to promote the politics of the community and defend the faith. It is not permissible for him to rely upon delegating his duties to others in order to be occupied with his own pleasure or worship, because a trustworthy person may act treacherously and a faithful adviser may mislead.[165] However, he was aware of the fact that the imam needs assistants and functionaries to help him fulfill his duties. In such a case, the imam must nominate reliable persons and appoint sincere advisers for whatever tasks he delegates to them and whatever funds he entrusts to them so that the tasks are done correctly by competent persons and the funds are held in safekeeping by trustworthy persons.[166] Nevertheless, the size of his bureaucracy should be kept to a minimum for its cost is a heavy burden on the community.[167]

What has already been said undoubtedly indicates that al-Māwardī was strongly concerned with the necessity of encouraging and attaining proper religious practice, on the one hand, and happiness and prosperity among the populace, on the other hand. The rewards or punishments that the imam might meet are very much dependent upon the degree to which his duties are successfully fulfilled. This fact also suggests that al-Māwardī's primary concern in his political writings was not only the issue of who should rule, but also how he should rule. Although Leonard Binder has suggested that the question of

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[165]Al-Māwardī, *Aḥkām* 24 (166).

[166]Ibid.

[167]Mikhail, "Māwardī's," 57.

who should rule was the main concern of the orthodox theorists,[168] this view does not apply to al-Māwardī's political thought.

The Deposition of The Imam.

A remarkable part of al-Māwardī's treatise is dedicated to discussing the possibility of the imam's being deposed from office. There are two things that can alter his qualifications and, thus, cause him to be removed from the imamate: first, the breakdown of justice; and second a defect in his body.[169] The breakdown in justice, which is dissoluteness, may occur when the imam becomes a slave to inordinate desires and is given over to sensual passions, openly flouting the prohibitions of the sharīʿah. This is a kind of dissoluteness which prevents concluding the contract of the imamate as well as continuing it. If such a person reverts to proper behavior, al-Māwardī continues, he cannot be regarded as the imam except with a new contract, although some theologians thought otherwise.[170] Dissoluteness also occurs when the imam holds beliefs that are either clearly suspect of being contrary to orthodoxy, or can be interpreted as being so.[171] In such a case, there are differences of opinion. Some state that this person can neither be elected as an imam nor can he continue as such because this dissoluteness justifies the imam's removal from

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[168]Leonard Binder, "The Political Theory of Niẓām al-Mulk," *Iqbal* 4, no. 3 (January, 1956): 35.

[169]Al-Māwardī; *Aḥkām* , 26 (167). A number of discussions about the same matter can also be found in Gibb, "Al-Māwardī's," 159-60; Qomar-ud-Din Khan, "Al-Māwardī's," 34-8; Lambton, *State and Government*, 92-4; and al-Baghdādī, "Political Thought," 170-6; idem, *al-Fikr*, 131-7.

[170]Al-Māwardī, *Aḥkām*, 26 (127).

[171]Ibid.

his office. The majority of Baṣrah ʿulamāʾ were of the opinion that dissoluteness neither prevents concluding the contract of the imamate nor justifies the imam's removal from his office. al-Māwardī's opinion on this matter was obscure.

In addition to a breakdown in justice, the deposition of the imam may also happen if there are defects in his body. The defects may be divided into three kinds : defects of the senses, defects of bodily organs, and the loss of the ability to supervise and direct. [172] The defects of the senses are of three kinds. The first bars access to the imamate; the second does not; and the third is controversial as to its effects.

The kinds of defects that bar access to the imamate resulted from two causes: the loss of reason and the loss of vision. [173] In the first case, if the imam loses his reason (he becomes insane or mentally confused), and this condition continues, he should be prevented from concluding the contract of the imamate or from continuing to rule if he is in office. If there are lucid intervals during which the imam returns to a sound state, however, this case must be looked into: if the period of insanity is longer than the period of lucidness, he can neither be elected as an imam nor can he continue his imamate.[174] Scholars came to disagree as to whether the deposition of the imam should take place if the period of lucidness is shorter than the period of insanity. Some state that he should be prevented from assuming the imamate or from continuing it if he is in his office; while others say that such a case prevents the imam only from concluding the contract of the imamate, but not from continuing it.

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[172]Ibid.

[173]Ibid., 26 (169).

[174]Ibid., 27 (169).

As for the loss of vision, scholars agree that it prevents concluding the contract of the imamate as well as continuing it.[175] Also if the imam can perceive persons, but not recognize them, he is prevented from concluding as well as continuing the imamate.

Other defects like those which make the imam unable to perceive odors, or the loss of taste which leaves him unable to distinguish among different flavors, do not bar his access to the imamate. This is due to the fact that these defects have nothing to do with judgment nor action and thus do not disqualify the imam.[176]

In regard to the defects of the senses which are controversial, these include deafness and muteness. Both of these prevent initiating the contract of the imamate because their presence disqualifies someone from the requirements demanded for the imamate. Scholars differ in opinion, however, about whether or not they justify removing the imam from the imamate. Some state that these defects prevent him from continuing the imamate on account of their effect on the management of affairs and upon action; others claim otherwise because sign language can take their place. Still others say that if the imam is able to read, the office remains still in his hands. To al-Māwardī, the first of these three opinions is the most correct.[177]

As for defects of bodily organs, they are divided into four kinds. The first does not disqualify someone from concluding the contract of the imamate nor does it prevent the imam from continuing in his office. This defect occurs when the imam loses his penis and testicles. Since this defect has no effect on

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[175]Ibid.

[176]Ibid., 28 (170).

[177]Ibid. (171).

his judgment nor his action, the imam who suffers this defect is still qualified to conclude the contract of the imamate, and is still allowed to hold the office, unless the defect changes his gender.[178]

The second kind of defect prevents concluding the contract of the imamate or continuing it. It occurs when the imam loses both hands and legs. Since this defect disables the imam from physical movement, the imam can neither be elected as an imam nor can he continue his imamate.[179]

The third kind of defect which prevents concluding the contract of the imamate is the loss of one hand or one leg. Such a loss invalidates someone from initiating the imamate because he is incapable of full and unrestricted action. Whether this loss prevents the continuation of the imamate, scholars have had different opinions. One faction says that this loss justifies the imam's removal from the imamate; but others believe that this defect does not prevent him from continuing in the office, since it does not lead to total disability.[180]

The last defect which does not prevent the continuation of the imamate is the mutilation of the nose and the gouging out of an eye. This kind of defect is not considered to hinder the fulfillment of the obligation of the imam. Therefore, the imam should not forfeit the imamate for having it.[181]

Concerning the loss of ability to supervise and direct governmental affairs, al-Māwardī set up two categories. The first category, which is "constraining," comprises the case which may arise when the imam is controlled by one of his assistants, who actually runs the affairs of the imamate. This case

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[178]Ibid., 29 (172).

[179]Ibid.

[180]Ibid., 30 (173).

[181]Ibid.

neither results in the removal of the imam from the imamate nor impairs the validity of his guardianship.[182] Indeed, if the assistants do not defy the imam and rule in accordance with the injunction of the *sharīʿah* and the requirements of justice, it is permissible for the imam to endorse them in order that public interests and security be protected. However, if they deviate from the rules of religion and the requirements of justice, the imam shall have to seek the help of a person who can defeat them and restore his dignity.[183] It is very likely that by this statement, al-Māwardī meant to warn the Buwayhid amirs, who were the *de facto* rulers of the area where the caliph rested, that the imam might call in Maḥmūd, the sulṭān who ruled in Ghazna, or Ṭughril, the Seljuq sulṭān who, at that time, was coming into power and who held office in Nīshāpūr, if they did not rule in accordance with the *sharīʿah* and the requirements of justice.[184]

The second category, "coercion," means the loss of liberty due to captivity in the hands of enemies. This category prevents someone from concluding the contract of the imamate because he is incapable of managing the county's affairs.[185] However, if the imam, al-Māwardī explains, becomes captive after the imamate has been contracted to him, it is the duty of the whole community to seek his liberation because the caliph has the right to demand help from them. As long as there is hope for his liberation, he remains imam. If there is no hope of releasing him, the condition must be looked into: if he is in the

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[182]Ibid., 30 (174).

[183]Ibid., 31 (175).

[184]If his *al-Aḥkām al-ṣulṭāniyyah* was composed during the reign of al-Qādir, the sulṭān Maḥmūd was the alternative person. However, if the period around 1030 or a period later in al-Māwardī's life were adopted for the composition of *al-Aḥkām al-ṣulṭāniyyah*, the person the imam might have called in was Ṭughril sulṭān.

[185]Al-Māwardī, *Aḥkām*, 31 (175).

hands of infidels, he forfeits the imamate, and it is for the electoral college to elect someone else as a new imam. However, if he is in the hands of rebel Muslims, he remains imam as long as there is hope for recovering his liberty, or if the rebels have not chosen an imam. In this case, their captive, even if there were no hope of recovering his liberty, would retain his office since the rebels had earlier given him the *bay^cah*, by which obedience to him became incumbent upon them.[186] In such a case, the situation of the imam held by the rebels would be the same as that of the imam who had fallen under the tutelage of his assistants, and the electoral college has to appoint on his behalf someone to supervise affairs if the imam cannot do so by himself. If he can supervise matters, he has a greater right to do so than others. If the rebels, however, have appointed an imam and given him the *bay^cah* and undertaken obedience to him, the captive imam forfeits the imamate by reason of there being no hope of his release. This is so because the rebels have gone to a region whose law is different from that of the Muslim community with which they had revoked their oath of obedience.[187] The true Muslims (*ahl al-^cadl*) have no hope for help from them, and the captive in their hands has no power. It is, therefore, for the electoral college in the region where true religion prevails to contract the imamate to whomsoever they consider proper. If the captive, later on, obtains his liberty after the conclusion of a new contract, he will not regain the office of the imamate[188]

Al-Māwardī is therefore arguing that a victorious rebel would not automatically become the imam. It is however, not clear to which rebels he

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[186]Ibid., 32 (176).

[187]Ibid., 32 (177).

[188]Ibid.

refers. Whether his comments were intended to warn the Fatimids who threatened Baghdad in those days or the Buwayhids who had in practice controlled administrative as well as military powers, is not clear. To whomsoever the reference is made, al-Māwardī did not admit that the rebel who proclaims himself to be an imam is the rightful imam. Rather, he recommended that the electoral college install another person as the rightful imam in accordance with legally required qualifications and methods of contracting the imamate.

There can be no doubt, therefore, that al-Māwardī acknowledges the possibility for the imam to be dethroned from his office if certain conditions, as has been explained, occur. This stance clearly opposed the Ashʿarī view, as propounded by al-Baghdādī in his *Uṣūl al-Dīn*, that confirmed the impermissibility of deposing the imam, even in the case that he was an impious imam. Unlike the Khawārij, however, who had openly advocated the principle of revolution as one of the means by which the imam could be dethroned, al-Māwardī failed to articulate legal channels through which the deposition of the imam could be carried out. This failure has been generally regarded as one of the main weaknesses of his political thought.

Chapter Two

THE IMAM'S AUXILIARIES

The choice of the methods whereby the power subdivision within the imamate can exist presents the second major issue of this study. Given the fact that al-Māwardī was concerned very much with the unity of the Muslim community under a single leader, and consequently proposed the ideal and the importance of the oneness of the imamate as the sole legitimate supreme leadership of the Muslim community, it follows that the establishment of a unified power and administration seemed the paramount need. Since the scope of the imamate encompassed almost all aspects of human live, that is to say, the preservation and expansion of religion and good arrangement of worldly affairs, the imam as its agent possessed a complete jurisdiction over all matters, and was supposedly in control of the affairs of the state.

Although al-Māwardī at first adduced an argument that the imam must carry out personally the supervision of the state's affairs and scrutinize current conditions,[1] he was aware of the fact that the imam needs auxiliaries in fulfilling his duties. The reason behind the need of auxiliaries, al-Māwardī argues, is the inability of the imam to attend to all his duties personally.[2] In spite of having auxiliaries, the imam was still obliged to keep himself informed of all current conditions in order to exercise the power of the imamate and to give right directions to his auxiliaries regarding the policy which they should follow.

The power subdivision is legitimate, if its existence is derived or confirmed by the imam. In seeking to explain this view, al-Māwardī first of all

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[1]Al-Māwardī, Aḥkām, 24 (166).
[2]Ibid., 34 (204); Lambton, State and Government, 96.

departed from the essence of the contract. He asserted that when the contract of the imamate is concluded, the imam then becomes the sole possessor of jurisdiction over all matters of the imamate and of the right to appoint any reliable persons to whom to entrust the affairs of the state.[3] It can now be understood that the validity of the power subdivision, through which the auxiliaries can legitimately carry out their duties, rested upon the appointment and confirmation of the imam.

Al-Māwardī, departing from the premise that the authority of the imam as the holder of the imamate had been delegated by God, stated that the power subdivision is also legitimate through delegation made by the imam.[4] It was the imam alone who could delegate the affairs of the state, which had been delegated to him by God, to whomsoever he wished. No one else possessed such authority. In other words, no auxiliaries can be installed without delegation given by the imam.

From whichever of the two bases the existence of the auxiliaries might be derived, there can be no doubt that the existence of the imam's auxiliaries was merely an extension of the imam's power.[5] They resembled the fingers at the end of the long arm controlled by a single power. The way that power subdivision process was carried on is like the electric energy generated at a dam which is distributed through a complicated network of an electrical transmission line. The current of political power was conducted from its source to the various points and outlets where the tasks of government were conducted.

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[3]Al-Māwardī, *Ahkām*, 23 (166).
[4]Ibid., 2 (133)
[5]Ibid.

Having established the validity of making the power subdivision within the imamate, al-Māwardī proceeded to clarify the jurisdictions and procedural arrangements by which the imam's auxiliaries were able legally to carry out their duties. He asserts that the legal powers of the imam's auxiliaries that issue from the imam may be divided into four categories as follows :

> The first category includes those whose jurisdiction is general throughout the land, i.e., the wazīrs, because they are delegated to act in all affairs without being limited to particular ones.
> The second category includes those whose jurisdiction is general in particular areas, i.e., the rulers of the provinces and the cities, because their jurisdiction over those areas to which they have been assigned is general as regards all affairs.
> The third category includes those whose jurisdiction is delimited throughout the land, e.g., the chief judge, the commanding general of the armies, the defender of the frontier posts, the collector of the land-tax, and the collector of the alms, because each one of these is restricted to a particular jurisdiction in all the areas.
> The fourth category includes those whose jurisdiction is specific in particular areas, e.g., the judge of a town or a province, a local land-tax collector, a local alms collector, defender of a certain frontier post, or captain of a local army, because each one of those has a delimited jurisdiction in a particular area.[6].

Going through the above categories, it makes clear that the imam's representatives may have an unlimited or a restricted authority to attend to all matters of religion and the temporal affairs which are entrusted to them. Nevertheless, in order for the imam's representatives to be effective and legally justified, they must meet the qualifications by means of which the contract of their guardianship is legally concluded. It should be mentioned, however, that this study will confine itself to discussing the institution of the wazirate and the general amirate which belong to the first two of those categories.

Before discussing these institutions, it is worthwhile to say a word or two concerning the general principles under which the imam can entrust and

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[6]Ibid., 33 (177-8).

delegate the affairs of the state to his representatives. As already mentioned, the imam, being the fountainhead of the state's administrative hierarchy and the symbol of the state's power, became the sole possessor of the right to appoint his representatives and to delegate the exercise of power regarding the state's affairs to them. In carrying out this right, the imam, al-Māwardī states, must concern himself not only with the ways in which he will appoint and delegate his representatives in the administration of the state, but also with the treatment which he will give to them.

In regard to the appointment of his representatives, al-Māwardī suggests that the imam must select carefully the best among his subjects by following three general standards, beside the specific requirements demanded for assuming each of these offices. First, the imam must examine their moral quality (*khuluq*), because this quality will affect the extent to which the people will follow their orders.[7] Defects in this quality will weaken the degree of obedience which the people render. Second, the imam must consider their capability and competence to govern (*kifāyah*).[8] So far as governmental administration is concerned, this quality is decisive in achieving a proper administration. Third, the imam should also assure himself of their zeal or enthusiasm for work (*himmah*).[9]

Basing himself upon these principles, al-Māwardī was critical of the common practice of attempting to achieve a certain governmental post by favour of a specific connection with the reigning rulers or the help of an influential person, while neglecting issue of competence to govern, moral quality and

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[7]Al-Māwardī, *Tashīl*, 194; idem, *Qawānīn al-Wizārāt wa Siyāsat al-Mulk,* ed. Riḍwān al-Sayyid (Beirut: Dār al-Ṭalīʿah li al-Ṭibāʿah wa al-Nashr, 1979), 190.

[8]Al-Māwardī, *Tashīl*, 194; idem, *Qawānīn*, 190.

[9]Al-Māwardī, *Tashīl*, 194; idem, *Qawānīn*, 190.

enthusiasm for work.[10] Therefore, he continues, bureaucratic posts should not automatically pass on from father to son without consideration of individual ability.[11]

Al-Māwardī states, with respect to the way auxiliaries are treated, that the principle of proportionality in the assignment of jobs should be applied, i.e., jobs should be distributed among the imam's auxiliaries who have capability to carry them out. As a consequence, the imam should not promote someone to a certain bureaucratic post until he ascertains the compatibility of that post with his auxiliaries.[12] Al-Māwardī was seemingly aware of the fact that success in any job is very much dependent upon the compatibility which creates enthusiasm, and upon capability that relates to skillfulness. In practice, neither of the two can be separated from the other if the imam does not want to see governmental affairs neglected or even reduced to total confusion. [13]

If the imam bases his policy in appointing his auxiliaries on these general principles, it is hoped that the efficiency of his imamate will increase, and the tasks of his government, which he has delegated to his auxiliaries, will be properly executed. While the imam's auxiliaries, by virtue of their position as the imam's delegates, enjoy some rights in controlling the state's affairs and

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[10]Al-Māwardī, Tashīl, 197.

[11]Ibid., 198. This practise was not uncommon in the time of al-Māwardī, for it is known that, like the clan of qaḍīs, there grew up the clan of the wazīrs. These posts became even hereditary. See Adam Mez, The Renaissance of Islam, trans. S. Khuda Bukhsh and D.S. Margoliouth (London: Luzac & Co, 1937), 92; Mikhail, "Māwardī," 57; Samadi, "Some Aspects of the Theory of the State and Administration Under the Abbasids," Islamic Culture 29, no. 2 (January 1955): 126.

[12]Al-Māwardī, Tashīl, 196.

[13]Ibid., 194.

administration, they are still limited according to the category to which they belong.

THE WAZIRATE

The office of the wazirate appears to be the primary concern of al-Māwardī's thought dealing with the power subdivision within the imamate. Though it is known that the imam was supposed to be in direct charge of governmental affairs, he can legitimately delegate such a responsibility to his wazīrs, the holders of the wazirate. Because it is impossible for the imam to attend to all affairs of the state, al-Māwardī concluded that the presence of the wazirate was inevitable.[14]

In Islamic history, particularly in the first half of the Abbasid period, the wazīrs played a significant role in supervising and coordinating the machineries of the state. The wazīrs performed not only an advisory role, but also undertook the enactment of state policy. Given that the wazirate occupies a significant position vis-à-vis the imam, it is not at all surprising that al-Māwardī had a good deal to say about the capital importance of knowing the nature of the wazirate. He did so by devoting a separate book to the rules of wazirate, *Qawānīn al-Wizārāt wa Siyāsat al-Mulk*, in addition to the chapter in *al-Aḥkām al-Sulṭāniyyah*. Mikhail suggests that this special attention is probably related to the revival of the office of the caliph's wazīr by the Caliph al-Qāʾim as part of his attempt to assert his authority vis-à-vis declining Buwayhid power.[15]

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[14]Al-Māwardī, *Aḥkām*, 33 (204).
[15]Mikhail, "Māwardī," 44.

The question about the derivation of the term *wazīr* presents the first concern, before the jurisdiction and administrative roles of the wazīrs are discussed. According to al-Māwardī, the word *wizārat* is derived from different sources. The first is that it is derived from *wizr* or "heavy load," in the sense of "burden," because the wazīr carries the imam's burden on his shoulders.[16] This meaning is justified because the wazīrs had been in charge of almost all governmental affairs on behalf of the imam. In a time when the imam was incapable of managing state affairs personally, because of being too young, too old, sick, or not interested in assuming his duties, the wazīrs deputized for him and assumed greater responsibility to bear the imam's burden.

The second is that the word *wizārat* is derived from *wazar*, or "a mountain difficult of access," in the sense of "refuge," because the imam takes refuge in his wazīr's opinion and assistance.[17] Although the imam assumed the highest rank of bureaucratic authority in the sense that none of the state's orders could be carried out without his direction and approval, his decisions actually emanated from his wazīrs.[18] This is due to the fact that the wazīrs were more experienced and more capable of dealing with the practical aspects of governmental business than the imam himself.

The third is that the wazirate is derived from *azr*, or "strength," in the sense of "back," because the imam draws strength from his wazīr just as the body draws strength from the back.[19] The position of the wazīr was thought to resemble that significant part of the living body without which no living body

[16]Al-Māwardī, *Aḥkām*, 38 (210), idem, *Qawānīn*, 137.
[17]Ibid.
[18]Al-Māwardī, *Tashīl*, 92.
[19]Al-Māwardī, *Aḥkām* 38 (210), idem, *Qawānīn*, 138.

can stand nor take any action or movement.[20] The wazīr, therefore. contributed to the strength of the imamate by sharing with the imam the supervision over all affairs of the imamate.

The word wazīr, as a technical term used in governmental affairs. is generally accepted as denoting a person who is responsible for leading the state administration in the Islamic empire. He was delegated by the caliph, as the head of the Islamic empire, to act on the caliph's behalf in almost all affairs of the empire. The office of the wazirate historically originated in early years when the Abbasids came to power. In the light of the great pressure that came with the vast extension of the empire, the Abbasids had no choice but to reform the state and to expand the state's machinery. For this purpose, they laid down the foundation of the wazirate and its rules; this office reached its apogee in the times of Hārūn al-Rashīd.[21]

Scholars disagree, however, on the origin and nature of the wazirate. One faction, notably supported by von Kremer, R.A. Nicholson, Franz Babinger, Khuda Bukhsh and S.B. Samadi, believes that the wazirate is of Persian origin.[22] The Abbasid dynasty is believed to have adopted the administration of the Sassanian Persian, its court, and the organization of its government. Autocratic blocs, who consisted mostly of Persian people for whom the Persian culture was an important part of their outlook are believed to

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[20]Al-Māwardī, Tashīl, 193.

[21]S.D. Goitein, "The Origin of the Vizierate and its True Character," Islamic Culture 16 (October 1942): 381-2; S.B. Samadi, "Some Aspects," 124.

[22]Von Kremer, The Orient Under the Caliphs, tran. S. Khuda Bukhsh (Calcutta: University of Calcutta, 1920), 220; R.A. Nicholson, Literary History of the Arabs, 256; Franz Babinger, "wazīr," in The Encyclopaedia of Islam, the first edition, eds. M. Th. Houtsma, A.J. Wensinck, H.A.R. Gibb, et.al. (Leiden: E.J. Brill, 1987): 8: 1135; S. Khuda Bukhsh, Contributions to the History of Islamic Civilization (Calcutta: University of Calcutta, 1959), 260-1; S.B. Samadi, "Some Aspects," 125.

have exerted a considerable influence on the early development of the wazirate. It is not surprising, therefore, that the wazirate owed much of its development to Persian imperial precedent.[23]

The alleged Persian origin of the wazirate is challenged by another faction that consists of sholars such as S.D. Goitein, Meïr M. Bravmann, and R.A. Kimber. This faction asserts that the notion of the term wazīr in the sense of "a helper or supporter" had been introduced long before the coming of the Abbasids to power. Among other things, the deputyship of Aaron to Moses in the Qurʾān, the deputyship of Abū Bakr to Muhammad, and that of ʿAbd Allāh b. Masʿūd and other deputyships which were preserved in literary writings during the Ummayad period are held up to corroborate such a notion.[24] More specifically, Goitein adduces an argument that the origin of the wazirate was the Arabian tribal custom in which the education of the tribal chief's son was entrusted to a slave or freedman of the chief's family. Al-Manṣūr, the second Abbasid caliph, is believed to have modified this practice and transferred it to the administration of the Abbasid empire by first entrusting the education of his son, the heir apparent, to a tutor who had advanced experience in affairs of state, and then by appointing this tutor as a wazīr of the new caliph.[25] Kimber notes that the element of personal service, in Goitein's view, remained fundamental to the character of the emerging institution of the wazirate.[26]

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[23]Lewis, *Political Language*, 7.

[24]Goitein, "Viziarate," 256-7; Meïr M. Bravmann, "The Etymology of Arabic wazīr," *Der Islam* 37 (1961-2): 261-2; R.A. Kimber, "The Early Abbasid Vizierate," *Journal of Semitic Studies* 37, no. 1 (Spring 1992): 66-9.

[25]Goitein, "Vizierate," 381.

[26]Kimber, "Early Abbasid," 65.

Apart from this controversy, few would deny that the Abbasids were the first to create the office of the wazirate and fix its rules.[27] Possessing a far-flung territory, the caliph was incapable of carrying out his duties personally and inevitably needed assistants. He had no choice for dealing with the variety of state affairs but to expand the scope of the state departments that could undertake those affairs throughout the land. When the departments of the empire were established, their heads were sometimes called wazīrs, but these wazīrs stood next in line of the chief wazīr who assumed the highest bureaucratic rank after the imam.

As far as the affairs of the empire were concerned, the wazīr became the most important auxiliary after the caliph, and was the central figure of the administrative machinery. He was the nearest and most powerful assistant of the caliph who stood midway between the caliph and his subjects.[28] Kremer notes that:

> This wazīr was in direct communication with the caliph, was always the first to draw upon the fountain of royal generosity. All commands and ordinances of the caliph passed through his hands, were drawn up and given by him their official character, either by affixing of seal or signature, or by other prescribed form.[29]

Having received delegated authority from the caliph, the wazīr was responsible for managing governmental affairs.[30] This responsibility included

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[27]Kremer, *Orient*, 220; Goitein, "Vizierate," 382; Samadi, "Some Aspects," 124.

[28]Kremer, *Orient*, 221; Samadi, "Some Aspects," 124; Lewis, *Political Language*, 120, note 11.

[29]Kremer, *Orient*, 224.

[30]Kimber, "Early Abbasid," 82. Al-Rāshīd's words to Yaḥyā, the Barmacids, that "I devolve upon you the responsibility for my subjects, you may pass judgments as you like, appoint whom you like, and spend money as you like, for I shall not occupy myself with these matters together with you," indicated such a trend. See Goitein, "Vizierate," 383.

not only the civil administration, but also military affairs, and explains why the wazīr became so powerful in controlling the officials of the state, including military commanders.[31] In practice, it was these wazīrs who bore the burden of the government in policy and in administrative matters, and who carried on the operational business of the administration. The caliph very often left the operation and execution of administration completely to his wazīrs.[32]

By the first third of the tenth century, the wazirate had become an extremely important office within the Abbasid empire. The wazīr had assumed sole direction of the empire controlling almost all aspects of the administration.[33] With the appearance of the amīr al-umārā', however, the wazīr lost his popularity, and his office also lost its authority to deal with the affairs of the state; its functions were taken over by the amīr al-umārā'.[34] The amīr not only eclipsed the wazīr, but also placed the caliph in a subordinate position. The amīr was assigned the management of the empire, and his name was mentioned beside that of the caliph in the Friday congregations throughout the empire.[35] The amīr even had his own treasury, and the caliph had become an item of

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[31]Goitein, "Vizierate," 388; Adam Mez, *Renaissance of Islam*, 80.

[32]Abdul Malik Ahmed al-Sayed, "Classical Arabic-Islamic Political Theories of Administration: An Analysis and Evaluation of Their Contemporary Significance," (Ph.D. Diss., University of Colorado, 1974), 273-4.

[33]Lambton, *State and Government*, 95.

[34]Kremer, Orient, 221; Goitein, "Vizierate," 390; Samadi, "Some Aspects," 127. It should not be confused that the caliph had still continued to be served by a wazīr, but this wazīr performed only personal services.

[35]Harold Bowen, *The Life and Times of ʿAlī Ibn ʿĪsā, the Good Vizier* (London, New York: The Cambridge University Press, 1928), 356; Hitti, *History of the Arabs*, 469.

expenditures in the amīr's budget, a kind of royal pensioner.[36] In short, the glory of the wazirate, to borrow Bowen's words, had passed away.[37]

With the entry of the Buwayhids into Baghdād, the final blow on the position of the wazīr as the caliph's assistant fell, for the wazīr ceased to be called as such; he was now called the caliph's secretary.[38] On the other hand, the wazirate underwent a change, for the Buwayhids, having imposed their military power, transferred the wazirate to their control. ʿAḍud al-Dawlah, the Buwayhid prince, is reported even to have introduced two innovations into the wazirate : first, he appointed two wazīrs simultaneously; and second, one of the two, Naṣr b. Hārūn, was a Christian.[39]

It should not be forgetten, however, that it was not until a century later that the Abbasid wazirate was revived along with the strong effort of the caliph, al-Qāʾim, to restore the dignity of the Abbasid caliphate. Special attention to revival of the wazirate was given by al-Qāʾim as part of his program to reassert his authority vis-à-vis the declining Buwayhids and the emerging Seljuqs.[40] In 1045, al-Qāʾim made the revival a reality by appointing as his wazīr Ibn al-Muslimah (d. 1058), who had previously been head of his chancellery. The formulation of the wazirate received much elaboration at the hands of al-Māwardī.[41]

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[36]David P. Waines, "Caliph and Amīr: A Study of Socio-Economic Background of Medieval Political Power," (Ph.D. Diss., Institute of Islamic Studies, McGill University, 1974), 119.

[37]Bowen, *Life and Times*, 356.

[38]Mez, *Renaissance*, 93.

[39]Ibid.

[40]May, "Al-Māwardī's," Introduction Part, 27-8.

[41]Mikhail, "Māwardī," 44; May, "Al-Māwardī's," 80-1.

The wazīrs, in al-Māwardī's view, belong to the first category of the imam's auxiliaries, whose jurisdiction is general, because they are delegated to undertake all affairs without being limited to particular ones.[42] Having quoted the Qur'anic verse concerning the deputyship of Aaron to Moses,[43] Al-Māwardī maintained that the legality of the wazirate is unquestionable, for if it is permissible in the prophetic office, it is even more so in the imamate.[44] He further distinguished between two types of wazīrs: wazīr of *tafwīd*, assuming a delegated authority, and wazīr of *tanfīdh*, enjoying a restricted authority. As for the first kind, the wazīr assumed full authority, with almost no limitation to his jurisdiction. This happened when the imam delegated to his wazīr the planning of affairs as well as the executing of them in the light of the latter's independent judgment. By implication, the wazīr as holder of this office had a strong legal basis not only to deal with policies related to the bureaucracy, but also to manage the exercise of governmental matters, including the appointment and dismissal of officers in the civil and military administrations with the few exceptions of those whose appointment was conferred by the imam.

A wazīr of delegation, since he is to exercise almost as much authority as the imam and to formulate opinions and execute decisions which are reached by independent judgment, must fulfill all the requirements demanded for the candidates to the imamate with the sole exception of not being of Qurayshī descent.[45] That is to say in summary that he must meet the following requirements : justice, knowledge, integrity of physical senses, integrity of

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[42]Al-Māwardī, *al-Ahkām*, 32 (177).

[43]"And appoint for me a wazīr from my family, Aaron, my brother. Bolster my strength through him, and make him share my task," (Qurᶜān XX: 29-30).

[44]Al-Māwardī, *al-Ahkām*, 33 (204).

[45]Ibid., 34 (204).

physical organs, judiciousness and bravery. He is also in need of satisfying one condition; that is that he be one of those professionally competent in military and financial matters through advanced experience and detailed knowledge of both of them.[46]

If someone meets these requirements, he is then eligible to assume the office of the wazirate. But still the validity of his wazirate depends entirely upon the pronouncement of the appointing imam. This is true because the wazirate is a guardianship that necessitates a contract made valid by an explicit statement of the imam which includes the extent of its jurisdiction and its deputyship.[47] In other words, the wazīr, if he is chosen by the imam to assume that office, will fail to become a wazīr of delegation until such a contract is legally concluded.

Once the wazīr was duly installed as the head of the wazirate, he could undertake anything which was legitimate for the imam to do.[48] He was next to the imam according to the powers vested in him. However, it is necessary to discuss what kind of relationship might exist between the imam, who possessed jurisdiction over the entire territory and the affairs of the imamate, and this wazīr, who assumed a general jurisdiction throughout the land. Answering this issue, al-Māwardī proposed two general conditions which would clarify such a relationship. That is to say that these conditions guarantee that the imam is the sole possessor of the imamate, while the wazīr is his auxiliary.

On the part of the wazīr, though he enjoys great power and privileges, he must keep the imam informed about "whatever administrative measures he has carried out, whatever powers he has executed and whatever appointments

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[46]Ibid.

[47]Ibid.

[48]Ibid., 39 (211).

he has made."[49] Al-Māwardī seemed to have stated this proposition about the wazīr in order to insure that he not be as powerful as the imam or equal to him in exercising absolute rule. Historical experiences probably led him to put forward such a proposition; namely, when the wazīr was delegated with full authority to supervise all the governmental affairs and was now in control of all departments, he soon became monopolistic and left the imam powerless.[50] In al-Māwardī's reading, this practise contradicted what the imamate should be, an office in which the imam was the fountainhead and sole possessor of power and jurisdiction over the affairs of the state.

Meanwhile the imam, by virtue of his position as the sole possessor of jurisdiction over the imamate, still has the right to scrutinize the actions of the wazīr and his management of affairs.[51] Since the imamate has been entrusted to the imam, this means that he must make some effort fully to realize the real motives of the establishment of the imamate, and make sure that governmental affairs are properly carried out. To subject the wazīr to his close scrutiny is one of the positive means by which the imam would be able to ascertain that the wazīr's actions and his management of affairs are in conformity with what is correct and to rectify the actions that are contrary to it.

Having emphasized the importance of the imam's scrutiny, al-Māwardī was also critical of the common practise in which the imam left all affairs of the imamate to his auxiliaries while he was occupied with his own pleasure.[52] In

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[49]Ibid., 30 (211).

[50]Hārūn al-Rashīd's complaint was clearly indicative of such a trend when he said to his companions that "he had become so powerless now that not a single dirham could he have from the treasury without consent of Yahya of Jaʿfar Barmaki." See S.B. Samadi, "Some Aspects," 124.

[51]Al-Māwardī, Aḥkām, 38 (211).

[52]Ibid., 24 (166).

contrast, he recommended that personal supervision by the imam is necessary to ascertain that his trusted servants not act treacherously and his faithful advisers not mislead.

It is interesting to note that though the imam, because of his superior authority, had the right to scrutinize his auxiliaries and even to revoke whatever decisions were made by them, he was still subject to the law. If the wazīr executed his decisions in accordance with the law, it was not valid for the imam to revoke such decisions.[53] However, so far as the appointment of other auxiliaries, such as governors, judges, the commanders of the army, and the wazīr's assistants, is concerned, al-Māwardī could not disguise his pure intention in maintaining the authority of the imam vis-à-vis his wazīr. This is clear in his opinions that it is valid for the imam to discharge or remove one who was appointed by the wazīr and replace him with someone who, is according to the imam, more capable.[54] It seems likely that al-Māwardī was aware of the importance of such an authority on the grounds that if the imam's auxiliaries consisted of persons who were more inclined to render their obedience to the wazīr rather than to the imam, it is not impossible that the authority of the imam would be threatened.

Furthermore, al-Māwardī also proposed three points under which the supreme authority of the imam over the wazīr would be made clear. First of all, the imam had the right to designate as a successor whomever he deemed appropriate, while the wazīr did not. Second, the imam had the right to request the community to relieve him from the imamate, while the wazīr did not. Last, the imam had the right to discharge from office whomever the wazīr had

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[53]Ibid., 39 (212); idem, *Qawānīn*, 140.

[54]Al-Māwardī, *Ahkām*, 40 (212).

appointed, while the wazīr did not have the right to discharge from office anyone appointed by the imam.[55]

Relying on the above explanation, there can be little doubt that the imam was still thought to be the highest authority over the imamate. Next in line after him stood the wazīr. With notable limitations, as already mentioned, the wazīr still exercised greater powers whether in terms of making independent decisions or executing them, or of appointing officers or dismissing them. The wazīr of *tafwīd*, by favour of delegated power, could make any decision concerning the administration of the state without prior approval of the imam. In short, he was authorized to take charge of the functions of both "the sword" and "the pen," which include all affairs of state.[56]

Regarding the affairs of administration, the functions of this wazīr were of four kinds. The first of these is that the wazīr should pay homage to all orders given by the imam and execute them properly.[57] This function is the one that clearly relates to general assistance in connection with everything coming from the imam's direct orders. In this way, the wazīr represented the imam's assistant who carried the imam's burden on his shoulder. His function may concern ways and means of understanding the imam's orders accurately and of undertaking them carefully from the beginning until the end. So far as these orders were in accordance with the law, the wazīr's rejection or violation of them would be considered illegitimate. It was even recommended for him to accomplish the imam's orders before the due times, because the delay in

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[55]Ibid., 39 (211-2).

[56]Al-Māwardī employed these terms, "the sword" and "the pen," as meaning civilian which included religious matters, and military functions. See al-Māwardī, *Qawānīn*, 138.

[57]Al-Māwardī, *Qawānīn*, 139.

carrying them out might prevent their completion and the delay in their completion would endanger the position of the wazīr.[58]

The second function is closely related to the wazīr's discretion and independent judgment. It is permissible for the wazīr of delegation to rule by himself as well as to appoint someone else to act on his behalf, because in such cases he fulfills the requirements for governing and forming sound opinion.[59] It is also permissible for him to look into acts and to appoint a deputy to act on his behalf in this matter. In regard to the authority of redressing injustices, al-Māwardī spoke of necessary qualifications for those who would legitimately exercise jurisdiction, namely: that "he be a man of lofty rank and effective command, highly revered, manifestly virtuous, wanting but little, and exceedingly pious."[60] The wazīr, by virtue of superior position and general guardianship, could satisfy these qualifications so that nothing could bar him from having an access to redressing of injustices. It is interesting to note that in military and financial affairs, al-Māwardī did not recommend that the wazīr leave these affairs to his assistants, unless he got involved with or at least took charge of supervising them himself. [61]

The third function of the wazīr is his authority in dealing with his subordinates. The wazīr had the right to appoint as many persons necessary to actual needs and place them in certain governmental posts.[62] Having appointed his subordinates, he was responsible for providing clear plans for what should be done and for giving concise directions regarding their realization. A

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[58]Ibid.

[59]Ibid., 140; idem, *Aḥkām*, 39 (211).

[60]Al-Māwardī, *Aḥkām*, 128 (376).

[61]Al-Māwardī, *Aḥkām*, 34 (205); idem, *Qawānīn*, 191.

[62]Al-Māwardī, *Qawānīn*, 141.

hierarchical priority that determined what should be done first and what should be carried out later should be clearly drawn. Indeed, it should be clear what means and facilities can be used to achieve that priority; these plans ought to be given in detail.[63]

It was permissible for the wazīr to hand over to his subordinates particular matters and give them some independence to handle those entrusted to them, provided he always keep in touch with the supervision of them. In the event that his subordinates made mistakes, the wazīr was not allowed to punish them until he had double-checked what mistakes they had made and what causes led them to making those mistakes.[64] Having been convinced with evidence which corroborated that the actions of his subordinates were contrary to what was correct, the wazīr then proceeded to decide on a punishment which was appropriate for the wrongdoer according to the degree of their mistakes.

The fourth function was concerned with general public affairs in which the people became involved in their daily lives. These functions have numerous dimensions as a result of varying skills, interests and needs on the part of the people. Competitions, contentions and conflicts are part of the social reality. In such cases, the wazīr should protect people from fear and dissension, for both would break up the stability of the state and destroy the structure of social life.[65] In short, the real motives for establishing the imamate would be far from being realized, if the stabilty and the security of a state in which the people would receive appropriate protection did not exist.

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[63]Ibid.

[64]Ibid., 143.

[65]Ibid., 155.

In addition to competition and conflict. Al-Māwardī recognized the strong tendency on the part of the people to associate themselves with those who have similar interests. This tendency did not confine itself to political, social, and economic interests, but to religious interests as well. In responding to this tendency, the wazīr, with fair and equal treatment, should establish a means by which they would be able to satisfy their interests and needs.[66] He must give priority to their interests rather than to his own so that they would continuously support his policies; it follows that the position of the wazīr would be strengthened and be far from being disturbed by any opposition.[67] Regarding economic affairs, al-Māwardī recommended that the wazīr should not compete with commoners, for it was an accursed activity which contradicted governmental principles. Moreover, this would prevent the commoners from gaining fair access to economic activities. When confrontation occurs, the commoners' stand would be destroyed because of their lack of power.[68]

As for the wazīr of execution, he was vested with a limited power, executive power. His authority was limited according to the document under which he was appointed. This document contained of opinions formed, measures taken and limitations given by the imam.[69] As a consequence, the requirements demanded for those who would assume this office were not very stringent because the scope of this office was already determined by the imam. A person qualified for this office must have seven attributes and qualities: honesty, trustworthiness in speaking, lack of greed, a good relationship with the people, intelligence and astuteness in grasping the truth of things and absence

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[66]Ibid., 156.
[67]Ibid.
[68]Ibid.
[69]Al-Māwardī, Aḥkām, 41 (214).

from being a slave of earthly passions.[70] In the event that this wazīr was supposed to take part in the imam's deliberations, the wazīr had to have the eighth quality, namely wisdom and experience that would lead him to form sound opinions and devise proper plans.[71]

One of the remarkable points proposed by al-Māwardī, so far as governmental posts are concerned, is that he justified the possibility for non-Muslim subjects to be a wazīr of execution by stating that " it is permissible to choose the wazīr of execution from among the non-Muslim subjects of nation."[72] Though it is well known in Islamic history that many non-Muslim people got involved in governmental affairs, and some of them even held strategic bureaucratic posts, such as the scribes,[73]Muslim scholars before him were reluctant to incorporate and justify that fact in their writings. Al-Māwardī firmly states that there was nothing that could prevent the non-Muslim subjects from assuming the wazirate of execution, provided they met its list of qualifications.[74]

Al-Māwardī's opinion did not pass unchallenged. It was attacked by al-Juwaynī (d. 1085), who regarded al-Māwardī's view as an unforgiveable mistake.[75] While mentioning that non-Muslims could not be trusted in their conduct, sayings, information and witness in legal matters, he raises the

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[70]Ibid., 41-2 (215).

[71]Ibid., 43 (216).

[72]Ibid., 43 (217)

[73]At many occasions in Islamic history, non-Muslims had occupied high posts: ᶜAbd al-Malīk's kātib, Ibn Sarjūn, ᶜAḍud al-Dawlah's wazīr, Naṣr b. Hārūn, and Abū Ishāq al-Ṣābī, who held the secretary office under the Abbāsids, were all Christians. See Kremer, Orient, 197; Bowen, Life and Times, 11-2: Bukhsh, IslamicCivilization, 268.

[74]Al-Māwardī, Ahkām, 43 (217).

[75]Al-Juwaynī, Ghiyāth al-Umam, 114; al-Baghdādī, Political Thought, 187.

question: how can they be appointed to hold the wazirate of Islamic empire? Basing himself upon Qur²anic verses,[76] al-Juwaynī concludes that it is forbidden to entrust to non-Muslims the state affairs of the Islamic empire. Ibn Jamā²ah, one of the most outstanding Muslim scholars during the reign of the Mamluk dynasty, also rejected al-Māwardī's opinion. In contrast, he advocated a view that it is forbidden to empower non-Muslims in any post of the Islamic state's machineries, with the exception of those offices which are connected with the collection of capitation tax and commercial taxes which are obligatory for non-Muslims to pay.[77] Ibn Jamā²ah has employed some Qur²ānic verses[78] to justify his view, concluding that, save for the above exceptions, there is no justifiable reason to appoint non-Muslims to assume governmental posts of the Islamic state.[79]

To return to al-Māwardī's opinion, it is still open to question, however, why al-Māwardī did not adopt the same opinion when he spoke of the wazirate of delegation. El-Sayyed assumes that "the reason for this policy was that the unlimited wazīr could initiate policies and execute them without the caliph participation, and in such a strategic position the non-Muslim wazīr might abuse the trust and bring harm to the community."[80]

While accepting the possibility for non-Muslim subjects to be wazīrs of execution, al-Māwardī prevented Muslim women from having the same access to the wazirate. It was not permissible for a woman to undertake the office of

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[76]Q. lii, 118; V, 51.

[77]Ibn Jamā²ah, *Tahrīr al-Ahkām fī Tadbīr Ahl al-Islām*, ed. Hans Kofler, in *Islamica* 6 (1933-4): 396; Bukhsh, *Islamic Civilization*, 269.

[78]Ibid.; Q.V, 51; IV, 141, and LX, 1.

[79]Ibid.; Bukhsh, *Islamic Civilization*, 269

[80]El-Sayyed, "Classical Arabic," 289.

the wazirate of execution, even though it was acceptable for women to transmit the sayings of the Prophet and his companions.[81] The reason behind his proposition, beside a textual stipulation,[82] was that women were considered incapable and consequently were prohibited to undertake such a great responsibility.[83]

To return to the authority of the wazīr of execution, there can be no doubt that it extended merely to the enactment of what had been determined by the imam. A person in this office was merely an intermediary between the imam, on the one hand, and his functionaries, the state's bureaucrats, and the people, on the other hand. He was responsible for carrying out the imam's orders.[84] This meant that he should be prepared to pursue the imam's business with his perspiration, intelligence and hard work. In a practical manner, he should be on the alert whenever the imam called for his help.[85]

Furthermore, the wazīr of execution was in charge of communicating the imam's instructions to the imam's functionaries, the state bureaucrats and the subjects of the nation.[86] By making use of his diplomatic capability, he should undertake this duty without delay or exaggeration so that the persons whom the imam addressed would receive the imam's instructions early on and understand them as they were.[87] Given the fact that the Islamic empire was a large territory

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[81]Al-Māwardī, Aḥkām, 43 (216).

[82]The famous saying of the Prophet, which is very often referred to concerning this matter and on which al-Māwardī also based his opinion, is "A people who entrusts its affairs to a woman will not prosper."

[83]Al-Māwardī, Aḥkām, 43 (216).

[84]Ibid., 41 (214).

[85]Al-Māwardī, Qawānīn, 207.

[86]Al-Māwardī, Aḥkām, 41 (214).

[87]Al-Māwardī, Qawānīn, 200-1.

where the inhabited districts were not always geographically connected, the wazīr of execution played a significant role. Delay in carrying out his task would possibly create a misunderstanding among the imam's auxiliaries, or even endanger the governmental processes.

The wazīr of execution must keep the imam informed of important events in state affairs, such as the appointment of functionaries or the mobilization of armies, and particularly recent events of a grave nature, in order that the imam effectively deal with them.[88] It was obligatory for the wazīr, therefore, to be well informed of current conditions by continuously investigating any necessary information and going into detail so that no information would appear to him in a false guise or be misinterpreted.[89]By so doing, he would be capable of distinguishing truth from error. Having gathered accurate and detailed information about current conditions, he must quickly report to the imam so that the imam will neither fall into confusion and ambiguity, nor make a false decision.[90]

In the event that the wazīr was called upon to participate in deliberations, it was permissible for him to put forward his own opinion.[91] By possessing wisdom and experience, he will be able to form sound opinions in discussing current conditions within the imamate and devise proper plans in setting up a solution to the problems which the imam might face.[92] Again it should be mentioned that the wazīr of execution had no authority to execute decisions the imam made unless authorized by him.

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[88]Al-Māwardī, Aḥkām, 41 (214).
[89]Al-Māwardī, Qawānīn, 205-6.
[90]Ibid. 206.
[91]Ibid., 202.
[92]Al-Māwardī, Aḥkām, 43 (216).

In the light of the above explanation, we find some differences between the wazīr of delegation and the wazīr of execution. In terms of jurisdiction, these differences are that first, the wazīr of delegation could take direct charge of government and look into redressing injustice based on his own independent judgment and initiative, while the wazīr of execution could not. Second, the wazīr of delegation had the right to proceed independently to appoint functionaries such as governors, army commanders and secretaries of departments, while the wazīr of execution did not. Third, it is permissible for the wazīr of delegation to mobilize armies and plan wars on his own authority, while it is not for the wazīr of execution. Fourth, the wazīr of delegation was authorized to manage the funds of the Public Treasury, while the second was not authorized to do so.[93]

Given these differences between the two wazīrs in their areas of jurisdiction, the qualifications demanded for each of them were consequently different. First, the wazīr of delegation must be a free man, which was not required for the wazīr of execution. Second, Islam is a condition for the wazīr of delegation, but not for the wazīr of execution. Third, the wazīr of delegation must be well-versed in the revealed laws, which was not necessary for the second. Fourth, knowledge of the affairs of war and finance was prerequisite in the wazīr of delegation, while in the wazīr of execution it was not.[94]

THE AMIRATE

Next to the wazīrs, the most important auxiliaries of the imam were the amīrs-leaders of the provinces. They, in Al-Māwardī's exposition, belong to the

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[93]Ibid.

[94]Ibid., 44 (217-8).

second category of the imam's auxiliaries whose jurisdiction in all affairs was general in particular areas. Being the representatives of the imam over particular areas, the amīrs are vested to undertake all matters-spiritual and temporal. They become the heads of the provinces in which they are authorized to manage not merely administrative, military and financial, but also judicial matters.

As in the case of the wazirate, al-Māwardī distinguished between two types of the amirate: general amirate (*al-imārāt al-ʿāmmah*) and the specific amirate (*al-imārāt al-khāṣṣah*). The first type concerns itself with general jurisdiction over the province in which the amir can legitimately undertake all affairs of the province, while the second type is restricted to a particular jurisdiction, namely, the organization of the army, the government of the subjects, the protection of the territory of Islam and the defence of the holy places.[95] The latter type of the amirate has no right to undertake the administration of justice or to collect land-tax and alms. This study will confine itself to discussing the first type of the amirate, the general amirate.

As far as the general amirate is concerned, al-Māwardī made a distinction between two types of amirates: an amirate of qualification (*imārat al-istikfāʾ*) and an amirate of conquest (*imārat al-istīlāʾ*). As for the amirate of qualification, he asserts, its holder, the amir, was freely chosen by the imam or the wazīr of delegation to act in all affairs over a certain region.[96] A contract that determines the limit of territory and of jurisdiction under which the amir would legally perform his duties is necessary. This is true because the amirate is a general guardianship that requires a contract which is valid only if it includes the extent of its jurisdiction, the limit of the territory and the deputyship. In this

[95]Ibid., 51 (229).
[96]Ibid., 47 (224).

case, the positions of the amīr and the wazīr of delegation are the same in terms of their general guardianship over all matters of state's affairs. The only difference between these two officers regarding their jurisdiction is that the amīr was authorized to oversee the affairs of the state in a delimited area, while the wazīr of delegation was authorized to undertake them throughout the land.

Due to the similar areas of jurisdiction between the amīr of qualification and the wazīr of delegation, the requirements demanded for someone who would assume the office of the amirate is the same as for those who would assume the office of the wazirate of delegation.[97] To be fit to assume the office of the amirate, one must meet the following requirements: justice, knowledge, integrity of physical senses, integrity of physical organs, judiciousness and bravery. In the matter of lineage, he does not have to be of Qurayshī descent. But competence in matters of both war and finance was, indeed, required.

Once concluded, the contract of the amirate of qualification must be looked into: if the contract is concluded by the imam from whom the amīr then receives a direct delegation, nobody, and even the wazīr of delegation, has the right to discharge him from his office or transfer him from one province to another.[98] In this event, the authorization of the imam is granted on behalf of all Muslims. Hence, this authorization is absolute, and no rejection or violation of it is legitimate.

This contract resulted in a further consequence, that the death of the imam would not cause the removal of the amīr from his office because, al-Māwardī argues, the amīr's investiture has been a delegation of power

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[97]Ibid., 48 (225).

[98]Al-Māwardī, *Aḥkām*, 48 (225).

(*niyābah*) made in the name of all Muslims.[99] Where the state's affairs are concerned, however, the wazīr of delegation still has the right to supervise and scrutinize the administration of the amīr to ascertain that it conforms to the law.

In the event that the contract of the amirate is concluded by the wazīr of delegation with authorization of the imam, the effect of this contract is the same as the contract concluded directly by the imam.[100] Namely, it is not permissible for the wazīr to remove the amīr from office or transfer him from one province to another unless the imam permits it. Therefore, the dismissal or death of the wazīr would not automatically terminate the appointment of the amīr.

If the contract of the amirate is concluded by the wazīr of delegation on his own independent judgment, the effect of this contract will differ from the previous ones. Such a contract will make the amīr the deputy of the wazīr, not of the imam. The amīr is authorized to act in all affairs only on behalf of the wazīr. It is therefore permissible for the wazīr "to use his discretion in removing the amīr from the office and replacing him in accordance with whatever decision he reaches through his own reasoning about the most suitable and proper course of action to follow."[101] A similar effect will also follow if the contract of the amirate is concluded without an additional explanation whether it is derived from the imam or from the wazīr. This contract is considered as originating from the wazīr, and the wazīr, therefore, has the right to remove the amīr from office without prior approval of the imam.[102] At the same time, the wazīr's dismissal or death will result in termination of the amīr appointment to the office. This happens because the wazīr is a deputy whose delegation of power is

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[99]Ibid., 50-1 (228).
[100]Ibid., 49 (226).
[101]Ibid.
[102]Ibid.

made in the name of the imam. However, the amīr would continue to hold his office if the imam confirmed him in it.[103]

Once the contract of the amirate is legally concluded, it gives its holder, the amīr, the legitimacy and power necessary to undertake all affairs of the state within his delimited territory. The amīr, by virtue of this contract, receives a full delegated authority to be a guardian and an administrator of the province. He is then responsible for providing appropriate protection for all the inhabitants and for performing all acts relevant to his function.

First of all, the amīr is entitled to manage the military affairs within his region including the administration and allocation of the troops to the various districts and the assessment of their wages unless the imam has already assessed them.[104] If the region of the amīr borders on enemy territory, attention to the management of military affairs becomes a priority whether by disciplining the troops or by building a strong fortress. But the amīr has no right to initiate war against the enemy unless the imam gives him permission. In the event that he is attacked by the enemy, it is obligatory for him to wage war against them and repulse them without the imam's permission, for repulsing them is one of the duties of protecting the Muslim territory and defending the holy places.[105] In a peaceful time, a well-managed army is still required, for it is one of the important instruments by which the amīr can provide means of protecting the people. In al-Māwardī's view, a well-managed army is essential for the creation and maintenance of peace and security.[106]

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[103]Ibid.; Lambton, *State and Government*, 99.

[104]Al-Māwardī, *Aḥkām*, 48 (224).

[105]In a practical level, this duty falls within the scope of the amīr with a restricted authority of Holy war.

[106]Al-Māwardī, *Tashīl*, 170.

It is not permissible for the amīr to increase the wages of the army except under certain conditions. The occurrence of exigencies such as the rise in prices of daily needs, the incidence of misfortune and the expenses of war are legitimate reasons for him to increase the wages of his army without prior approval of the imam. In this case, the amīr's conduct is classified as one of the administrative rights which attaches to his personal judgment.[107] But such an increase is regarded as temporary, not permanent, because the permanent increase of the wages of the state's functionaries is the prerogative of the imam.[108]

The same responsibility should also be carried out by the amīr with respect to the financial administration. Since the amīr is the chief of the imām's functionaries on the provincial level, he must follow the general financial guide line laid down by the imam. Items of the state's revenue and expenditure must be itemized by the amīr in conjunction with provincial condition. This accounting will enable him to draw upon itemized financial plan based on the strength of the real economic sources. Since the poll-tax and the land-tax constituted the principal sources of the state's revenue in Islam,[109] this itemized financial plan could also utilize such sources.

Regarding the provincial revenue, al-Māwardī specifies that the amīr is authorized to levy the land-tax, commercial taxes and to collect religious alms.[110] The collection of these taxes and religious alms should, however, be carried out in a just fashion according to religious law, because arbitrary levies

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[107]Al-Māwardī, Aḥkām, 50 (227).

[108]Ibid.

[109]E.I.J. Rosenthal, "The Role of The State in Islam: Theory and the Medieval Practice," Der Islam (1973): 3.

[110]Al-Māwardī, Aḥkām, 48 (224); idem, Tashīl, 179.

would lead to extortion and oppression. For such purposes, the amīr can legitimately appoint an agent to be in charge of collecting taxes and distributing whatever amounts fall due.[111]

The amīr of qualification is also responsible for managing the provincial expenditure. Besides giving regular payments on time, he should not forget that the expenditure should be less than the revenue, or, at most, equal to it.[112] In the event that the amīr has surplus money from land-tax after paying the wages of his army and provincial functionaries, and making other governmental payments, he must deliver it to the imam to deposit in the Public Treasury to be disposed of in the public interests.[113] However, if there is any alms-money left over after he has distributed what is due to his qualified subjects, it is not obligatory for him to deliver it to the imam. Rather, he must distribute it to those needy people closest to his territory.[114]

If the amīr cannot pay his army and his subordinates due to the insufficient income from land-tax, he has the right to request the imam to make up for the difference from the Public Treasury. But he does not have such a right regarding insufficiency of alms-money to provide the needs of those who qualify for it, because "the wages of soldiers are evaluated at the amount adequate for their subsistence, while the rights of the needy are contingent upon the availability of funds."[115] More than that, it is very likely that a delay in payment to the soldiers and civil administrators would bring on their intrusion into public economic affairs, cause them to neglect their jobs and even create

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[111]Al-Māwardī, *Aḥkām*, 48 (224).

[112]Al-Māwardī, *Tashīl*, 179.

[113]Al-Māwardī, *Aḥkām*, 48 (224).

[114]Ibid., 50 (228).

[115]Ibid.

political instability. In contrast, when they receive their payments at the proper time, it is hoped that the common people will be protected from any exploitative and unfair treatment in their economic activities. Indeed, the political and governmental mechanism would hopefully remain stable.

To ensure the maintenance of the law, the amīr of qualification can also render judgments and appoint judges and judicial functionaries.[116] In the event that his subjects feel themselves the victims of injustice and oppression, the amīr should perform his duty to redress their wrongs. This task concerns itself with any kind of oppression of the subjects by those who are in authority over them, of injustice in the levying of taxes, complaints about official stipends and wages which had been reduced or had not been paid, and claims for restoration of property wrongly seized.[117] The amīr is considered a legitimate authority capable of acting over judicial matters because he can meet the qualifications demanded for redressing injustice.[118]

The duties of the amīr are essentially the same as those of the imam in religious affairs. The amīr should safeguard religion in accordance with its established principles and with the consensus reached by the forefathers of the Muslim community. Belief in God and the mission of Muhammad should be preserved from alteration and corruption. He should also perform the role of the imam in the Friday congregational prayers as well as daily collective prayers, whether he himself performs this role or appoints someone else to perform it on his behalf.[119] Regarding the pilgrimage, he is also responsible for giving safe

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[116]Ibid., 48 (224).

[117]Ibid., 135-6.

[118]One who is qualified for redressing injustice should be "a man of lofty rank and effective command, highly revered, manifestly virtuous, wanting but little, and exceedingly pious." See al-Māwardī, Aḥkām, 128 (376).

[119]Al-Māwardī, Aḥkām, 48 (225).

conduct to the pilgrims who are from his own territory as well as those who are not, but are passing through his territory so that they may reach their destination with his assistance.[120]

Al-Māwardī's view on the second type of the general amirate, the amirate of conquest (*imārat al-istīlā*), is exposed only in his *al-Aḥkām al-Sulṭāniyyah*. Although only a small portion of the treatise is devoted to this type of amirate, this small portion is extremely important, for it is the first attempt to clarify the relationship between the caliphate (imamate) and various local semi-independent dynasties in which the latter tended in reality to be more dominant than the former. H.A.R. Gibb point out that:

> Al-Māwardī's predecessors seem to have shirked the task and closed their eyes to the apparent illegality, but it is characteristic of his honesty that he rejected this easy way out. Beside...it was not enough for him merely to find a legal justification for what had happened in the past, but he was even more concerned to regularize the contemporary situation and to provide for what might well happen in the near future.[121]

According to al-Māwardī, the amirate of conquest is a type of amirate that was established by coercion in which a leader or a ruler made himself master over a conquered territory, imposing his rule by force, instead of being freely appointed by the imam.[122] In order to get a proper understanding of the amirate of conquest, it is necessary to go back to the period when the caliphate was passing through the phase of its decline. It is well-known that in the middle years of the tenth century, a serious political change, threatening the position of the Abbasid caliphate, came about when the caliphate came under the tutelage of the Buwayhid dynasty. Having conquered Iṣfahān and Shīrāz, the Buwayhids,

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[120]Ibid.

[121]H.A.R. Gibb, "Al-Māwardī's," 162-3; idem, "Constitutional Organization," 18.

[122]Al-Māwardī, *Aḥkām*, 54 (233).

led by Aḥmad b. Buyā, then called Muᶜizz al-Dawlah, entered Baghdad in 945 A.D.[123]

With the arrival of the Buwayhids in Baghdad, the position of the caliphate became worse because the Buwayhids established themselves there and imposed their military rule on the decaying political structure of the caliphate. A permanent amirate with hereditary rights was established and the caliph found his hands tied by the Buwayhids' vested interests. The Buwayhids became *de facto* effective rulers. Almost all the temporal affairs of the caliphate were taken over by them. The Buwayhids took charge of the administration of the caliphate including the appointment of wazīrs and other auxiliaries, control of the *iqṭāᶜ* (land grant),[124] the state's revenues and coinage. Some privileges still attached to the caliph were the appointment of judges, bestowing honors, mention of his name in Friday prayer, coinage and governmental creeds, and issuing the deed of investiture on the change of an amīr.

Under these political conditions, the relationship between the caliph and the amīr became strange. The authority of the caliph remained in religious administrative affairs and in symbolic power, while the *de facto* effective power was in the hands of the Buwayhids. These historical facts are echoed in al-

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[123]A.H. Siddiqi, "Caliphate and Kingship in Medieval Persia," *IslamicCulture* 1C (January 1936): 109; C.E. Bosworth, *The Islamic Dynasties* (Edinburgh: Edinburgh University Press, 196, reprint, 1980), 95; Wilferd Madelung, "The Assumption of the Title of Shāhanshāh by the Buyid and the Reign of the Daylam (*Dawlat al-Daylām*)," *Journal of Near Eastern Studies* 23 (January 1969): 86.

[124]It was for the first time that *iqṭāᶜ* was used for the military services. See A.K.S. Lambton, "Reflections on the *Iqṭāᶜ*," in *Arabic and Islamic Studies in Honor of Hamilton A.R. Gibb*, ed. George Makdisi (Massachusetts: Harvard University Press, 1965), 368; M.S. Khan, "The Effect of the *Iqṭāᶜ* (Land Grant) System Under the Buwayhids," *Islamic Culture* 75 (October 1984): 289-305.

Māwardī's discussion about the amīr of conquest whom he called *imārat al-istīlā*:

> As for the amirate of conquest which is concluded by coercion, it entails the amīr's taking by force a certain territory the amirate of which the caliph then invests in him and the administration of which the caliph then delegates to him. Thus, the amīr enjoys, as a result of his conquest, autonomous powers with regard to the administration and government; whereas the caliph, by authorization of the amīr, becomes the enforcer of the rules of religion in order to transform affairs from decadence to soundness and from prohibition to permission.[125]

Theoretically, there is no doubt that to be legal, whatever power subdivision which might exist within the imamate should be derived from the imam. However, the political realities of al-Māwardī's time forced him to look for an alternative for this conquering dynasty who had come to power by force rather than through the appointment by the imam. Responding to this situation, al-Māwardī came to admit the presence of the amirate of conquest. He had no choice, but to accept the presence and justify the legitimacy of the amirate of conquest. This choice represented a judicious alternative which tended to compromise the ideal of the imamate with the political reality by saying that in the light of such a condition the imam might grant the amīr his recognition and authorization. This can be because, al-Māwardī argues, the amirate of conquest "still contains measures necessary to uphold the legal ordinances and to safeguard the religious provisions-neither of which can be allowed to become defective and undermined or corrupt and weak."[126] Moreover, the presence of conquest and pressing circumstances, he continues, resulted in the imam's incapability and lack of capacity to attend to all his duties and rights freely. In such a condition, the recognition and investiture given by the imam to the amīr

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[125]Al-Māwardī, *Aḥkām*, 54 (233).
[126]Ibid, 55 (233).

of conquest, which are prohibited in an appointment based on qualifications and free choice, become permissible.[127]

According to al-Māwardī, in order that the investiture of the amirate of conquest be valid, there are seven legal ordinances to be fulfilled by both the imam and, in an even more binding way, the conquering amīr. These are: (1) both the imam and the amīr are required to preserve the office of the imamate as a succession to the Prophetic office (khilāfat al-nubuwwah) and administration for the affairs of the faith; (2) both must demonstrate their pious obedience so as to remove any idea of resistance to religion and to wipe out their sin of insubordination; (3) there should be an agreement of friendship based on harmony and mutual support which would give the Muslims the upper hand over all others ; (4) the contracts conferring the religious guardianship should be valid, and their judgments and rulings should have legal force so that these will not be rendered null and void; (5) the taxes due according to the religious ordinances should be levied in a legal manner; (6) the legal penalties should be lawfully exacted and fully applied with fairness; and (7) the amīr, in protecting religion, should abstain from things forbidden by God.[128]

These seven requirements parallel al-Māwardī's main objective in his political writings. Namely, these requirements were proposed in order to subordinate all governmental affairs to the direct command of the divine law, or, at least, to ascertain that the imamate was not divorced from the spirit of the divine law. In the case of the amirate of conquest, few would deny that religious colourings appear to have been predominant in solving this pressing and complicated situation. In the light of the political realities of his time, al-

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[127]Ibid.
[128]Ibid., 55-6 (234-5).

Māwardī addressed these requirements for the protection and maintenance of the Abbasid caliphate as the sole Islamic empire. Although he realized the actual weak and degraded position of the Abbasid caliphate,[129] his concept of the amirate of conquest shows what the relationship between the caliph and the amīr ought to be in order to protect the Muslim community from falling into sin, as was also propounded by many other Sunnite political thinkers, and to protect religion and the public interests.

If these seven conditions mentioned are fulfilled, it is obligatory for the imam to give investiture to the conqueror. This investiture is even more binding, if the conqueror fulfills the qualifications demanded for an amir of qualification in order to induce him to obedience and to deter him from opposition, discord and conflict.[130] With the authorization granted to him, the amīr would be a permanent ruler and could exercise his authority in religious administrative affairs and decrees concerning the community. Included in his jurisdiction is the authority to appoint a wazīr of delegation and a wazīr of execution.[131]

If the conqueror cannot meet all requirements established for the investiture of an amirate of qualification, it is, nonetheless, still permissible for the imam to announce his investiture in order to demand obedience to himself and to put an end to his opposition and resistance. A serious difficulty, however, comes up in the area of authority over the affairs of religion. In such a case, al-Māwardī replies that the imam might appoint someone else who fulfills the requirements to act on his behalf in these matters while proclaiming his

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[129]It is perhaps in such a case that al-Māwardī is viewed by some scholars of being an apologist. See Gibb, "Sunnī Political Theory," 142; Hitti, *History of the Arabs*, 185.

[130]Al-Māwardī, *Aḥkām*, 56 (235).

[131]Ibid.

investiture of the conqueror. Forced by the actual situation, al-Māwardī had no choice but to accept the exigency of the time in which the imam should give this investiture, and give it a legal exposition. Although this exposition is to a certain degree in conflict with the principles of jurisprudence in which the amīr must be appointed as a leader of a province through a legally recognized and approved procedure, namely, the imam had to do so, this investiture is permissible for two reasons. One is that necessity dispenses with conditions which must be fulfilled when the imam's capacity to act from a position of power is fully attained. The second is that fear of throwing the public interest into a state of disorder justifies a relaxation of conditions for the investiture of the conqueror.[132] It seems certain that the most important point, in al-Māwardī's view, is that the amīr of conquest must rule justly in accordance with the sharī'ah, not on the grounds of how he gained power but on the manner in which he exercised it.[133]

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[132]Ibid., 57 (236).

[133]Bernard Lewis states that such a concept is a typical characteristic of Islamic political thought after Muslims had gained successfully conquered far-flung territory. See Bernard Lewis, "Usurpers and Tyrants: Notes on Some Islamic Political Terms," in *Logos Islamikos: Studia Islamica in Honorem Georgii Michaelis Wickens*, eds. Roger M. Savory and Dionisius A. Agius (Toronto: Pontifical Institute of Medieval Studies, 1984), 263.

CONCLUSION

Al-Māwardī's concept of the imamate is generally inspired by his main objective of subordinating all governmental affairs to the direct command of the divine law or ascertaining that the imamate is not separated from the spirit of the divine law. As far as his political treatises are concerned, however, this statement does not imply that external influences, notably Persian and Greek thought are to be ruled out. Al-Māwardī incorporated elements of them to elaborate his concept of the imamate and to enrich his perspective on some details of governmental affairs. His greatness lies in the fact that he presented Islamic doctrines, as expounded in the Qurʾān and in the Prophet's tradition, and as exemplified by the practices of the Muslim community in the past, while harmonizing them with the contemporary political realities of his own time. Elements from Persian and Greek thought were incorporated by him to serve such a purpose. Although some scholars consider al-Māwardī's political thought theoretical, few would deny that, instead of attaching himself to abstract speculation, al-Māwardī exercised an independent judgment in adapting his thought to the special circumstances and exigencies of his own day. It is not surprising, therefore, that his thought reflects a pragmatic approach towards the issue of the imamate.

Al-Māwardī's view on the immate can not be fully understood from one of his treatises, for his thought was expounded in all his political treatises. Nonetheless, his concept of it was mainly described in his *al-Aḥkām al-Sulṭāniyyah*. For him, the imamate as an organized political institution was derived from two bases: first, it was derived from the consensus of the community ('the social contract'); second, it was derived from God through delegation. As a man of religion, al-Māwardī regarded the imamate as the

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legitimate institution for representing Muslim leadership after the death of the Prophet in order that religion be safeguarded and worldly affairs be well-governed. He even considered the imamate necessary, for it was the most effective means for resolving to the problems that arise among people due to divergent opinions, contentions and passions, problems which revelation and reason are often too weak to resolve. Indeed, through its presence, possibilities of fulfilling the divine commandments as expressed in the *shari'ah* and of regulating and maintaining peace and order so that people would feel secure in fulfilling their needs and settling their conflicts are legally carried on. As for whether the imamate is obligatory by reason or revelation, however, al-Māwardī takes no clear-cut position. While exposing the differences of opinion among Muslim scholars about the matter, he never explicitly states his own definite opinion. Nevertheless, having closely examined his political treatises, it seems certain that he took a middle stand, namely that the imamate is necessary by both reason and revelation.

Since the institution of the imamate was considered necessary, the requirements for its process and maintenance should be laid down. How the accession to power should be arranged occupied al-Māwardī's primary concern. This is understandable, for political conflicts are often caused by different methods of gaining access to power. In order for a candidate to be valid and legitimate to assume the office, al-Māwardī believed that not only should he meet requirements demanded for the candidacy to the imamate, but he must also go through a legally approved procedure whether through direct election by *Ahl al-Ḥall wa al-'Aqd* or through designation by the ruling imam. In seeking to explain the validity of these two ways as means of contracting the imamate, al-Māwardī invoked some juridical justification from the practice of the Prophet, the action of the Companions, and the consensus

of the Muslim community in the past. To be legal, however, both ways: election and designation still necessitate a contract, and the contract can be legally concluded only by the *bay*ah*. The *bay*ah* then constitutes a necessary element in the contract because, without the *bay*ah*, no imam can be considered legally installed.

Once the contract of the imamate is firmly concluded, mutual rights and duties to be performed by the imam and the people become binding. The imam should perform his duties by making the real motives of setting up the imamate a reality. These duties include not only safeguarding the religious teachings, but also regulating all worldly affairs. At the same time, the people must render their obedience and loyalty to the imam. However, if the imam fails to perform his duties properly, obedience and loyalty are not incumbent upon the people. Thus the imam is by no mean a ruler who should be obeyed without question. In the event that a certain change which invalidates the imam from holding the office occurs, the people even have the right to depose him from office. Yet, al-Māwardī fails to advocate legal channels which enable the people to do so. This failure constitutes one of the main weaknesses of his political thought.

Given that the entire machinery of the state could not be handled by a single person and consequently that the imam would be unable to attend to his duties personally, political subdivisions within the imamate become unavoidable. This fact is enough for al-Māwardī to advocate the appointment of the imam's auxiliaries by saying that such an appointment is not only a paramount need but is also recommended by the *sharī*ah*. Nevertheless, his eagerness that the Muslim community should be governed by a single leadership led him to confirm that whatever political subdivisions within the imamate might exist are legitimate only if their existence is derived from or

confirmed by the imam. Therefore, the presence of the wazirate and the amirate which both, according to al-Māwardī, assume general jurisdiction over the whole of the state's affairs is legitimate because their power and legitimacy are derived from the imam. The duties to be performed by the holders of these subordinate institutions are essentially the same as the duties to be performed by the imam. Although the imam by now becomes the sole possessor of the jurisdiction over the imamate, his relationship with his auxiliaries should be based on partnership in accordance with the injunction of the *sharīᶜah*.

When faced by the exigencies of his own time in which Islamic political unity had fragmented and some local dynasties had come to power by force, al-Māwardī laid down a new alternative. What he discusses concerning the amirate of conquest (*imārāt al-istīlāʾ*) represents a solution to the problem he encountered, namely how to bring the amirate that consisted of the holders of effective power within the general framework of the *sharīᶜah*. He tried to formulate a theory and to harmonize an existing political situation with the injunction of the *sharīᶜah* by interpreting the Qurᶜān and the Prophet's traditions in the light of political realities in order to preserve the unity of the Muslim community. He argued that in such conditions the imamate was to be maintained and religious and public interests were to be preserved. In other words, he tried to prove that the amīr of conquest should not be regarded as a rebel but rather as the imam's agent under the principle of necessity and political expediency. The most important point in al-Māwardī's view is that the amīr should rule justly in accordance with the *sharīᶜah*.

It is not excessive to conclude that al-Māwardī tends to be a pragmatic thinker who interprets the principles of the *sharīᶜah* in the light of the political realities. He set the theoretical foundation for dealing with the political realities without necessarily going against the injunctions of the *sharīᶜah*. The

protection of religion, the maintenance of the unity of the Muslim community, the application of justice and securing public interests are to be the main objectives in seeking a certain solution. Al-Māwardī's basic principle of compromising between ideal and real can still serve as a model for dealing with contemporary challenges, although later generations may not necessarily follow al-Māwardī's example unless they are confronted with circumstances and conditions comparable to those of his times.

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