

Chapter XXXVI

AL-MĀWARDI

A

LIFE AND WORKS

Abu al-Ḥasan al-Māwardi was born in Baṣrah (c. 364/974) which was then one of the principal seats of learning and education in the Muslim world. He, therefore, got all his education there and rose in literary renown at an early age. He specially prepared himself for the judicial profession and obtained an

appointment in the State service. As a judge he served at various places and was finally posted in Baghdad. In the year 429/1037 the Caliph, al-Qādir, summoned four jurists representing the four schools of Islamic Law to write a legal epitome. Al-Māwardi was chosen to represent the Shāfi'ite school and he wrote *Kitāb al-Iqnā'*; al-Qudūri produced his famous *al-Mukhtaṣar* for the Hanafites. The other two books were of no importance. The Caliph, however, recognized al-Māwardi's work as the best and in appreciation of his merit appointed him as the *Aqḍa al-Quḍāt*. This designation was objected to by many leading jurists like abu al-Ṭayyib, al-Ṭabari, and al-Simyari, who said that it did not become anyone except God. But al-Māwardi took no notice of these objections and retained the designation till his death in 450/1058, because the same jurists had previously approved the title of *Mālik al-Mulūk al-A'zam* for Jalāl al-Daulah, the Buwaihid chief.

Although al-Māwardi was a staunch Sunni and Shāfi'ite jurist, he had the good fortune of being equally favoured by both the Buwaihids and 'Abbāsids. But the Shi'ite Buwaihids favoured him out of diplomacy, because he was often helpful in settling their everyday quarrels with the palace, for, writes Yāqūt, "He was held in great esteem by the Buwaihid Sultāns who deputed him to negotiate between them and their opponents, and were pleased with his mediation, and affirmed his settlements."

Al-Māwardi was acclaimed as one of the ablest men of his age. He was not only a distinguished judge but also a distinguished author. He wrote mostly on law and politics. His well-known extant works are: *Kitāb al-Ḥāwi*, *al-Iqnā'*, *Siyāsāt al-Mulk*, *Qawānīn al-Wizārah*, *Adab al-Dunya w-al-Dīn*, and *al-Aḥkām al-Sultāniyyah*. But it is this last work on which his fame chiefly rests. In Muslim history it is one of the first scientific treatises on political science and State administration. A detailed discussion of this will be taken up in the following pages.

Here a note of explanation seems to be necessary. Ibn Khallikān quotes a report that none of al-Māwardi's writings were published in his life-time because the author had grave doubts as to whether he was really honest and correct in his speculations. This report cannot be accepted as true, particularly with reference to *al-Aḥkām al-Sultāniyyah*, because there exists another book with the same title by abu Ya'la al-Farrā', who was a contemporary of al-Māwardi and who died in 458/1066. Abu Ya'la's book is almost an exact replica of al-Māwardi's work so far as its pattern and subjects of discussion are concerned. Even the language and arguments are almost the same as in al-Māwardi in most places. It is, therefore, certain that abu Ya'la had seen the published work of al-Māwardi while the latter was still alive, because the dates of their deaths are so approximate to each other, and because it is not proved that abu Ya'la had personal relations with al-Māwardi. This conclusion is further strengthened by the fact that Yāqūt, who died in 626/1229, does not mention this story, and the authority of ibn Khallikān, who died in 681/1282, cannot be accepted in this matter.

B

POLITICAL THEORY

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

Further, although we know that al-Māwardi profited a good deal from previous sources in the elaboration of his theory, for he says that it is the epitome of the views of various schools of jurisprudence, we do not possess in our hands today any source discussing comprehensively the problem of the Caliphate dating back beyond the fifth/eleventh century. The *Uṣūl al-Dīn* of 'Abd al-Qāhir al-Baghdādi gives theologically a more copious discussion of the Imāmate than al-Māwardi's book, but al-Baghdādi (d. 429/1037) was a contemporary of al-Māwardi. Hence the conclusion is that most of al-Māwardi's ideas are partly a heritage of the past and partly a clever manipulation of the opinions current in his own time.

A closer examination of his work, however, discloses that he is not a mere recorder of facts handed down to him but a shrewd statesman and diplomat. There is enough historical data to sanction the view that on many fundamental questions al-Māwardi's opinions were dictated by the exigencies of his time and the special circumstances of his life. In the preface to his *al-Aḥkām al-Sultāniyyah* he writes, "Since these principles of royalty are mainly concerned with the conduct of rulers, and since the direct application of these principles to the entire business of government prevents the rulers from an inquiry into their true nature, and because these rulers are too much engrossed in State affairs and diplomacy, I have brought out a separate book discussing all of them, in obedience to the behest of one whose allegiance is essential in order that he may be informed of the different schools of law and may know what the people owe to him so that he may demand its fulfilment, and what he owes to them so that he may try to fulfil it. [And he has asked to be informed about these things] out of love for justice in his enactments and decisions, and for the sake of equity in his imposts and rewards."¹ The mention of authority in this passage refers to the Caliph, especially because al-Māwardi had been raised to the high office of *Aqḍa al-Quḍāt*,² and represented the Caliph in his negotiations with the Buwaihids.

Further, it is necessary to point out that the declining power of the Buwai-

¹ Al-Māwardi, *al-Aḥkām al-Sultāniyyah*, p. 1.

² Literally "the greatest Judge," but paradoxically enough the office was subordinate to that of the *Qāḍi al-Quḍāt*, the Chief Justice (Yāqūt, Vol. V, p. 407).

hids in the beginning of the fifth/eleventh century, because of internal conflicts and insurrections in the army and because of Maḥmūd of Ghaznah's solicitations for the 'Abbāsids, made the Caliph al-Qādir and his son al-Qā'im aspire to regain the lost glory of their forefathers. The first step in this direction was the legal definition and exposition of the powers and prerogatives of the Caliph which had well-nigh been forgotten and had fallen into oblivion.

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

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

1. The institution of the Imāmate is a necessary requirement of the *Shari'ah* and not of reason. The appointment of an Imām by the consensus of the Muslim community is obligatory.³ There is a similar passage in al-Baghdādi,⁴ who remarks that this is al-Ash'ari's opinion and is opposed to the Mu'tazilite view.

2. The Imāmate is instituted by means of election. The electoral college shall consist of persons with special qualifications.⁵ Also the candidates for the Imāmate must fulfil certain conditions.⁶ This elective principle of the Imāmate is obviously opposed to the Shi'ite claim of bequeathal or divine nomination. Al-Māwardi, however, does not discuss the election of a licentious person as Imām. Al-Baghdādi says that his election will be void, even if it has taken place through a properly constituted electoral college. Al-Māwardi's

³ Al-Māwardi, *op. cit.*, p. 3.

⁴ Al-Baghdādi, *Uṣūl al-Dīn*, p. 272.

⁵ These qualifications are three: justice with all the conditions pertaining to it; knowledge of religion and of the interests and policy of the nation; and wisdom (al-Māwardi, *op. cit.*, p. 4).

⁶ These conditions are: justice, learning, integrity of physical senses, wisdom, bravery, and Quraishite descent (*ibid.*, p. 5).

omission is deliberate, being a concession to the Buwaihids, who appointed the Caliphs to suit their selfish ends.

3. The right of franchise is enjoyed not only by the people living in the capital. The Caliph is, however, traditionally elected in the capital because the death of the previous Caliph is first known there, and political considerations require the immediate appointment of a new Caliph, and also because most of the people possessing the necessary qualifications for the Imāmate generally reside there.⁷ This principle was hotly contended by the Khawārij who believed in complete democracy and universal franchise.

4. Among the seven conditions which according to al-Māwardi must be fulfilled by a candidate, the seventh one, that is, the Quraishite descent, is very important. Al-Māwardi lays great stress on it and says that if anyone objects to it on the ground that it excludes non-Quraishites from the Caliphate, such an objection would not be considered, because it was this Quraishite descent that was presented by abu Bakr as an argument for preference in the election of Saqifah Bani Sā'idah.⁸

5. The Imām is appointed in one of the two ways:⁹ (a) He may be elected by the electoral college; (b) he may be nominated by the ruling Imām.

In the first case some scholars say the Imām must be elected by all the members of the electoral college in all the cities. Others oppose this view and say that abu Bakr was elected only by the citizens of Madinah. Still others assert that only five persons are sufficient to elect the Imām, as happened in the case of abu Bakr and Uthmān. In al-Māwardi's opinion, even one person is enough to elect the Caliph.¹⁰ He cites the tradition of 'Abbās as evidence. 'Abbās said to 'Ali, "Stretch your hand, I will swear my allegiance to you, and when people come to know that the Prophet's uncle has sworn his allegiance to his nephew, nobody would object to your Imāmate." This opinion has also been corroborated by al-Ash'ari.¹¹

6. The above extreme opinion has been advocated by al-Māwardi to advance another important opinion given in the next section, where he discusses the case of two candidates equally qualified for the Imāmate. He says that the electoral college may nominate anyone of the two as Imām without assigning any reason.¹²

7. The election of a less qualified person in the presence of a more qualified person is perfectly legal, provided the former fulfils all the conditions of the Imāmate.¹³ It was this principle under which most of the worthless Caliphs took refuge. It was also directed against the Shi'ahs, who believe that an

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ *Ibid.*, p. 7.

¹¹ Al-Baghdādi, *op. cit.*, pp. 275-77.

¹² Al-Māwardi, *op. cit.*, p. 9.

¹³ *Ibid.*, p. 10.

inferior person cannot have precedence over a superior one. They coined this theory to assert that since 'Ali and his descendants in the Fāṭimid line were superior to the rest of mankind, anyone who assumed the Caliphial power was a mere usurper. The refutation of this dogma was essential to establish the above doctrine. But al-Māwardi is not alone in this respect, for this is the agreed opinion of Sunnite jurists and theologians.

8. If there is only one suitable candidate for the Imāmate, he automatically becomes the Imām, and no election is required.¹⁴ Al-Māwardi seems to be inclined to this view; the jurists and scholars, however, assert that election must be held even if there is only one candidate for it, for otherwise the Imām cannot acquire legal status. This insistence on election is obviously directed against the Shī'ite theory of divine appointment.

9. The existence of two Imāms contemporaneously is illegal.¹⁵ Al-Ash'ari opposes this view and says that two Imāms at a time are possible if their territories are far-flung and widely separated by an ocean, which hinders easy communication between the two. But al-Māwardi insists in his view to rule out the Fāṭimids and the Umayyads of Spain.

C

SUCCESSION

1. The ruling Imām can nominate his successor. There is complete consensus on this point in the Muslim community.¹⁶ The Muslims accepted 'Umar as Caliph not on the suggestion of abu Bakr but in obedience to his order as Caliph.¹⁷ Similarly, when 'Umar appointed a limited council to elect his successor, it was an order from the Imām and there was no choice for the Muslims to do otherwise.¹⁸

2. The Imām can nominate any suitable person as his successor, provided he does not happen to be his father or son. The concurrence of the *ahl al-hall w-al-'aqd* is not necessary;¹⁹ but if he nominates his son, the concurrence must be obtained.²⁰ Also, he can nominate any other relation without requiring the concurrence.²¹

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

¹⁴ *Ibid.*, pp. 10–11.

¹⁵ *Ibid.*, p. 11.

¹⁶ *Ibid.*, p. 13.

¹⁷ *Ibid.*, p. 14.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Ibid.*, p. 15.

²¹ *Ibid.*

Caliphate was maintained by the Umayyads, the 'Abbāsids, the Fāṭimids, and the Turks, but the spirit of Islamic democracy was cast away with the shedding of the blood of 'Uṭhmān, the third successor of the Prophet.

Al-Māwardi's contention that abu Bakr's nomination of 'Umar could not be challenged by the Companions, for it was the valid enactment of a valid Imām, is nothing but historical fiction having no basis in historical fact. One of the earliest and most reliable authorities on that period, ibn Qutaibah, reports in his *al-Imāmah w-al-Siyāṣah* that when symptoms of death approached abu Bakr he became very anxious as to who should succeed him to the Caliphial authority. After much deliberation he decided to nominate 'Umar to succeed him. He called 'Uṭhmān to his bedside and dictated to him the deed of succession. When the news spread, people flocked to him from every quarter and began to question his choice. Thereupon he said, "If God asked me about this matter, I would tell Him that I appointed over them one whom I considered to be the best of them." After this he ordered a general assembly of the people; and when they gathered together, he addressed them and said that he had chosen for them a person with such and such qualities and then said, "If you so desire, you may sit together and elect a person whom you like; but if you wish that I should use my discretion in the matter on your behalf, then I assure you by One other than whom there is no God, I will spare no pains in doing you the best service." He then stopped and wept and the people wept with him and said, "You are the best and most informed amongst us, so you choose for us." And when the crowd dispersed he called for 'Umar and gave him the deed of succession and said, "Go to the people and inform them that this is my suggestion, and ask them if they hear it and obey it." 'Umar took that document and went to the people and addressed them. They all said, "We are all ears and obedience to it."²² This testimony of ibn Qutaibah is most unequivocal and decisive. It completely abrogates al-Māwardi's theory of nomination. It is quite obvious that abu Bakr did not deprive the people of their democratic right to elect the Head of the State freely. He simply gave his personal opinion. The people could accept his opinion as well as reject it. There was no political bar in their way, no Caliphial decree to prevent the exercise of their right of franchise.²³

²² *Al-Imāmah w-al-Siyāṣah*, pp. 19–23.

²³ In one of his pilgrimages to Makkah 'Umar heard a report that a person was saying, "By God, if 'Umar died I would declare my allegiance to so and so, and by God, abu Bakr's election was certainly defective, but it was made effective later on." 'Umar became enraged at this report, and wanted to take immediate action, but at the advice of 'Abd al-Raḥmān bin 'Auf, returned to Madinah and ordered all the judges, governors, and chiefs of the army to proceed to the capital. When all had come, a public assembly was held where the Caliph delivered one of the most important addresses of his life. After saying many important things on this occasion, he said: "Let not anyone be deceived to say that the election of abu Bakr was defective and that it became effective later. And among you there is none like abu Bakr towards whom the people may look with love and reverence;

Al-Māwardī's second argument in support of his thesis that the limited college of electors prescribed by 'Umar had the sole right of nominating the new Caliph,²⁴ is nothing but a deliberate effort to interpret ancient practice to justify later historical phenomena. In fact, 'Umar did nominate the limited council at the suggestion of 'A'ishah to prevent civil strife after his death.²⁵ He knew fully well that the probable candidates for the Caliphate were the very persons whom he had nominated for it. Not only that; he was perfectly sure that either 'Uthmān or 'Ali would be elected.²⁶ Therefore, to facilitate the new election he fixed a procedure that was least pregnant with evil and the best guarantee against civil discord. The stern warnings which he gave to the dissentient members of the electoral college and the strict directions which he issued about the conduct of the election, were but the last symbols of his great overriding authority over the hearts and minds of people, by means of which he so wonderfully ruled half the world for twelve years. But he did not lay down a permanent principle of Islamic polity, for this he could not do, since there was no warrant for it in the Qur'ān or the Sunnah. Even abu Bakr could not devise the theoretical foundations of the Caliphate, for during the last moments of his life he said that the one great regret he had was that he could not ask the Prophet to enlighten him on three problems. Regarding two of these, he said, "I should have asked: who would succeed him in political power after him? If he nominated anyone, nobody could challenge his nominee on this issue. And I should have asked him whether the Anṣārs were entitled to any share in political power."²⁷

'Umar's arrangement was, therefore, dictated by purely prudential considerations. A proof of this assertion is that he categorically declared that the Anṣārs were not entitled to any share in the sovereign power,²⁸ although abu Bakr was doubtful on this issue, and although many of the later jurists did not accept 'Umar's ruling on this point. The truth is that 'Umar took this extraordinary step for the defence of the State and not for the defence of a principle, for there was no clear principle before him. Hence the construction of a political theory out of his ruling can be neither justified nor appreciated as an achievement in political thought.

But al-Māwardī was not very much concerned about theory. He was a leading Sunnite legal doctor of the Shāfi'ite school, and was intimately associated with the 'Abbāsids; hence his chief interest lay in emancipating the Sunnite

therefore, if anyone of you swears allegiance to a person without consulting the general body of Muslims, such person shall not be deemed as elected; and the likelihood is that both these persons may be beheaded" (Ibn Hishām, *al-Sīrat al-Nabawīyyah*, Vol. IV, pp. 308-09).

²⁴ Al-Māwardī, *op. cit.*, pp. 13-14.

²⁵ Ibn Qutaibah, *Kiṭāb al-Ma'arīf*, p. 23.

²⁶ *Ibid.*, p. 25.

²⁷ *Ibid.*, p. 19.

²⁸ *Ibid.*, p. 24.

Caliphate from the Shī'ite tyranny of the Buwaihids. This explains why he gave the stamp of validity to the monarchical system of the 'Abbāsids. He had already before him the precedent of the Umayyads. Moreover, the jurists had, by the force of circumstances, reconciled themselves to the imperialistic order of the day, and given it the form and sanction of religious authority. Al-Māwardī, therefore, found no difficulty in taking his cue from the prevailing ideas of his time. His main contribution to Muslim political thought lies in the transformation of these ideas into a system, directly related to historical practice. He was not a visionary and idealist like the jurists or the scholastics, and like them did not sit to speculate in vacuum. He was a man of the world; he tried to solve its problems as best as he could.

3. The nomination of a person as heir apparent becomes effective only when he declares his consent to it. The Imām cannot withdraw the nomination until there occurs in this heir apparent some important change which invalidates him legally. So also an Imām cannot be deposed until a similar change occurs in him.²⁹ Now, these are only logical deductions from the fundamentals of the *Shari'ah* for there are no historical precedents to vouchsafe them.

4. The Imām can appoint the electoral college as well as the persons who may contest for the Imāmate.³⁰ This opinion is based on the election of 'Uthmān by means of a limited *shūra* appointed by 'Umar. Whatever might have been the political consideration before 'Umar, the derivation of a general principle out of it is certainly most dangerous to sound polity and to the stability of a State. The piety, honesty, intelligence, and statesmanship of 'Umar could very well be relied upon. The same cannot be said of another personality after him in Muslim history. Notwithstanding this, historians have held that 'Umar was mistaken in taking this step.³¹ It is a well-known fact that most of the members of the *shūra*, who came out unsuccessful in the contest, at once started plotting against 'Uthmān and began to aspire for the Caliphate.³² Apart from this historical fact, if the right of nominating the electorate as well as the candidates is conceded to the Imām, it is bound to make him absolute and despotic. In truth, it was this theory that developed into divine right with the 'Alids and the 'Abbāsids. And it was this theory that throttled the growth of democracy in Islamic polity.

5. The Imām can nominate two or more heirs apparent to succeed him one after the other. The argument has been derived from the battle of Mūtah, in which the Prophet appointed Zaid bin Ḥārithah as the Commander of the Muslim forces and said that if he fell in fighting he was to be succeeded in command by Ja'far bin abi Ṭālib who was to be succeeded by 'Abd Allah bin Rawāḥah. If ibn Rawāḥah also fell, then the Muslims could choose anyone from among themselves as their Commander. Apparently, the citation of this

²⁹ Al-Māwardī, *op. cit.*, p. 16.

³⁰ *Ibid.*, p. 21.

³¹ Rafiq Bek, *Ashhar Mashāhīr al-Islām*, Vol. I.

³² Ibn Qutaibah, *op. cit.*, p. 48.

incident in support of a fundamental issue like that of the Caliphate is but fake reasoning.³³

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

D

DESIGNATION AND PRIVILEGES

1. When a person is duly elected as Imām the people should entrust all their affairs to him and must give him their unquestioning obedience. The Imām may not consult them in the affairs of the State, yet they must obey him.³⁴

2. The Imām may be addressed as the *Khalīfat Allah*, but the majority of jurists say that this title is forbidden, for no human being can represent God on earth, since man is mortal and imperfect. Hence the Imām may either be called a mere *Khalīfah* or *Khalīfat al-Rasūl Allah*.³⁵ Once when abu Bakr was addressed as *Khalīfat Allah* he exclaimed, "Do not address me as *Khalīfat Allah* but as the *Khalīfat al-Rasūl Allah*."

E

DUTIES AND FUNCTIONS OF THE IMĀM

The Imām has the following ten principal duties to perform:

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

This is undoubtedly the foremost duty of the Imām under the *Sharī'ah*. But unfortunately it is under the cover of this pretext that throughout the last thirteen centuries, adventurers and self-seekers have striven to carve out political fortunes for themselves. The second civil war of Muslims was fought by the Umayyads, the Hāshimites, and the Zubairites under this same pretext. When the 'Abbāsids, the Fātimids, and the Ṣafawids came to power they called themselves the Defenders of Faith, and crushed every political dissident in the name of religion. Even today there can be evinced a great effervescence for religious revival in all the Muslim lands, but everywhere the undertone is political, not religious.

³³ Al-Māwardi, *op. cit.*, p. 22.

³⁴ *Ibid.*, p. 27.

³⁵ *Ibid.*, pp. 27-28.

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

2. The dispensation of justice and disposal of all litigations in accordance with the *Sharī'ah*. The Imām should curb the strong from riding over the weak, and encourage the weak to take their due in face of the strong.

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

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

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

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

7. The collection of *kharaḥ* and *zakāt* taxes in accordance with the laws of the *Sharī'ah* and the interpretation of the jurists, without resorting to extortion by pressure.

8. The apportionment of allowances and stipends from the State treasury (*Bait al-Māl*) to those who are entitled to them. This money should not be expended with extravagance or stinginess, and must not be either prepaid or delayed.

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

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

And when the Imām has carried out all these duties efficiently, the people must offer him two things, obedience and help.

This enumeration of the ten-fold functions of the Imām is arbitrary. Number ten has been chosen particularly because it is an auspicious and mystical number. The notable fact here is that, while his predecessors and successors lay great emphasis on the first two points, viz., the safeguard of religious principles and the dispensation of justice, as the principal duties of the Imām, al-Māwardi lays the main stress on the administrative responsibility of the Caliph. In his opinion the Caliphate is not merely a religious institution for the carrying out of justice but also the greatest social organization to help promote the corporate life of men. In other words, the management

of the State machinery is of basic importance to him. This explains why he devotes only one-tenth of his book to the exposition of the theory of the Caliphate, and uses the rest of his work to elaborate the detailed apparatus of government which hinges on the central authority of the Caliph. The nebulous nature of the dispersion of State power had led to the dreadful tussle between the Buwaihids and the 'Abbāsids. The Buwaihids, who had no legal claim to sovereignty, and who had not clarified their position, had long been intriguing to overthrow the Caliphate outright. Al-Māwardi's attempt, therefore, at defining in detail the responsibility and scope of Caliphal powers in relation to normal administration, was most plausible and a direct hit at the Buwaihids. Further, he made his treatise an inviolable document by reinforcing it with the argument of earlier historical practice, dating back to the time of the Prophet, and by basing it on the opinions of the leading jurists of Islam. It is significant to note that al-Māwardi hardly quotes anywhere any of these jurists, but since he was the greatest judge of Baghdād, his declaration in the preface was taken as sufficient guarantee of his veracity. There is no ground to question his *bona fides*, yet it would have been more commendable if he had given the actual authorities.

F

DEPOSITION OF THE IMĀM

Al-Māwardi has given a detailed consideration to the subject of an Imām's deposition. In the first place, arguing on the basis of legal deduction from the fundamentals of the *Shari'ah* he says that once a person is elected as Imām, he cannot be removed from that office until there has occurred some definite change in him.³⁶ Then, after discussing the duties of the Imām, he reverts to the subject and dilates on it at length. He says that the Imām loses his title and authority on account of one of the following reasons:

1. If there occurs a change in his moral status, technically known as *'adālah* (sense of justice). The moral change is of two kinds:

(a) The one connected with his body, that is, if he becomes a slave to his inordinate desires and flouts openly the prohibitions of the *Shari'ah*. In such an event, a person can neither be elected as Imām nor continue as such.³⁷ Abu Ya'la rejects this opinion and holds the opposite view.³⁸

(b) The one connected with his faith, that is, if a person holds opinions contrary to the established principles of religion, or holds such twisted opinions as amount to an abrogation of the accepted principles, he can neither be initiated as Imām nor continue to hold that office.³⁹ In this there is a clear

³⁶ *Ibid.*, p. 16.

³⁷ *Ibid.*, p. 31.

³⁸ Abu Ya'la, p. 4.

³⁹ Al-Māwardi, *op. cit.*, p. 32.

denunciation of the stand of the Buwaihids and of the *Shi'ite* and *Fātimid* claims to the Caliphate.

2. If there occurs a change in the person of the Imām. It is of three kinds: loss of physical senses, loss of bodily organs, and loss of ability to supervise and direct the affairs of the State.

(a) Among the defects which occur in the physical senses, the two most important ones which preclude a person from election to the Imāmate or make him unfit to continue in office are the loss of mental faculty and the loss of eyesight. The first case is obvious and needs no comment. But the second has had a profound bearing on the course of Muslim history. The practice of putting out the eyes with hot iron to prevent a person from wearing the imperial purple was undoubtedly borrowed from the Byzantine Empire; the opinion of the Muslim jurists on the issue, however, gave it an added importance as an instrument of tyranny in Oriental lands. The dreadful effect of this foul practice can be gauged from the fact that about two dozen 'Abbāsid Caliphs were thus blinded to be dethroned from the Caliphal seat. The juridical opinion referred to above is that a blind person is unqualified to give witness or sit as a judge in a court of law; he is, therefore, much more unqualified to serve as the Head of the State.⁴⁰

(b) Loss of bodily organs. It is of various kinds. If it does not hinder the performance of normal duties, and does not disfigure the features or the external beauty of the body, it will be of no account.⁴¹

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

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

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

(i) If the Imām is over-powered by one of his counsellors and assistants, who appropriates all authority to himself, but does not openly defy the Imām, the Imām will continue in his office, provided the usurper rules in accordance with the injunctions of the *Shari'ah*, and in deference to the accepted norms of justice. This is to ensure that the functions of the Imāmate should continue to be performed, and that the people do not fall a prey to the ways of evil on account of the non-enforcement of the laws of the *Shari'ah*.⁴² But if his conduct is opposed to the principles of religion and justice, he will not be tolerated in that status, and the Imām shall have to seek the help of a person who can oust the usurper and restore supreme authority to the Caliph.⁴³

This principle has been elaborated by al-Māwardi with great care and legal acumen. In the next chapter he takes it up again and discusses it in full

⁴⁰ *Ibid.*, p. 33.

⁴¹ *Ibid.*, p. 35.

⁴² *Ibid.*, p. 37.

⁴³ *Ibid.*, p. 38.

detail.⁴⁴ This principle which had no sanction in ancient authority or in the opinions of the jurists, was dictated by the force of circumstances in which the 'Abbāsīd Caliphate had been placed during the two centuries preceding the death of al-Māwardī. The Buwaihīd usurpation in Baghdād and the falling of the Caliphā power into insignificance necessitated the evolution of a formula which suited the exigencies of the times and covered the *de facto* relation that existed between the Buwaihīds and the 'Abbāsīds. This was a clear departure from the principle of the Caliphate enunciated by al-Māwardī in the earlier part of his book. But he devised a *via media* to remove this glaring contradiction. If the absolute governor or the usurper (*Amīr bi al-Isṭilā'*) declares his allegiance to the Caliph and promises to maintain the unity of the Caliphate, enforces the laws of the *Shari'ah*, and co-operates with the Imām against the foes of Islam, the Caliph shall recognize his absolutism by conferring on him the deed of investiture formally and publicly. Though this arrangement is opposed to the established tradition, it shall be deemed perfectly legal, because it envisages the safeguard of the injunctions of the *Shari'ah* which cannot be let go by default, and because of the unavoidable condition created by the act of usurpation.⁴⁵ In this theory there is, on the one hand, an overt recognition of the situation prevailing in Baghdād and, on the other, an unconcealed warning to the Buwaihīds that if they transgressed their limits they could be brought to book with the help of the Ghaznawīd power which was an open ally of the 'Abbāsīd Caliphate. In a passage al-Māwardī says that in case the usurper shows an uncompromising and rebellious attitude, the Caliph can call in the help of one who can relieve him of the straits. The person referred to is none but Maḥmūd of Ghaznah.

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

(ii) If the Imām falls a prisoner into the hands of an enemy, it will be the duty of the entire Muslim people to endeavour to emancipate him,⁴⁶ and as long as there is any hope of his deliverance he will continue as Imām, and another person may be elected to officiate in his absence. But if all hope is

⁴⁴ *Ibid.*, pp. 67-70.

⁴⁵ *Ibid.*, p. 68.

⁴⁶ *Ibid.*, p. 38.

lost, he will be deemed to have relinquished his office, and a new election shall take place.

If the Imām is captured by a Muslim rebel army, and the rebels have not appointed an Imām of their own, the captured Imām shall continue to command the loyalty of the people, and an acting Imām shall be appointed by him, if possible, or by the electoral college. But if the rebels have appointed an Imām of their own, the existing Imām shall forfeit his claim to the Imāmate, and the responsible men (*ahl al-ḥall w-al-'aql*) shall elect a new Imām according to their discretion.⁴⁷ Al-Māwardī's wording in this passage is full of meaning. He means to say that a victorious rebel leader does not automatically become the Imām.

G

CONCLUSION

Al-Māwardī's great contribution to political thought was that he gave a detailed account of the administrative machinery of the Government of his time and in formulating his political theory he took full cognizance of historical facts and, unlike the jurists and the scholastics, did not indulge in empty speculation. But with all the good things that can be said about al-Māwardī, he had one shortcoming—he could not evolve a philosophic conception of the State. He did not discuss the meaning, scope, jurisdiction, and obligations of the State, gave no conception of sovereignty, and was completely ignorant of the idea of a constitutional democracy. Lack of constitutional theory not only reduced the value of his work, but also adversely affected the later development of Muslim political thought.

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⁴⁷ *Ibid.*, p. 40.