

Part 5: Political Thinkers

Chapter 33: Political Thought In Early Islam

In this chapter we try to elucidate the political thought which laid the foundations of society and State in the early days of Islam, and the changes that crept into it during the first century and a quarter of the Hijrah.

A. Principles of Islamic Polity

Muslim society that came into existence with advent of Islam and the State that it formed on assumption of political power were founded on certain clear cut principles. Prominent among them and relevant to our present discussion were the following:

1. Sovereignty belongs to God and the Islamic State is in fact a vicegerency, with no right to exercise authority except in sub-ordination to and in accordance with the Law revealed by God to His Prophet.[1](#)
2. All Muslims have equal rights in the State regardless of race, colour or speech. No individual, group, class, clan or people are entitled to any special privileges, nor can any such distinction determine anyone's position as inferior.[2](#)
3. The *Shari'ah* (i.e. the law of God enunciated in the Qur'an and the Sunnah, the authentic practice of the Prophet) is the supreme Law and everyone from the lowest situated person to the Head of the state is to be governed by it.[3](#)
4. The government, its authority, and possessions are a trust of God and the Muslims, and ought to be entrusted to the God fearing, the honest, and the just, and no one has a right to exploit them in ways not sanctioned by or abhorrent to the *Shari'ah*.[4](#)
5. The Head of State (call him Caliph, Imam or Amir) should be appointed with the mutual consultation of

the Muslims and their concurrence. He should run the administration and undertake legislative work within the limits prescribed by the *Shari‘ah* in consultation with them.⁵

6. The Caliph or the Amir is to be obey ungrudgingly in whatever is right and just (*ma‘ruf*), but no one has the right to command obedience in the service of sin (*ma‘siah*).⁶

7. The least fitted for responsible positions in general and for the Caliph’s position in particular are those that covet and seek them.⁷

8. The foremost duty of the Caliph and his government is to institute the Islamic order of life, to encourage all that is good, and to suppress all that is evil.⁸

9. It is the right, and also the duty, of every member of the Muslim community to check the occurrence of things that are wrong and abhorrent to the Islamic State.⁹

B. Early Caliphate and its Characteristic Features

The rule of the early Caliphs that followed the Prophet was founded on the foregoing principles. Each member of the community, brought up under the guidance and care of the Prophet of God, knew what kind of government answered the demands and reflected the true spirit of Islam. Although the Prophet had bequeathed no decision regarding the question of his successor, the members of the community were in no doubt that Islam demanded a democratic solution of the issue. Hence, no one laid the foundations of a hereditary government, used force to assume power, or tried to have himself installed as Caliph. On the contrary, the people, of their own free will, elected four persons one after another to this august office.

Elective Caliphate

Abu Bakr was proposed Caliph by ‘Umar, and accepted by the inhabitants of Medina (who for all practical purposes represented the country) of their free will and accord, and they swore him allegiance. Abu Bakr, nearing his end, wrote a will in favour of ‘Umar, then, collecting the people in the mosque of Medina, he addressed them thus, “Do you agree on him whom I am making my successor among you? God knows I have racked my brain as much as I could, and I have not proposed a relation of mine to succeed me, but ‘Umar, the son of Khattab. Hence, listen to him and obey.” Upon this the people responded, “Yes, we shall listen to him and obey.”¹⁰

In the last year of ‘Umar’s reign a man declared during the pilgrimage that when ‘Umar died he would swear allegiance to so and so. Abu Bakr’s installation, he said, had also been so sudden, and succeeded well enough.¹¹ When ‘Umar came to learn of it, he resolved to address the people about it and “warn them against those who designed to impose themselves upon them.”

Alluding to it in the first speech he made on reaching Medina, he gave a lengthy account of what had

transpired at Banu Sa‘idah’s Meeting House and explained how in the exceptional circumstances which then prevailed he had suddenly risen to propose Abu Bakr’s name and offered allegiance to him. “If I had not done so,” he said, “and we had dispersed that night without settling the issue, there was a great danger that people might take a wrong decision overnight, then it would be difficult for us to accept it, and equally difficult to reject it.”

“If that was successful,” he continued, “let it not be made a precedent. Who among you is there to match with Abu Bakr in stature and popularity? Now, therefore, whoever will swear allegiance to another without consultation with other Muslims, he and the one whose allegiance is sworn, shall both stand to die.”¹²

When ‘Umar approached his end, he appointed an Elective council to decide the issue of succession. Elucidating his principle enunciated above, he asserted that whoever attempted to impose himself as Amir (ruler) without the consultation of the Muslims deserved to die. He also barred his son from election¹³ lest the Caliph’s office should become a hereditary right, and constituted the Elective Council to comprise those six persons who in his opinion were the most influential and enjoyed the widest popularity. This council in the end delegated its power of proposing a person for the Caliph’s office to one of its members, ‘Abd al-Rahman bin ‘Auf. ‘Abd al-Rahman moved among the people to find out as to who commanded their confidence most and left no stone unturned to ascertain the people’s verdict. Even the pilgrim parties returning home after the pilgrimage were consulted. It was after this “plebiscite” that he concluded that the majority favoured ‘Uthman.¹⁴

When ‘Uthman was killed, a few people tried to install ‘Ali as Caliph. But he said, ‘You have no authority to do so. This is a matter for the Consultative Council (*ahl al-shura*) and those that fought at Badr (*ahl al-Badr*). Whomsoever the Consultative Council and the people of Badr will choose, the Caliph will be Caliph. Therefore we shall gather and deliberate.’¹⁵ In al-Tabari’s version, ‘Ali’s words were, “I cannot be elected secretly, and it must be with the consultation of the Muslims.”¹⁶

When ‘Ali lay dying it was asked of him, “Shall we offer allegiance to al-Hassan (your son)?” His reply, “I do not ask or forbid you to do so. You can see for yourself.”¹⁷ When he was addressing his last words to his sons, a person interposed saying, “Oh Commander of the Faithful, why do you not nominate your successor?” His reply was, “I will leave the faithful in the condition in which the Prophet of God left them.”¹⁸

It is evident from these facts the early Caliphs and the Companions of the Prophet regarded the Caliph’s office as an elective one, to be filled with mutual consultation and consent of the Muslim community. They did not regard hereditary succession or one acquired by force of arms as anything valid.

Government by Consultation

The first four Caliphs did not perform their administrative or legislative functions without consulting “the

wise” (*ahl al-ra'y*, lit., those that are able to give advice) of the community. They also realized that those consulted had the right to give their candid opinion without any fear. ‘Umar expressed the official policy in this regard in his inaugural speech before a Consultative Council in this way, “I have called you for nothing but that you may share with me the burden of the trust that has reposed in me of managing your affairs. I am but one of you, and today you are the people that bear witness to truth. Whoever of you wishes to differ with me is free to do so, and whoever wishes to agree is free to do that. I will not compel you to follow my desires.”¹⁹

The Exchequer, a Trust

The treasury (*Bait al-Mal*) was to them a trust from God and the public. They did not consider it permissible to receive into it or expend from it a sum which the Law did not authorize. To use it for the personal ends of the rulers was, according to them, simply unlawful. ‘Umar in a speech remarked, “Nothing is lawful for me in this trust of God save a pair of clothes for the summer and a pair of clothes for the winter, and subsistence enough for an average man of the Quraish for my family. And after that I am just one of the Muslims.”²⁰

In another speech he said, “I do not regard anything correct in respect of this trust of yours but three things: that it should be taken by right, that it should be expended by right, and that it should be withheld from wrong. My position regarding this property of yours is the same as that of an orphan’s guardian with the orphan’s property. So long as I am not needy I will take nothing from it. When I am needy I shall take as it befits one to take from an orphan’s property under his care.”²¹

When ‘Ali was at war with the Mu‘awiyah he was exhorted by some to use the treasury to win adherents against him who was drawing large numbers to his side by giving sumptuous rewards and gifts. But ‘Ali declined to take that counsel saying, “Do you want me to win success by unfair means?”²² His brother, ‘Aqil, wished to have some help from *Bait al-Mal*, but he refused him, saying, “Do you wish your brother to give you the money of the people and take his to hell?”²³

Ideal Government

What their idea of government was what they thought of themselves, of their status and duties as rulers, and what policy they followed – questions like these and others were answered in the various speeches addressed by them from the Caliph’s pulpit. Abu Bakr, in the first speech he made following the oath of allegiance to him in the Mosque of Medina said, “I have been made a ruler over you though I am not the best of you. Help me if I go right; correct me if I go wrong. Truth is faithfulness and falsehood is treachery. The weak one among you will be strong with me until I have got him his due, if God so wills, and the strong one among you will be weak with me until I have made him pay what he owes, if God so wills. Beware when a nation gives up its endeavours in the way of God. He makes no exception but brings it low and when it allows evil to prevail in it, undoubtedly He makes it miserable. Obey me as long as I obey God and the Prophet, if I do not obey them, you owe me no obedience.”²⁴

And ‘Umar said in his speech, “No ruler holds so high a position as to have the right to command obedience in defiance of God. Oh people, you have rights on me whom I shall relate before you, and you may take me to task over them. I owe you this that I do not receive anything from your revenue or the *fai’* (lands or possessions that accrue to Muslims in consequence of their collective dominance, not as booty in war) given to us by God except in accordance with the law, and nothing that accrues to us in these ways should go from the treasury but rightfully.”²⁵

Al-Tabari quotes ‘Umar giving instructions to all persons whom he sent out as governors in the wise, “I have appointed you governor over the followers of Mohammad (on whom be peace) not to make you masters of their persons and properties but to enable you to lead them to establish prayer, dispose of their affairs with justice, and dispense their rights among them with equity.”²⁶

‘Umar once declared in public, “I have not sent my governors that they may whip you and snatch your property, but that they may instruct you in your faith and the way of your Prophet. If there be any who has been treated otherwise, let him bring me his complaint. By God, I will see that this wrong is avenged.”

Upon this ‘Amr bin ‘As, Governor of Egypt, stood up and asked, “What, when a man is appointed ruler and he chastises someone, will you take revenge on him?”

‘Umar replied, “Yes, by God, I will take revenge on him. I have seen the Prophet of God himself allowing people to take revenge on him.”²⁷

On another occasion ‘Umar collected all his governors at the annual pilgrimage and announced in a general congregation of people that if there was a person who had a charge of injustice against anyone of them, he should come forward to make his complaint. One person rose from the multitude and complained that he had been undeservedly given a hundred stripes by ‘Amr bin ‘As. ‘Umar asked him to come forward and square the account with. ‘Amr bin ‘As protested, beseeching ‘Umar not to expose his governors to this humiliation, but ‘Umar reiterated that he had seen the Prophet of God himself allowing men to avenge themselves upon him, and asked the aggrieved man to step forward and take his revenge. ‘Amr bin ‘As saved his skin only by appeasing the man with a pair of crowns for each stripe that was to fall on his back.²⁸

Rule of Law

The “Right-going” Caliphs did not regard themselves above the law. On the other hand, they declared that they stood at par with any other citizen (Muslim or non-Muslim) in this respect. They appointed judges, but once a person was appointed a judge he was free to pronounce judgment against them as against anybody else. Once ‘Umar and Ubayy bin Ka‘ab differed in a matter, and the dispute was referred to Zaid bin Thabit for a decision. The parties appeared before Zaid and he rose and offered ‘Umar his own seat, but ‘Umar sat by Ubayy. Then Ubayy preferred his claim which ‘Umar denied.

According to the procedure, Zaid should have asked ‘Umar to swear an oath but Zaid hesitated in asking for it. ‘Umar himself swore an oath and at the conclusion of the session remarked that Zaid was unfit to be a judge so long as ‘Umar and an ordinary man did not stand equal in his eyes.²⁹

The same happened between ‘Ali and a Christian whom he saw selling his (‘Ali’s) lost coat of mail in the market of Kufah. He did not seize it from the fellow with a ruler’s might, but brought the case before the magistrate concerned, and as he could not produce adequate evidence to support his claim, the decision of the court went against him.³⁰ Ibn Khallikan reports that once ‘Ali and a non-Muslim citizen (*dhimmi*) appeared as parties in a case before Judge Shuraih. The judge rose to greet ‘Ali, who was Head of State at that time. Seeing this ‘Ali said to Shuraih, “This is your first injustice.”³¹

Absence of Bias

Another distinctive feature of the early days of Islam was that everybody received an equal and fair treatment exactly in accordance with the principles and the spirit of Islam, the society of those days, being free from all kinds of tribal, racial, or parochial prejudices. As the Prophet of God passed away, the tribal jealousies of Arabs rose again like a held-up storm. Tribal prejudice formed the main impulse behind the claims to prophethood and large-scale apostasy that immediately followed the Prophet’s demise. One of Musailimah’s followers said, “I know Musailimah is a false prophet, but a false one of the (tribe of) Rabi‘ah is better than the true one of the (tribe of) Mudar.”³² An elder of the Banu Ghatafan, similarly taking sides with another false prophet, Tulahah said, “By God, it is easier for me to follow a prophet of one of our allied tribes than one from the tribe of Quraish.”³³

But when the people saw that Abu Bakr (r. 11 – 13/632 – 634), and in his wake ‘Umar (r. 13 – 23/634 – 644), dispensed exemplary, even handed justice not only among the various Arab tribes but even among the non-Arabs and non-Muslims were once more inspired with that cosmopolitan outlook which Islam sought to inculcate in them. Abu Bakr and ‘Umar’s attitude in this respect was most exemplary.

Towards the end of his reign ‘Umar became apprehensive lest these tribal currents which, despite the revolutionizing influence of Islam, had not succumbed altogether should shoot up again and cause disruption after him. So, on one occasion talking to ‘Abd Allah bin ‘Abbas regarding his possible successors, he said about ‘Uthman, “If I propose him as my successor I fear he would suffer from the sons of Abu Mu‘ait (the Umayyads) to ride the necks of the people, and they will practice sin among them. God knows, if I do so, ‘Uthman will do this, and if ‘Uthman does this, they will surely commit sins, and people will rise against ‘Uthman and make short work of him.”³⁴

This apprehension clung to him even in the hour of his death. Summoning ‘Ali, ‘Uthman, and Sa‘d bin Abi Waqqas to his bedside, he said to each one, “If you succeed me as Caliph do not allow members of your clans to ride the necks of other people.”³⁵ Besides that, among the instructions which he left for the Elective Council of Six, on which devolved the task of electing the new Caliph, was that the new incumbent was to be asked to give a pledge that he would not show discrimination in favour of his own

clan.³⁶ Unluckily, however, the third caliph, ‘Uthman (r. 23 – 35/644 – 656) failed to keep up the standard by his predecessors and inclined towards favouring the Umayyads. This was regarded by him as “good office to the kindred.” Thus, he used to say, “‘Umar deprived his kin for the sake of God, but I provide for my kin for His sake.”³⁷ The result was the ‘Umar had apprehended. There was a rising against him, which led to his murder and rekindled the sleeping embers of tribal bias into a fire that consumed the whole edifice of the “Right-going” Caliphate.

After the death of ‘Uthman, ‘Ali (r. 35 – 41/656 – 661) tried to recapture the standard set by Abu Bakr and ‘Umar. He had no bias in him and showed himself remarkably free from it. Mu’awiya’s father, Abu Sufyan, had taken note of it when he tried to excite this passion in him on Abu Bakr’s accession. He had asked him, “How could a man of the humblest family in Quraish become Caliph? If you prepare to rise, I will undertake to fill this valley with horsemen and soldiers.” But ‘Ali had coldly retorted that this spoke for his enmity for Islam and the Muslims and so far as he was concerned, he regarded Abu Bakr truly fit for that office.³⁸ Therefore, when he became Caliph he treated the Arabs and non-Arabs, gentlemen and poor born, Hashimites and others, all alike. No distinction was made between them, and not received preference over others undeservedly.³⁹

C. Theological Differences and Schisms

The period of the “Right-going” Caliphate, described above, was a luminous tower towards which the learned and the pious of all succeeding ages have been looking back as symbolic of the religious, moral, political, and social orders of Islam *par excellence*. Abu Hanifah, employed at elucidating the Islamic ideals in the fields of politics and law, as we shall presently see, also reverted to it as the ideal epoch to take instance from. We have, therefore, devoted a good deal of space to it, that the reader may be able to comprehend his work in the true background.

But before attending to his work we have also to take a brief view of the reactionary movement that had set in towards the end of the “Right-going” caliphate and reached its height by the time Abu Hanifah appeared on the scene. As his efforts were mainly devoted to countering this reaction, it is necessary to take stock of it and the problems that sprang from it, to be able to grasp the true significance of his work.

Differences among Muslims had sprung up during the last years of ‘Uthman’s reign leading to his murder, but they had not yet assumed theological or philosophical shape. When, after his death in the reign of ‘Ali these differences raged more furiously than ever and led to a civil war resulting in bloodshed, as in the Battle of the Camel (36/656), the Battle of Siffin (37/657), the “arbitration” (38/659), and the battle of Nahrawan (38/659), questions like “Who is in the right in these battles and how?” “Who is in the wrong and why?” “If some regard both sides wrong, what is their ground for holding this?” naturally cropped up and demanded to be answered. These questions led to the framing of certain opinions and justifications that were essentially political in the beginning, but as each group sought to strengthen its position by calling theological support in aid of its particular stand, these political factions

gradually changed into religious groups.

Then, the bloodshed which accompanied these factional feuds in the beginning and continued during the rules of the Umayyads and the 'Abbasids, did not allow these differences to remain only theological; they went on growing ever more acute and menacing until they threatened the national unity of the Muslims. Every house was a place of controversy, every controversy suggesting ever new political, theological, and philosophical offshoots. Every new question that cropped up gave birth to a number of new sects which sub-divided themselves into further sects over minute internal differences.

These sects were not content to fill themselves with bias against one another, their polemics often ended up in quarrels ad riots. Kufah, the capital of Iraq, where Abu Hanifah was born, was the chief centre of these quarrels. The battles of the Camel, Siffin and Nahrawin had all been fought in Iraq. The heart-rending murder of Hussain (61/680), the Prophet's grandson, had also taken place here. It was the birth place of most of these sects and the field where both the Umayyads and the 'Abbasids used the maximum of coercion to repress their opponents. The time of Abu Hanifah's birth (80/699) and growth coincided with these factional hostilities at their height.

The large number of sub-sects that grew out of these factions had their roots in four main sects: the Shi'ah, the Khawarij, the Murji'ah, and the Mu'tazilah. We shall give here a brief account of the doctrines of each of them before proceeding further.

The Shi'ah

They were the supporters of 'Ali and called themselves the Shi'ahs (party) of 'Ali. Later (the word of 'Ali was dropped and) they began to be called the Shi'ahs.

Although a section of the people of Banu Hashim and a few others regarded him superior to the other Companions particularly to 'Uthman, and others considered him to be more entitled for the Caliphate because of his relationship with the Prophet, yet up to the time of 'Uthman these opinions had not assumed the form of a creed or religious belief. Nor were the people who held these opinions hostile to the first three Caliphs.

On the other hand, they acknowledged and supported their succession. As a separate party with clear cut views on these matters, they emerged in 'Ali's reign during the battles of the Camel, Siffin, and Nahrawan. Later, the cold-blooded slaughter of Hussain rallied them, fired them with a new wrath, and shaped their views into a separate creed. The indignation provoked among the general Muslim populace by the vile deeds of the Umayyads and the sympathy excited in their breasts for the descendants of 'Ali on account of their constant persecution in both the Umayyad and the 'Abbasid regimes, lent extra-ordinary support to Shi'ite propaganda. They had their stronghold at Kufah. Their beliefs were as follows:

1. The Imam's office (particular Shi'ite term for the Caliph's office) is not a public office the institution of which may have been left to the choice of the public (*ummah*). The Imam is a pillar of the faith and the

foundation stone of Islam. Therefore, it is one of the main duties of the Prophet to institute somebody as Imam instead of leaving the matter to the discretion of the community.[40](#)

2. The Imam is impeccable, i.e. free from all sins, great and small. He is immune from error. Everything that he says or does is inviolate.[41](#)

3. The Prophet had conferred the Imamate on ‘Ali and nominated him as his successor. Thus ‘Ali was the first imam by ordinance.[42](#)

4. As the appointment of the imam is not left to be made by public choice, every new imam will be appointed by an ordinance from his predecessor.[43](#)

5. All the Shi‘ah sects are also agreed that the Imam’s office is the exclusive right of the descendants of ‘Ali.[44](#)

Beyond this general agreement, however, the various Shi‘ahs sects differed among themselves. The moderate among them held that ‘Ali was the best created man. He who fought or bore malice against him was an enemy of God to be raised among infidels and hypocrites and destined to live in hell. “If ‘Ali had refused to recognize their Caliphate as legitimate and expressed displeasure with them, Abu Bakr, ‘Umar and ‘Uthman who preceded him as Caliphs would also have deserved that doom, but as ‘Ali recognized them and swore allegiance and offered prayers behind them, we cannot take exception to what he took as right. We do not differentiate between ‘Ali and the Prophet except that the latter was endowed with prophethood, for the rest ‘Ali was worthy of the same esteem as the Prophet.[45](#)

The fanatical among them held that the Caliphs before ‘Ali were usurpers and those who elected them were ill-guided and unjust, as they belied the Prophet’s will and deprived the rightful caliph of his due. Some went further and pronounced anathema against the first three Caliphs and declared them and their electors ex-communicated.

The softest of them were the Zaidiyah, followers of Zaid (d. 122/740) son of ‘Ali, son of Hussain. They regarded ‘Ali as superior to others, but allowed the choice of those who were inferior to him. Moreover, they held that the Prophet’s decision in favour of ‘Ali was not unequivocal; hence, they accepted the Caliphate of Abu Bakr and ‘Umar. All the same, they preferred the choice of an able person from the descendants of Fatima (the Prophet’s daughter) as imam, provided he claimed that position and challenged the title of “the kings” to it.[46](#) Abu Hanifah was closely connected with Zaid, as we shall see in the course of this chapter, although he did not contribute to the Zaidite doctrine.

The Khawarij

In direct opposition to the Shi‘ahs the Khawarij stood at the other extreme. They suddenly grouped together during the battle of Siffin. Until then they were among the staunch supporters of ‘Ali, but when, during that engagement, he consented to submit his quarrel with Mu‘awiya to the decision of two

arbiters, they abandoned him asserting that he had turned infidel by accepting to submit to the verdict of human arbiters instead of God. After that they drifted farther and farther away and being fanatical hot heads, who believed in waging war against those who differed from them and against “unjust government” wherever one was found, they indulged in war and bloodshed for a long time until their power was finally crushed under the ‘Abbasid rule. They, too, were most influential in Iraq, their camps being mainly centred in al-Bata’ia between Kufa and Basra. Their beliefs briefly were as follows.

1. They acknowledged Abu Bakr and ‘Umar as Rightful Caliphs but ‘Uthman, in their opinion, had, towards the end of his reign, erred from the path of justice and right conduct and hence deserved to be deposed or killed. ‘Ali also committed, according to them, a major sin when he accepted the “arbitration” of “one besides God.” The two arbiters (‘Amr bin ‘As and Abu Musa al-Ash‘ari), their choosers (‘Ali and Mu‘awiya), and all those who agreed to arbitration were sinners. All those who participated in the battle of the Camel, including Talhah, Zubair, and A’ishah, the Prophet’s wife, had been guilty of grievous sin.
2. Sin, with the Khawarij, was synonymous with infidelity. Anyone who committed a major sin (and did not repent and revert) was placed outside the pale of Islam. All the personages mentioned above were declared infidels. Anathema was pronounced against them, and they were considered fit to be censured. The Muslims in general were pronounced infidels, first, because they were not free from sins, and, secondly, because they not only regarded these persons as Muslims but also acknowledged them as reliable guides, and deduced and verified the law from traditions reported by them.
3. The Caliph, according to them, should be elected by the free vote of the Muslims.
4. The Caliph need not be a member of the tribe of Quraish. Whomsoever they elected from amongst the honest Muslims would be a rightful caliph.
5. A caliph was to be obeyed faithfully as long as he acted rightly and justly, but if forsook the path of right and justice; if he was to be fought against and deposed or assassinated.
6. The Qur’an was recognized as the authoritative source of law but their views on Hadith (the Prophet’s Tradition) and *ijma'* (the agreement of Muslims in respect of a rule of Law) were different from those of the majority.

A large group of them, which called itself al-Najdiyyah, did not believe in the very need of a State. The Muslims, they said, should of themselves abide by the right. However, if they needed a Caliph to direct their affairs, there was no harm in choosing one.

Their major section, the Azariqah, dubbed all Muslims, expecting themselves polytheists. The Khawarij, according to them, could not go for prayer in response to any but a Kharijite’s call. They could neither take the meat of an animal slaughtered by non-Kharijites, nor marry among them, nor could a Kharijite and a non-Kharijite inherit each other’s possessions. They considered war on all other Muslims to be a religious duty and sanctioned the killing of their women and children and the looting of their property.

They declared those of their own sect as infidels if they shirked this duty. They allowed treachery with their opponents and were so malicious that a non-Muslim would find himself safer in their midst than an average Muslim.

The most tolerant of them were the Ibadiyyah who refrained from declaring the other Muslims as polytheists although they put them outside the pale of Islam and described them as non-believers. Their evidence, the Ibadiyyah said, was to be accepted, marriages with them and inheritance to and from them allowed. Their territory, too, was not to be called *dar al-kufr* (the land of the infidels) or *dar al-harb* (the land of the people at war) but *dar al-tawhid* (the land of the people of one God) although they excepted the centres of their government from it. They disallowed secret assaults on other Muslims, although open warfare with them was not repugnant.⁴⁷

The Murji'ah

The conflicting principles of the Shi'ahs and the Khawarij were responsible for the birth of another sect, called the Murji'ah.

Apart from the people who had flung themselves violently in support of 'Ali or against him during his wars, there was a section which had remained neutral either wisely avoiding to indulge in war, which they had deemed a curse to being unable to decide which side fought for the truth. These people quite realized that it was a veritable curse for Muslims to indulge in bloodshed and mutual slaughter, but they were not prepared to blaspheme any of the belligerents, and left it to God to decide the affair between them. He alone would tell, on Judgment Day, which of them struggled for the right cause and in general, but when the Shi'ahs and the Khawarij raised questions as to what was faith and what constituted infidelity ushering in an era of doctrinal wrangling and polemical contests, this neutral group evolved some theological doctrines in support of its position. Briefly stated, they were as follows:

1. Faith comprises belief in God and the Prophet. One's action does not form an integral part of one's faith. Hence, a believer will remain a believer though he should eschew his duties or commit grave sins.
2. Salvation depends on faith alone. No sin will hurt one who has faith. It is enough for a man's redemption that he should abstain from polytheism and die as a monotheist.⁴⁸

Some of the Murji'ah, taking it a step further, affirmed that short of polytheism, all sins, even the worst, would be forgiven.⁴⁹ A few, taking a further leap in that direction, asserted that if a man cherished faith in his heart but worshipped idols or adopted Jewish or Christian doctrine and spoke heresy in the Islamic State where he lived under no fear, he would yet be quite fast grounded in faith, remain a friend of God, and deserve to go to Paradise.⁵⁰

Another view closely comparable with the one mentioned above was that if one's duty to uphold the right and stem the wrong (*amr bi al-p-ma'ruf* and *nahi 'an al-munkar*) required one to bear arms, it was a "trial" to be avoided. It was quite right to check others on wrong conduct, but to speak loud against the

tyranny of government was not allowed.⁵¹ Al-Jassas was very bitter on these things and asserted that they strengthen the hands of tyrants and greatly demoralized the Muslims' power of resistance against the forces of evil and wickedness.

The Mu'tazilah

This tumultuous period was responsible for the birth of yet another sect known to Islamic history as "the Seceders." Although it did not owe its origin, like the former three, to purely political factors, like them it contributed its share of opinions to the political issues of the day and entered the arena of theological disputes that raged in the Islamic world at that time, particularly in Iraq. The leaders of this group, Wasil bin 'Ata (80 – 131/699 – 748) and 'Amr bin 'Ubaid (d. 145/763) were both contemporaries of Abu Hanifah, and Basra was the centre of their religious contests in the beginning.

Their political views were briefly these:

1. The appointment of an Imam (or, in other words, the institution of the State) was a religious urgency. Some Mu'tazilites, however, opined that the Imam's was a superfluous office. No Imam was needed if the community followed the right path.⁵²
2. The choice of the Imam, according to them, rested with the community, and only the community's choice validated his appointment.⁵³ Some of them held that the choice should be unanimous, and in the event of differences and dissensions the appointment should be suspended and held in abeyance.⁵⁴
3. The community could choose any morally qualified and efficient person as Imam. The condition of his being a Quraishite, an Arab, or a non-Arab was irrelevant.⁵⁵ Some of them actually preferred the appointment of a non-Arab, it was better still if he could be a freed slave, for he would have fewer devotees, and it would be easy to depose him if he turned out to be a tyrant.⁵⁶ They would rather have a government which was weak and easy to depose than one that was bad but strong and firmly established.
4. According to them, the Friday or other congregational prayers could not be held behind an unrighteous Imam.⁵⁷
5. *Amr bi al-ma'ruf w-al-nahi 'an al-munkar* (enjoining what is right and forbidding what is wrong) was among their fundamental principles., It was a duty with them to rise in arms against an unjust government provided they had the power to do so and hoped to raise a successful coup.⁵⁸ Thus it was that they rose in arms against the Umayyad Caliph Walid bin Yazid (r. 125 – 126/743 – 744) and tried to replace him by Yazid bin Walid who espoused their doctrine of succession.⁵⁹
6. On the question of the inter-relation of sin and infidelity, over which the Khawarij and Murji'ah were at logger-heads, their verdict was compromising. A sinful Muslim was neither a believer nor a disbeliever, but one in the middle state.⁶⁰

In addition to these principles, the Mu‘tazilah pronounced bold verdicts upon the differences among the Prophet’s Companions and upon the issue of caliphate. Wasil bin ‘Ata declared that one of the two opponents in the battles of Camel and Siffin was surely a “transgressor” although it was hard to say who. It was for this reason that he said that if ‘Ali Talhah and Zubair came before him to give evidence on a vegetable knot, he would not accept it of them since there was a possibility that they had been guilty of transgression. ‘Amr bin ‘Ubaid pronounced both sides as “transgressors.”⁶¹

They also attacked ‘Uthman vigorously and some of them did not spare even ‘Umar.⁶² Besides this, many of them practically rejected the Hadith (the Prophet’s Tradition) and *ijma‘* (the consensus of opinion) as authoritative sources of Islamic Law.⁶³

The Major Section

In the midst of these violent, wrangling groups the large majority of Muslims went along subscribing to the orthodox principles and doctrines, accredited as authoritative since the days of the “Right-guided” Caliphs, principles and precepts which the Prophet’s Companions and their successors and Muslims in general had commonly regarded as Islamic. However, nobody, from the time of the inception of the schism down to the days of Abu Hanifah, had vindicated the stand of the majority in these matters of violent divergences, and presented it methodically in a compact, doctrinal form, although learned men, traditionists and scholars of repute and integrity had from time to time been bringing one or another aspect of it to light by word of mouth or action, or embodying it in their behaviour or sacred pronouncements as opportunity afforded itself.

Bibliography

1. Qur'an and Commentaries: Qur'an; ibn Kathir, *Tafsir al-Qur'an al-'Azim*, Matba'ah Mustafa Mohammad, Egypt, 1937; Atusi, *Ruh al-Ma'ani*, Idarat al-Taba'at al-Muniriyyah, Egypt, 1345 H.; al-Jassas al-Hanafi, *Ahkam al-Qur'an*, al-Matba'at al-Bahiyyah, Egypt, 1347 H.
2. Hadith and Commentaries: Al-Bukhari, Abu Dawud, Abu Dawud al-Tayalisi, *al-Musnad*, Dairatul-Maarif, Hyderabad, 1321 H.; Muslim; al-Nasa'i; ibn Majah; al-Tirmidhi; Ahmad bin Hanbal, *Al-Musnad*, Dar al-Ma'arif, Egypt, 3rd ed., 1947; *ibid*, Matba'at al-Maimaniyyah, Egypt, Cairo, 1306 H; ibn Hajar, *Fath al-Bari*, al-Matba'at al-Khairiyah, Cairo, 1325 H.; al-Baihaqi, *al-Sunan al-Kubra*, Dairatul-Maarif, Hyderabad, 1st ed., 1355 H.
3. *Al-Fiqh*: Abu Yusuf, *Kitab al-Kharaj*, al-Matba'at al-Salafiyyah, Egypt, 2nd ed., 1352 H.
4. *Al-Kalam*: Al-Shahrastani, *Kitab al-Milal w-al-Nihal*, London; al-Ash'ari, *Maqalat al-Islamiyyin*, Maktabat al-Nahdat al-Misriyyah, Cairo, 1st ed.; 'Abd al-Qahir al-Baghdadi, *al-Farq bain al-Firaq*, Matba'at al-Ma'arif, Egypt; ibn Hazm, *al-Fasl fi al-Milal w-al-Nihal*, al-Matba'at al-Adabiyyah, Egypt, 1317 H.

5. Biographies: Ibn al-Qayyim, *Zad al-Ma‘ad*, Matba‘ah Mohammad ‘Ali Sabih, Egypt, 1935; ibn Hisham, *al-Sirat al-Nabawiyyah*, Matba‘ah Mustafa al-Babi, Egypt, 1936; ibn Khallikan, *Wafayat al-A‘yan*, Maktabat al-Nahdat al-Misriyyah, Cairo, 1948; ibn ‘Abd al-Barr, *al-Isti‘ab*, Dairatul-Maarif, Hyderabad, 2nd ed.

6. History: Al-Tabari, *Tarikh al-Umam w-al-Muluk*, al-Matba‘at al-Istiqamah, Cairo, 1939; ibn al-Athir, *al-Kamil fi al-Tarikh*, Idarat al-Taba‘at al-Muniriyyah, Egypt, 1356 H.; ibn Qutaibah, *al-Imamah w-al-Siyasah*, Matba‘at al-Futuh, Egypt, 1331 H.; ‘Uyun al-Akhbar, Matba‘ah Dar al-Kutub, Egypt, 1928, 1st ed.; al-Mas‘udi, *Muruj al-Dhahab wa Ma‘adin al-Jawahir*, al-Matba‘at al-Bahiyyah, Egypt, 1346 H.; ibn Kathir, *al-Bidayah w-al-Nihayah*, Matba‘at al-Sa‘adah, Egypt; ibn Khaldun, *al-Maqwaddimah*, Matba‘ah Mustafa Muhammad, Egypt; al-Suyuti, *Tarikh al-Khulafa’*, Government Press, Lahore, 1870; *Husn al-Muhadarah fi Akhbar Misr w-al-Qahirah*, al-Matba‘at al-Sharifiyyah, Egypt; Ahmad Amin, *Duha al-Islam*, Matba‘ah Lajnah al-Talif w-al-Tarjamah, Egypt, 4th ed., 1946; al-Khatib, *Tarikh Baghdad*, Matba‘at al-Sa‘adah, Egypt, 1931.

7. Literature: Al-Qalqashandi, *Subh al-A‘sha fi Sana‘at al-Insha’*, Dar al-Kutub al-Misriyyah, Cairo, 1910; ibn Abi al-Hadid, *Sharh Nahj al-Balaghah*, Dar al-Kutub al-‘Atabiyyah, Egypt, 1329 H.; ibn ‘Abd Rabbihu, *al-‘Iqd al-Farid*, Lajnah al-Talif w-al-Tarjamah, Cairo, 1940; Abu al-Faraj al-Asbahani, *Kitab al-Aghani*, al-Matba‘at al-Misriyyah, Bulaq, Egypt, 1902; al-Murtada, *al-Amali*, Matba‘at al-Sa‘adah, Egypt, 1st ed., 1907.

8. Miscellaneous: Tash Kubrazadah, *Miftah al-Sa‘adah* Dairatul-Maarif, Hyderabad 1st ed., 1329 H.

1. Qur‘an, 4: 59, 105, 5:44, 45, 47, 7:3, 12: 40, 14: 55, 23: 36.

2. Tradition: “Muslims are brothers to one another. None of them has any preference over another, except on grounds of piety.” (ibn Kathir, *Tafsir al-Qur‘an al-‘Azim*, Matba‘ah Mustafa Mohammad, Egypt, 1937, 4, p. 217).

“Oh men, beware, your God is one. An Arab has no preference over a non-Arab, nor a non-Arab over an Arab, nor a white over a black nor a black over a white, save on grounds of piety” (Alusi, *Ruh al-Ma‘ani*, Idarat al-Taba‘at al-Muniriyyah, Egypt, 1345–1926, 26, p. 148; ibn al-Qayyim, *Zad al Ma‘ad*, Matba‘ah Mohammad ‘Ali Sabih, Egypt, 1935, 4, p. 31).

‘Whosoever declares that there is no god but God, and faces our qiblah (direction of prayer), and offers prayer as we offer, and eats of the animal we slaughter, is a Muslim. He has the rights of a Muslim, and the duties of a Muslim.’ (Bukhari, *Kitab al-Salah*, Ch. 38).

“A Muslim’s blood is like another Muslim’s blood. They are one as distinguished from others, and an ordinary man of them can offer dhimmah (i.e. stand surety) on their behalf.” (Abu Dawud, *Kitab al-Diyat*, Ch. 11; Nasa‘i, *Kitab al-Qasamah*, Chs. 10 – 14).

“A Muslim is exempt from poll-tax.” (Abu Dawud, *Kitab al-Imarah*, Ch. 34).

3. Tradition: “Nations before you were destroyed because they punished those among them of low status according to law, and spared the high ranking. By God, who holds my life in His hand, if Fatima, daughter of Mohammad, had committed this theft, I would have chopped off her hand.” (Bukhari, *Kitab al-Hudud*, Chs 11, 12).

Says ‘Umar, “I myself have seen the Prophet of God allowing the people to avenge themselves on him.” (Abu Yusuf, *Kitab al-Kharaj*, al Matba‘at al-Salafiyyah, Egypt, 2nd ed. 1352/1933, p. 116; Musnad, Abu Dawud al-Tayalisi, Tr. No. 55,

4. Qur'an, 4:58

Tradition: "Mind, each one of you is a shepherd and each one is answerable in respect of his flock. And the chief leader (i.e. the Caliph) is answerable in respect of his subjects." (Bukhari, Kitab al-Ahkam, Ch 1; Kitab al-Imarah, Ch. 5).

5. Qur'an (13:38)

Tradition: "Ali reports that he asked the prophet of God (on him be peace), 'What shall we do if we are faced with a problem after you die about which there is no mention in the Qur'an nor have we heard anything concerning it from your lips?' He answered, 'Collect those of my people (Ummah) that serve God truthfully and place the matter before them for mutual consultation. Let it not be decided by an individual's opinion.'" (Alusi, op, cit, 25, p.42)

6. Tradition: "It is incumbent on a Muslim to listen to his Amir and obey, whether he likes it or not, unless he is asked to do wrong. When he is asked to do wrong, he should neither listen nor obey." (Bukhari, Kitab al-Ahkum, Ch. 4; Muslim, Kitab al-Imrah, Ch. 8; Abu Dawud, Kitab al-Jihad, Ch. 105; Nasa'i, Kitab al-Bas'ah, Ch. 33; ibn Majah, Abwab al-Jihad, Ch. 40).

"There is no obedience in sin against God. Obedience is only in the right." (Muslim, Kitab al-Imarah, Ch. 8; Abu Dawud, Kitab al-Jihad, Ch. 95; Nasa'i, Kitab al-Bai'ah, Ch. 33).

"Do not obey those of your rulers that command you to disregard the order of God." (Ibn Majah, Abwab al-Jihad, Ch. 50).

7. Tradition: "Verily, we do not entrust a post in this government of ours to anyone who seeks or covets it." (Bukhari, Kitab al-Ahkam, Ch. 7).

"The most trustworthy of you with us is he who comes forward to seek position in the government." (Abu Dawud, Kitab al-Imrah, Ch. 2).

The Prophet of God said to Abu Bakr, "Oh Abu Bakr, the best fitted person for the government is he who does not covet it, not he who jumps at it. He who knows its responsibility and tries to shun it deserves it most, not he who proudly advances to collect for himself. It is for him to whom you could say, 'You most deserve it,' not for him who says of himself, 'I am most deserving.' (al-Qalqashandi, Subh al-A'sha, dar al-Kutub al-Misriyyah, Cairo, 1910, 1, p. 240).

8. Qur'an 22:41

9. Tradition: "Whoever of you sees an evil thing let him undo it with his hand. If he cannot, let him check it with his tongue. If he cannot do even this, let him despise it with his heart and wish it otherwise, and this is the lowest degree of faith." (Muslim, Kitab al-Iman, Ch. 20; Tirmidhi, Abwab al-Fitan, Ch. 20).

"Then the undeserving will take their place who will say what they will not do, and will do what they are not asked to do. Therefore, he who strives against them with his hand is a believer, and he who strives against them with his tongue is a believer, and he strives with his heart is a believer, and there is no degree of faith below this." (Muslim, Kitab al-Iman, Ch. 20.)

"The best of jihad (endeavour towards God) is to say the right thing in the face of a tyrant." (Abu Dawud, Kitab al-Malahim, Ch. 27; Tirmidhi, Abwab al-Fitan, Ch. 12; Nasa'i, Kitab al-Bai'ah, Ch. 36i; ibn Majah, Abwab al-Fitan, Ch. 20).

"When the people see a tyrant and do not seize his hand, it is not far that God should afflict them with a general ruin." (Abu Dawud, Kitab al-Malahim, Ch. 17; Tirmidhi, Abwab al-Fitan, Ch. 12).

"Some people are going to be rulers and not after me. He who supports them in their wrong and assists in their tyranny has nothing to do with me, nor have I anything to do with him." (Nasa'i, Kitab al-Bai'ah, Chs. 34, 35).

10. Al-Tabari, Tarikh al-Umam w-al-Muluk, al-Matba'at al-Istiqamah, Cairo, 1939, Vol 2, p. 618

11. The reference was to the abrupt rising of ‘Umar from his place during the meeting at Banu Sa‘idah’s Meeting House when he proposed Abu Bakr’s name as the Prophet’s successor and extending his hand to him offered him allegiance. There has been long deliberation before electing Abu Bakr to be Caliph.
12. Bukhari, Kitab al-Muharibin, Ch. 16; Ahmad, Musnad, Third edition, Dar al-Ma‘arif, Egypt, 1949, 1. Tr. 391. According to this version, the words are as follows, “Whoever swears allegiance to an Amir without the consultation of Muslims offers no allegiance, and he who receives allegiance from him receives no allegiance.” In another version the following words are reported, “He who is offered allegiance with consultation, it is not lawful for him to accept it.” (Ibn Hajar, Fath al-Bari, al-Matba‘at al-Khairiyah, Cairo, 1325/1907, Vol. 2, p. 125)
13. Al-Tabari, op. cit., Vol 3, p. 292; ibn al-Athir, Idarat al-Taba‘at al-Muniriyyah, Egypt, 1356/1937, Vo. 3, pp 34, 35.
14. Al-Tabari, op. cit., Vol 3, p. 295 – 96; ibn al-Athir, Idarat al-Taba‘at al-Athir, Vol. 3 pp. 36 – 37. Also ibn Qutaibah, al-Imamah w-al-Siyasah, Matba‘at al-Futuh, Egypt, 1331/1912, Vol. 1, p. 23.
15. Ibn Qutaibah, op. cit., p. 41
16. Al-Tabari, op cit., Vol. 3, p. 450
17. Ibid., Vol. 4, p. 112; al-Mas‘udi, Muruj al-Dhahab, al-Matba‘at al-Bahiyyah, Egypt, 1346/1927, Vol. 2 p. 42.
18. Al-Mas‘udi, op. cit. p. 42.
19. Abu Yusuf, op. cit.. p.25
20. Ibn Kathir, al-Bidayah w-al-Nihayah, Matba‘at al-Sa‘adah, Egypt, Vol. 7, p. 134
21. Abu Yusuf, op. cit., p. 117
22. Ibn Abi al-Hadid, Sharh Nahj al-Balaghah, Dar al-Kutub al-‘Arabiyyah, Egypt, 1329/1911, Vol. 1, p. 182.
23. Ibn Qutaibah, op. cit., p. 71
24. Al-Tabari, op. cit., Vol, 2 p. 450; ibn Hisham, al-Sirat al-Nabawiyah, Matba‘at Mustafa al-Babi, Egypt, 1936, Vol. 4, p. 311.
25. Abu Yusuf, op. cit., p. 117.
26. Al-Tabari, op. cit., p. 273
27. Abu Yusuf, op. cit., p. 115; Musnad, Abu Dawud al-Tayalisi, Tr. No. 55; ibn al-Athir, Vol. 3, p. 30; al-Tabari, op. cit., Vol 3, p. 273
28. Abu Yusuf, op. cit., p. 116
29. Balhaqi, al-Sunan al-Kubra, Dairatul-Maarif, Hyderabad, First ed., 1355/1936, vol. 1 p. 136
30. Ibid
31. Wafayat al-A‘yan, Maktabat al-Nahdat al-Misriyyah, Cairo, 1948, vol. 2, p. 168.
32. Al-Tabari, op. cit., Vol 2, p. 508
33. Ibid., p. 487
34. Ibn ‘Abd al-Barr, al-Isti‘ab, Dairatul-Maarif, Hyderabad, 2nd , Vo. 2 p. 467
35. Al-Tabari, op. cit., Vol. 3, p. 264
36. Ibn Qutaibah, op. cit., Vol 1, p. 25
37. Al-Tabari, op. cit., Vol. 3, p. 291
38. Ibid., Vol. 2, p. 449, ibn ‘Abd al-Barr, op. cit., p. 689
39. Ibn Abi al-Hadid, op, cit., pp. 180, 182
40. Ibn Khaldun, Muqaddimah, Matba‘ah Mustafa Mohammad, Egypt, p. 196; al-Shahrastani, Kitab al-Milal w-al-Nihal, London, Vol. 1, pp. 108, 109.
41. Ibn Khaldun, op. cit., p. 196; al-Shahrastani, op. cit., p. 109
42. Al-Shahrastani, op. cit., p. 108; ibn Khaldon, op, cit., pp. 196 – 97.
43. Ibn Khaldun, op. cit., p. 197, al-Ash‘ari, Maqalat al-Islamiyyin, Maktabat al-Nadat al-Misriyyah, Cairo, 1st ed., p. 87; al-Shahrastani, op, cit., p. 109.
44. Al-Shahrastani, op. cit., p. 108
45. Ibn Abi al-Hadid, op. cit., Vol 4, p. 520
46. Al-Ash‘ari, op. cit., Vol, 1 p. 129; ibn Khaldun, op, cit., pp. 197 – 98; al-Shahrastani, op. cit., pp. 115 – 17.
47. ‘Abd al-Qahir Baghdadi, al-Farq bain al-Firaq, Matba‘at al-Ma‘arif, Egypt, pp. 55, 61, 63, 64, 67, 68, 82 ,83, 99, 313,

- 315; al-Shahrastani, op. cit., pp. 87, 90 – 92, 100; al-Ash‘ari, op. cit., pp. 156 – 57, 159, 189, 190; al-Mas‘udi, op. cit., p. 191.
- [48.](#) Al-Shahrastani, op. cit., pp. 103, 104; al-Ash‘ari, op. cit., pp. 198, 201.
- [49.](#) Al-Shahrastani, op. cit., p. 104
- [50.](#) Ibn Hazm, al-Fasl fi al-Milal w-al-Nihal, al-Matba‘at al-Adabiyyah, Egypt, 1317/1899, Vol 4, p. 204
- [51.](#) Al-Jassas, Ahkam al-Qur‘an, al-Matba‘at al-Bahiyyah, Egypt 1347/1928, Vol 2, p. 40
- [52.](#) Al-Mas‘udi, op. cit., p. 191
- [53.](#) Ibid
- [54.](#) Al-Shahrastani, op. cit., p. 51
- [55.](#) Al-Mas‘udi, op. cit., p. 191.
- [56.](#) Al-Shahrastani, op. cit., p. 63.
- [57.](#) Al-Ash‘ari, op. cit., p. 124
- [58.](#) Ibid., p. 125.
- [59.](#) Al-Mas‘udi, op. cit., pp. 190, 193; al-Suyuti, Tarikh al-Khulafa’, Government Press, Lahore, 1870, p. 255
- [60.](#) Al-Baghda, op. cit., pp. 94 – 95.
- [61.](#) Ibid., pp., 100, 101; al-Shahrastani, op. cit., p. 34.
- [62.](#) Al-Baghda, op. cit., pp. 133 – 34; al-Shahrastani, op. cit., p. 40
- [63.](#) Al-Baghda, op. cit., 138 – 39.

Chapter 34: Abu Hanifah and Abu Yusuf

A. Abu Hanifah

Life

It was under the circumstances explained at the close of the preceding chapter that Abu Hanifah appeared on the scene and began his work. His original name was Nu‘man bin Thabit. Born in Kufah, capital of Iraq, in 80/699 according to authentic reports, in the reign of ‘Abd al-Malik bin Marwan, when Hajjaj bin Yusuf ruled over Iraq, he lived the first 52 years of his life in the Umayyad regime, the latter 18 in the ‘Abbasid reign. He was 15 years old when Hajjaj left the stage, at the time of ‘Umar bin ‘Abd al-‘Aziz when he was a youth. The stormy days of the rule of Yazid bin Muhallab, Khalid bin ‘Abd Allah al-Qasri and Nasr bin Sayyar, over Iraq, passed before his eyes.

He himself was a victim of the persecution of ibn Hubairah, the last Umayyad governor. He saw the rise of the ‘Abbasid movement with its centre at Kufah, his home town, which remained virtually the main stronghold of the new born ‘Abbasid State before the founding of Baghdad. His death occurred in 150/767 during the reign of Mansur, the second ‘Abbasid Caliph.

Abu Hanifah’s ancestors belong to Kabul. His grandfather, Zuta (according to some, the pronunciation is Zauta), came to Kufah as a prisoner of war, accepted Islam, and settled there under the friendly protection of Banu Taim Allah. Zuta was a trader by profession and was known to ‘Ali, the “Right-going”

Caliph; in fact, he was close enough to him and sometimes entertained him with gifts.¹ Abu Hanifah's father, Thabit, also owned a business at Kufah. According to a report coming from Abu Hanifah, he owned a bakery there.²

Abu Hanifah's own account of his education describes him as applying himself first to recitation (reading the Qur'an properly), Hadith (Tradition), grammar, poetry, literature, philosophy and other subjects in vogue in those days.³ Then he turned to specialize in dialectical theology and mastered it to such a degree that people looked to him as an authority in that science. His student, Zufar (bin al-Hudhail), reported that his master told him that at first he took such an interest in theology that people would lift their fingers towards him.⁴ In another report Abu Hanifah says that at one time he was a past master in the art of controversy and spent most of his time in debates. As Basra was the main venue of these contests, he had been there about 20 times, occasionally staying there for six months or so at a stretch and remained engaged in controversies with the different sects of Kharijites, the Ibadiyyah, the Sufriyyah, and Hashwiyyah.⁵

It may be easily concluded from this that he was well versed in philosophy, logic, and theological divergences of the numerous sects without which a man cannot enter the field of controversy at all. The beautiful use that he later made of reason and common sense in the interpretation of Law and the resolving of abstruse legal problems won him immortal fame and a great deal to the intellectual training which he had received earlier from these exercises of logical argumentation.

After keeping himself busy in polemical controversies for a long time and growing sick of them, he turned to *Fiqh*, i.e. Islamic Law. Here, with the strength of mind that he possessed, he could not interest himself in the Traditionist school (*ahl al-hadith*). He, therefore, joined the Iraqi school of reason with its centre at Kufah. This school of law traced its origin to 'Ali and ibn Mas'ud (d. 32/652), after whom their disciples Shuriah (d. 78/697), 'Alqamah (d. 62/681), and Masruq (d. 63/682) became its accredited leaders, followed in their turn by Ibrahim Nakh'i (d. 95/714) and Hammad (d. 120/737). Abu Hanifah took Hammad for his master and kept him company for 18 years, until the latter's death. Frequently, he also consulted other learned masters of Law and Tradition in the Hijaz on the occasions of pilgrimage, and acquainted himself also with the Traditionist school of thought.

On Hammad's death he was chosen to succeed him. He occupied that place for 30 years, delivering lectures and discourses, issuing legal verdicts, and doing the work which formed the foundation of the Hanafi School of law named after him. In these 30 years he answered some 60,000 (according to other estimates, 83,000) legal queries, all of which were later compiled under different heads in his lifetime.⁶ Some seven to 800 of his students spread to different parts of the Islamic world and filled important seats of learning. They were entrusted with issuing legal opinions and guiding the education of the masses, and became objects of heartfelt veneration for the multitudes. About 50 of them were appointed judges after his death during the 'Abbasid reign. The law was codified by him was adopted as the law of the great part of the Muslim world. The 'Abbasids, the Saljuqs, the Ottomans, and the Mughuls accepted

it and with millions of people still following it today.

Abu Hanifa, like his forefathers, earned his living by trade. He dealt in a kind of cloth, called *khazz*, in Kufah. Gradually, his business flourished until he had a factory where this cloth was manufactured.⁷ The business was not restricted to Kufah; his goods had a good market in far off places. The growing recognition of his integrity converted his firm into a bank where people deposited huge sums of money on trust. These deposits ran to 50 million dirhams at the time of his death.⁸

Extensive experience of financial and commercial matters gave him a deep insight into various aspects of law such as seldom falls to the lot of a theoretical lawyer. Later on, when he set himself to the task of codifying the Law of Islam this personal experience proved of immense help to him. A further testimony to his deep understanding and proficient handling of practical affairs is provided by the fact that when in 145/762 Mansur undertook the task of constructing the new city of Baghdad, he appointed Abu Hanifah to supervise the work and for four years it remained under his supervision.⁹

In his private life he was most pious, a man of known integrity. Once he sent out his partner in business to sell some merchandise. A part of the goods to be sold were defective and he instructed his partner to let the buyer know the defect. The partner, however, forgot to do so, and returned after selling the whole without apprising the buyer of the defect. Abu Hanifah did not keep the money. He gave away the whole of it (and it amounted to 35,000 dirhams) to charity.¹⁰

His chroniclers have recorded occasions when ignorant people would come to his firm selling goods at lower rates than what they were worth. Abu Hanifah would tell them that their wares were worth more than what they would put them at, and bought them at their actual rates.¹¹ All his contemporaries speak highly of his honesty. The famous learned divine, ‘Abd Allah bin Mubarak¹² said, “I have yet to see a more pious man than Abu Hanifah. What will you say about the man to whom they offered the world and its wealth and he kicked it away, who was flogged and remained steadfast, and who never accepted those posts and honours which people hankered after.”

Justice ibn Shubrumah said, “The world followed him but he would have none of it. As for us, the world would have none of us and we run after it.”¹³ According to Hassan bin Ziyad, Abu Hanifah never accepted a gift or favour from the rich.¹⁴

He was also very generous, never sparing in spending, particularly on the learned and the scholarly. A part of his profits was ear-marked for them and expended throughout the year, and whatever of it was left over was distributed among them. Extending them such help he would say, “Be pleased to spend it on your needs, and thank none but God for it. I do not give you anything of mine for it is a bounty from God. He has given it to me for your sake.”¹⁵ A number of his students depended entirely on him, particularly Yusuf. He met all the expenses of the latter’s house since his parents were poor and wanted their son to give up studies and take to some work to earn a living.¹⁶

That was the man who tackled in the first half of the second/eighth century the knotty problems arising

from the awkward circumstances that followed the “Right-guided” Caliphate.

Abu Hanifah's Pronouncements and Opinions

First of all, we shall take those problems about which his opinions as recorded by himself are available to us. He has no prolific writer, therefore, in order to know his views we have to generally resort to other reliable sources. But on certain issues, mainly raised by the above-mentioned sects (the Shi'ites, the Kharijites, the Murji'ites, and the Mu'tazilites) he has written, against his wont, with his own pen, drawing up in brief but eloquent words the creed and doctrine of the *ahl al-sunnah w-al-jama'ah* (lit., the followers of the Prophet and his Companions' tradition) who formed (as they still do) by far the largest section of the Muslim community. Naturally, in an estimate of his work the first place must be given to what flows from his pen.

Al-Fiqh al-Akbar

We have already stated in the preceding chapter how the differences that cropped up among the Muslims during 'Ali's reign and the first years of the Umayyad regime led to the birth of four big sects in the community, which not only expressed but also adopted as tenets of faith contradictory opinions on certain vital issues affecting the constitution of Muslim society, the Islamic State, the sources of Islamic Law, and the decisions in regard to these matters was clear; it was embodied in the practice of the great divines and men of learning. But nobody had drawn up in clear cut words and put it into the form of a treatise. Abu Hanifah was the first person to put down perspicuously in his famous work, *al-Fiqh al-Akbar*,¹⁷ the Sunni point of view regarding matters of divergence against the doctrines of other sects.

The first question relevant to our discussion answered by him in the book is regarding the position of the “Right-guided” Caliphs. The dissenting sects had posed the question about some of them whether they were rightly raised to the office of the Caliphate. Some wanted to know who were superior to whom, and whether there was any among them who could not be called a Muslim at all. These questions were not merely queries regarding some personages of old history; in fact, they mooted another fundamental question, viz., whether the way these Caliphs were elected to their office was to be recognized as the constitutional way of electing the Head of the Islamic State or not. Moreover, if the title of anyone of them proved doubtful, the question would be raised whether the decisions taken by “consensus of opinion” in his regime would form part of the Islamic Law or not, whether his own decision would continue to form precedents in law or cease to operate as such.

Besides that, the questions whether they were entitled to the Caliphate, whether they were endowed with faith at all, and whether some of them were superior to others, naturally gave rise to another question of a very vital import, and that was, whether the Muslims of later times could repose any trust in either the members or the collective decisions of the early Islamic community brought up under the direct care and supervision of the Prophet of God, the people through whom the teachings of the Qur'an, the Prophet's Tradition, and the Islamic Law came to be transmitted to later generations.

The second question related to the position of the Prophet's Companions. One of the sects, the Shi'ah, called the vast majority of these Companions sinners, gone astray and even infidels, because they had selected the first three Caliphs to rule them, and a fair number were put outside the pale of faith or declared "transgressors" by the Kharijites and the Mu'tazilites for reasons of their own. This, too, was not a purely historical question, for it naturally led one to ask whether the laws and traditions transmitted by persons of doubtful *bona fides* to posterity would remain authentic sources of Islamic Law or not.

The third basic question dealt within the book relates to "faith," its definition and distinction from disbelief, and the consequences of sin, issues of grave controversy and debate in those days among the Kharijites, the Murji'ites, and the Mu'tazilites. This again was not merely a theological question but one that was closely related to the constitution of Muslim society and its answer affected the civic rights and social relations of Muslims. A question that closely followed from it was whether in a Muslim State governed by the sinful and the wrong-doer, it was possible to perform correctly such religious duties as the Friday and other prayers, or political functions like dispensing justice or participating in war.

Abu Hanifah's answers to these questions embodying the Sunni creed are as follows:

1. "The best of men after the Prophet of God (on whom be peace) was Abu Bakr. After him was 'Umar, after him 'Uthman, and after him 'Ali. They were all just men and abided by the right."¹⁸ *'Aqidah Tahawiyyah* further explains it like this, "We believe Abu Bakr (with whom God be pleased) to be the best of men after the Prophet of God (on whom be an everlasting peace). We recognize his title as the Caliphate as prior to that of others, then 'Umar's, then 'Uthman's, then 'Ali's – and they are the Right-guided Caliphs and the 'Right-going leaders.'"¹⁹

It is a matter of interest to note that personally Abu Hanifah loved 'Ali more than 'Uthman,²⁰ and believed that neither of them should be ranked above the other.²¹ Formulating the creed, however, he accepted whole-heartedly the decision of the majority of his day in choosing 'Uthman as Caliph after 'Umar, and agreed that in the ranking of the "Right-guided" Caliphs the order of their Caliphate was also the order of their superiority to one another.

2. "The Companions of the Prophet are not to be spoken of but respectfully."²² *'Aqidah Tahawiyyah* elucidates it further, "We treat all the Companions of the Prophet respectfully. We do not love anyone of them beyond measure, nor censure anyone of them. We do not like one who bears them or mentions them with disrespect. We mention them in none but a good way."²³

Abu Hanifah did not hesitate to express his opinion on the mutual war of the Companions, and said unambiguously that in the war between 'Ali and his adversaries (and evidently the participants of the battles of the Camel and Siffin are included among them) 'Ali stood by right more than they,²⁴ yet he altogether refrained from inflicting reproach on the other side.

3. "Faith is synonymous with owning and believing. To have faith is to own and believe (in God and his Prophet)."²⁵ In *al-Wasiyyah* it is explained in these words, "To have faith in something is to own it with

the tongue and believe in from the heart,” and further, “Faith is not owning alone, nor believing alone.” In another place we find, “Action is something different from faith, and faith is different from action. Often a man is exempt from a certain action but he is not exempt from faith. For instance, it may be said that a poor man is exempt from the payment of *zakat* (prescribed charity), but it cannot be said that he is exempt from bearing faith, also.”²⁶ Thus, Abu Hanifah refuted the Kharijite theory that action formed part of faith and hence sin was synonymous with disbelief, or, in other words, that a crime necessarily meant treason.

4. “We do not ex-communicate a Muslim for any sin, however grave it may be, unless he affirms that it is ‘allowed.’ We do not divest him of belief. We call him a believer. A believer may be a transgressor, without being an infidel.”²⁷

In *al-Wasiyyah* he writes, “The sinners among the followers of Mohammad (on whom be peace) are all believers, not infidels.”²⁸ *Aqidah Tahawiyyah* elucidates further, “A man does not go out of the pale of faith except by denying the creed that had put him inside it.”²⁹ A discussion of the Kharijites with Abu Hanifah over this issue throws further light on this doctrine and its social consequences. A large part of them once came to him and said, “There are two biers at the gate of the Mosque. One is of a drunkard who died drinking, the other of a woman who had gotten herself illicitly pregnant and too her own life in shame.”

“To which community did they belong? Jews were they?” he asked.

“No,” they said.

“Christians, then, or Majusis?”

“No,” they answered again.

“Then, to which community did they belong?” he asked.

“To the community which bears witness to the creed of Islam,” they replied.

“Is that one-third of the faith or one-fourth of faith?” he asked.

They said, “There is no one-third or one-fourth of faith.”

“After all, what part of faith is this bearing witness to the creed of Islam?” he said.

“The whole faith,” they said.

“When you yourself call them faithful, what is it you want of me?” he asked.

“We ask whether they would go to heaven or hell.”

He replied, “If you ask me that, I will say about them what the Prophet of God, Abraham, said about sinners worse than they, ‘Oh God, he who follows me is mine, and he who disobeys – Thou art the Forgiving, the Compassionate’, or what the Prophet of God, Jesus, said about sinners worse than they, ‘If You punish them they are Your creatures, and if You forgive them, Thou art All-powerful and wise’, or what the Prophet of God, Noah, said, ‘Their reckoning rests with God, would that you understood, and I do not wish to turn my back upon the believers.’”³⁰

Hearing this, the Kharijites felt out-witted and avowed their mistake.³¹

5. “Prayers can be offered behind any of the faithful, good or bad.”³² *Aqidah Tahawiyyah* elucidates it further like this, “The pilgrimage and *jihad* (war) will continue to be performed to the Day of Judgment under the rulers of the faithful, whether they be good or bad. Nothing will make them unlawful or discontinue them.”³³

Al-Jassas has more clearly explained Abu Hanifah’s point of view in this matter. “Some people,” he writes, “suppose that Abu Hanifah approves the Imamate or Caliphate of the corrupt. If it has been deliberately invented, the misunderstanding probably springs from this that Abu Hanifah (and not he alone, all the learned scholars of Iraq whose opinions are widely known are one with him in this) says that if a judge is himself just, his decisions will be accepted, no matter how corrupt a master has appointed him, and prayer may be lawfully offered behind corrupt masters despite their corruption. This attitude is absolutely correct in its own place, but it does not mean that Abu Hanifah finds no fault with the Caliphate of the corrupt.”³⁴

These elucidations make it clear that Abu Hanifa, unlike the Kharijites and Mu’tazilites, differentiated between Caliphs *de jure* and Caliphs *de facto*. A necessary corollary to the position taken by the above-mentioned sects was that in the absence of a just and pious ruler, i.e. a Caliph *de jure*, all functions of Muslim society and State would remain suspended. There would be no pilgrimage and no Friday or other congregational prayer, the courts would stop, and there would no other religious, social, or political work. Abu Hanifah, on the other hand, contended that if at a time the Muslims were deprived of a Caliph *de jure*, the functions of their society would continue to be exercised lawfully under a Caliph *de facto*, though his right to caliphate may be disputable. In the pages to come we shall point out what, according to him, were the essential pre-requisites of a lawful Caliphate and what he thought of corrupt and unjust Caliphs.

6. “We do not say that sin does not do a believer any harm. We neither say that a believer will never go to hell, nor that he will live eternally in hell if he is a transgressor.³⁵ “We also do not say, like the Murji’ites, that our good deeds will be certainly rewarded and our bad deeds undoubtedly forgiven.”³⁶

Aqidah Tahawiyyah has a further addition to it, “We decide in respect of no believer that he is destined to go to heaven or to hell. We do not accuse any Muslim of infidelity, polytheism, or hypocrisy, unless we see him actually engaged in them. As for intentions and motives we leave them to God to judge.”³⁷

Thus, Abu Hanifah steered a middle course through the opinions held by the Murji'ites, the Kharijites, and the Mu'tazilites, and formulated a doctrine of balance which, on the one hand, preserves the Muslim society from disintegration through mutual hatred and violence, and, on the other, insures against its falling into moral indiscipline and getting emboldened to commit sins with impunity.

Abu Hanifah on State and Caliphate

The opinions mentioned above related to issues which had cropped up in consequence of the political turmoil of the day and vitally affected the legal system and the political turmoil of the day and vitally affected the legal system and the political and social orders of Muslim society. Now, let us examine Abu Hanifah's views concerning the State and Caliphate. Since there is no work of his own touching these matters, we have to resort to the following two kinds of sources for information: first, his opinions quoted in the traditions and books of the Hanafi School and, secondly, the attitude he adopted towards his contemporary governments of the Umayyads and the 'Abbasids. The latter also includes a number of spoken words coming from his mouth during the course of his struggle with these governments, and these throw further light on his points of view under discussion.

The Problem of Sovereignty and Legislation

Abu Hanifah's views on sovereignty were identical with the generally known basic view of Islam on this issue, namely, 1) that the true sovereign is God, 2) that the Prophet is to be obeyed as God's accredited vicegerent, and 3) that the *Shari'ah*, i.e. the Law of God and His Prophet, is the supreme Law to which all must submit with demur or reservation. Abu Hanifa, pre-eminently a jurist, has stated this doctrine rather in terms of law than of politics. He says, "When I find an order in the Book of God, I take it from there. When I do not find it there I take from the accredited practice, word, or tradition of the Prophet, coming down to us through reliable sources. When I do not find it either in the Book of God or in the Prophet's Sunnah, I follow the (agreed) opinion of the Prophet's Companions. In case of difference of opinion among them I adopt the opinion from outside...As for others, I have as much right to sift and draw conclusions as they have."³⁸

Ibn Hazm states, "All his students are agreed that Abu Hanifah's practice was that even a weak tradition was to be preferred to (one's own opinion formed by analogical reasoning (*qiyas*) or private judgment (*ra'y*)."³⁹

This leaves absolutely no doubt that Abu Hanifah regarded the Qur'an and the Sunna as the final authority. Legal sovereignty, according to him, rested with God and the Prophet, and reason and judgment (*qiyas* and *ra'y*) were to be employed in the service of legislation only in matters where they had given no instruction. The precedence given by him even to an "isolated" opinion of the Companions was also based on the possibility of their being aware of some instruction from the Prophet (about the matter under reference) which may have been the basis of the opinion.

That was also why, when he saw a difference among the Companions, he accepted the opinion of some of them rather than differ with all of them – he would avoid the danger of going against the Sunnah, even inadvertently. In any case, he employed to the utmost power of reasoning and judgment to find out whose opinion seemed best to approximate the Sunnah.

The charge that he preferred to his own discretion to a clear ordinance (*nass*) was laid at his door even in his life-time but he refuted it say, “God knows that he who stated that I preferred my own discretion to ‘ordinance’ told a lie and accused me unjustly. How can we dare use our discretion when we have an ‘ordinance?’”⁴⁰ The Caliph Mansur once wrote to him saying that he had heard that he (Abu Hanifah) gave precedence to deductions from analogy over the Prophets tradition. In reply, he wrote, “Oh Commander of the Faithful, what you have heard is incorrect. I go first by the Book of God, then by the Sunnah of the Prophet, then the decisions of Abu Bakr, ‘Umar, ‘Uthman, and ‘Ali and then the decisions of other Companions, but when I find disagreement among them, I resort to discretion”.⁴¹

Establishment of the Caliphate

Regarding the Caliphate his views were most clear cut and unambiguous. According to him, to seize power by force and later regularize it by exacting allegiance under duress was no lawful way of being chosen for it. A Caliph should be chosen after consultation and in conference with the wise that are entitled to give opinion (*ahl al-ra'y*). Abu Hanifah expressed this opinion in face of the peril of losing his life. Mansur’s Chamberlain, Rabi’ bin Yunus, relates that the Caliph summoned Malik ibn Abi Dhi'b and Abu Hanifah before himself and asked, “What do you say about this power that God has given me over the people, am I not deserving of it?”

Malik answered, “Had you not deserved, God would not have conferred it on you.”

Said ibn Abi Dhi'b, “God grants the kingdom of the world to whom He pleases, but the kingdom of the hereafter is given to him who strives for it and is helped by God to make way to it. The help of God will attend you if you obey him; in case you disobey, it will keep away from you. As for the Caliphate, the truth is that only a conference of the God-fearing can institute it, and one who seizes it by force has no righteousness in him. You and your associates are deprived of the help of God, and have turned aside from truth. Now, if you ask the Almighty to grant you peace and try to gain nearness to Him with deeds of piety, you may win His grace, otherwise, you are only a self-seeker.”

Abu Hanifa tells us that when ibn Abi Dhi'b spoke those words, Malik and he folded their clothes about them expecting his head to be off his shoulders that very moment and his blood to fall on these clothes. But Mansur turned to Abu Hanifah and inquired, “What say you?”

He replied, “The man who sincerely seeks the right path to guide himself eschews wrath. If you consult your conscience you will see that you have not invited us for the sake of God but make us say, out of dread, something that suits you and that should reach the people. The truth is, you have become a

Caliph without even a couple of men from amongst the *ahl al-fatwa* (those whose opinion is respected as authoritative) agreeing to it, whereas a Caliph should be chosen with the conference and concurrence of Muslims. You know, Abu Bakr refrained from making decisions for six months until the (news of the) Yemenites' allegiance arrived."

Then all three rose and went their way. Mansur dispatched Rabi‘ after them with a bag full of coins for each with instructions that if Malik accepted it, it should be made over to him, but if Abu Hanifah or ibn Dhi‘b accepted it, he should bring their heads to him. When the gift was offered to Malik he took it, but when Rabi‘ offered it to ibn Abi Dhi‘b he said that he did not consider it lawful for Mansur himself, how could it be lawful for him. And Abu Hanifah said, "I will not touch it, not even if you cut off my head." When Mansur heard it, he said, "Their contentment has saved their lives."⁴²

A Caliph's Qualifications

Until Abu Hanifah's time the qualifications which entitled a man to Caliphate were not described at length as they were complied later by scholars like Mawardi and ibn Khaldun. They were for free, and well versed in religion, and sound body and mind. Two things, however, were doubtful and needed clarification: first, whether a ruthless or corrupt person could be a Caliph or not; secondly, whether it was necessary for a Caliph to belong to the tribe of Quraish.

Abu Hanifah's opinion with regard to the first was that a Caliph must be a just person. One who is cruel and corrupt cannot be a Caliph, a judge, a governor, a pronouncer of legal verdict (Mufti), or an arbiter. If such a person comes to office, his Caliphate will be null and void and the public owes him no obedience. However, notwithstanding his usurpation of power, all the social dealings and obligations executed by Muslims under him in accordance with the *Shari‘ah* will have legal sanction and the just decisions of the judges appointed by him will take effect.

Abu Bakr al-Jassas, a well-known Hanafi jurist, has explained this point in greater detail. He observes, "It is not lawful that a cruel or corrupt person should be a prophet or his successor (*Khalifah*) or a judge or hold any office by virtue of which he should be in a position to impose his will on the people in matters relating to religion; he cannot, for example, be a Mufti or a witness or a reporter of the Prophet's traditions. The Qur'anic verse, "***My covenant does not extend to the wrongdoers***"⁴³ shows that all those people who come to the helm of affairs in matters connected with religion must be just and virtuous.

This verse categorically proves that the Caliphate of the corrupt is unlawful. No person of wicked reputation can be a Caliph. If any of that character should install himself in that office, the people are under no obligation to follow or obey him. The same was meant by the Prophet of God (on whom be peace) when he said that none among the created was entitled to command obedience in defiance of the Creator. The verse is also conclusive that no corrupt person can become a judge, a governor, or a magistrate, and if he becomes one, his orders will not be valid. Nor can his evidence be acceptable, nor

his transmission of a report from neither the Prophet of God, nor the verdict (*fatwa*) of which he is the pronouncer.”⁴⁴

Al-Jassas further affirms that this was Abu Hanifah’s opinion. He regrets how unjust it is to accuse him of allowing the Caliphate of the corrupt. We have already alluded to that controversy and need not repeat it here.

Al-Dhahabi also affirms this to be Abu Hanifah’s view. According to him, Abu Hanifah held that the caliph who misused public money (*fay’*) or gave unjust orders was not entitled to remain Caliph and his orders were not valid.⁴⁵

About the second question Abu Hanifah’s opinion was that the Caliph should belong to the tribe of Quraish.⁴⁶ Not this alone; it was the agreed view of all the Sunnites.⁴⁷ However, they held this view not because the Caliphate was constitutionally the exclusive right of one tribe, but because in the particular circumstances of those days only a Quraishite Caliphate could hold all Muslims together. In other words, this opinion was based on political expediency of time and not on any legal constitutional right of the Quraish. Ibn Khaldun explains in detail that in those days the Arabs were the mainstay of the State and there were far more chances of the Arabs agreeing on a Quraishite Caliph than on anyone from some other tribe.

The chances of strife and rift that lay in the choice of a non-Quraishite Caliph were so many that none could afford to put the Caliphate in that peril.⁴⁸ That incidentally unfolds the wisdom and implications of the Prophet’s timely instruction that the Imams should be chosen from the Quraish.⁴⁹ Had the Caliph’s office been forever forbidden to the non-Quraishite, ‘Umar would not have said at the hour of his death, “If Hudhaifa’s freed slave Salim, were alive, I would have proposed him my successor.”⁵⁰

The Prophet, while instructing the Caliphate should go to the Quraish; he had made it clear that this office would be held by the Quraish as long as they retained certain merits.⁵¹ This clearly implied that when the Quraish became bereft of those merits, the Caliphate should devolve on the non-Quraish. This was the essential difference between the view of the Sunnites, including Abu Hanifah on one side and that of the Kharijites and Mu’tazilites on the other. The latter allowed Caliphate for the non-Quraishites irrespective of all conditions. Not only that, they went a step further and said that the non-Quraishites had a better title to it. Their main anxiety seemed to be democracy, even though it might lead to confusion and disintegration. With the Sunnites, democracy and the stability of the State were equally important considerations.

The Exchequer and the Public’s Right of Ownership

The most reprehensible of all indulgences of the Caliphs of his day in eyes of Abu Hanifah were their reckless waste of public exchequer and their illegal seizure of people’s properties. As we have already quoted al-Dhahabi, according to Abu Hanifah, oppression and illegitimate use of public money in a ruler

rendered his title to Caliphate void. Not only that, he even did not allow the tokens of goodwill and presents received from foreign States to be made the personal property of the Caliph. These things were also deposited into the treasure, not with the Caliph or his family, for the obvious reason that had he not been the head of State and thereby become conspicuous in the international world, none would have sent him those presents.⁵² He also objected to the Caliph's squandering of public money and his giving gifts out of it. This was one of the main reasons why he himself accepted no gifts from the Caliphs.

Separation of the Judiciary from the Executive

His views on the position of the judiciary *vis-a-vis* the executive were unequivocal. If justice was to be ensured, he said, the judiciary must be independent of the executive. Not only that, the judge must also be able to enforce his decree against the Caliph if the latter encroached upon the rights of people. Towards the close of his life when he was sure that the Government would not let him live any more, he gathered his disciples and addressed himself to them. Among other important things, he gave them this instruction, "If the Caliph is guilty of encroachment upon the rights of the people, the judge next to him in rank (i.e. the Chief Justice) should make him submit to the rule of Law."⁵³

The main thing which prevented him from accepting an official position, particularly of a judge during the Umayyad and 'Abbasid rule was that he did not see the judiciary as independent. There was no chance of making the Caliph submit to the rule of law. On the other hand, he feared that he would be made an instrument of injustice and asked to give wrong decisions, and that not only the caliph himself but also those attached to the palace would interfere with his work.

Yazid bin 'Umar bin Hubairah was the first of the Umayyad governors of Iraq who pressed Abu Hanifah to accept office. This was in 130/747 when the upsurges in Iraq against the Umayyad regime were rising with a speed that completely overthrew that government within a couple of years. Ibn Hubairah wanted to enlist the support of influential men of learning and use them to the advantage of the Umayyad cause. He invited ibn Abi Laila, Dawud bin Abi al-Hind, ibn Shubrumah, and others and gave them lucrative appointments. Then summoning Abu Hanifah, he said, "Here I give you me seal. No order will be enforced here until you put the seal on it, and no money will be drawn from the treasury without your sanction." But Abu Hanifah declined to accept the responsibility. Yazid put him in prison and threatened him with whipping.

Then the other learned men came round Abu Hanifah and requested him to take compassion on himself. "This service is as repugnant to us," they said, "as it is to you. But we have accepted under duress, so should you." Abu Hanifah replied, "Ah! Had he asked me to count the gates of the mosque of Wasit, I would not have done it for his sake. Then how can I agree that he should write the death warrant of an innocent person and I should put the seal on that order? By God, I will accept no share of his responsibility." Ibn Hubairah then made him other offers but found him cold. At last, he decided to appoint him the Chief Judge of Kufah and swore that if Abu Hanifah declined the appointment he would have him flogged. Abu Hanifah swore in return saying that the flogging of this world was easier for him to

endure than the flogging of the hereafter, reiterating that he would never accept it, even though that would cost him his life.

At last the tyrant gave him 20, or (according to another report) 30, blows of the stripe on the head. According to some accounts, he kept it up with ten stripes daily for about 11 days, but found his victim firm like a rock. Then someone informed him that he was likely to die. Ibn Hubairah replied, “Is there none to counsel this man to ask me for a reprieve?” When Abu Hanifah heard of this he asked to be set free for Mecca, not to return to it before the final wiping out of the Umayyad dynasty.[54](#)

In the ‘Abbasid period, again Mansur insisted he accept the office of a judge. As we shall presently see, Abu Hanifah, having openly participated in a revolt launched against Mansur by al-Nafs al-Zakiyyah and his brother Ibrahim, Mansur cherished such malice against him that in al-Dhahabi’s words, he was all but consumed in the fire of wrath.[55](#) However, it was not easy to lay hands upon a person of Abu Hanifah’s eminence. Mansur knew how the murder of Husain had provoked feelings of wrath against the Umayyads and how easily had they been uprooted on that account.

Therefore, instead of killing him, he would rather lure him into a cage of gold and use him to advance his ends. With this in view he offered him the post of a judge again and again, in the end asking him to become the Chief Justice of the whole of the ‘Abbasid Empire, but Abu Hanifah always put him off under one pre-text or another.[56](#)

Ultimately, seeing him persist too much he told him frankly the reason why he was unable to accept these offers. On one such occasion he excused himself politely saying, “None can be fit to become a judge unless he has strength enough to impose law on you, your princes, and your commanders. I have not that strength in me. I am so built that whenever you call me, I cannot breathe easily until I leave your presence.”[57](#) On another occasion the talk took a harsh turn.

Addressing the Caliph, he said, “Even if I accepted this office willingly, not reluctantly, sure enough I would not prove worthy of your trust. If I decided a case against your desire and you wanted me to alter the decision on pain for being pushed into the Euphrates to drown, I would rather drown than alter my decision. When talks like these led Mansur to conclude that this man could not be caught in a cage of golden bars, he resorted to open persecution. He had him whipped and flogged, put him in jail where they subjected him to tortures of hunger and thirst. Later, he was confined in a cell wherein he died, according to some, a natural death, according to others, of poisoning.[58](#)

Freedom of Expression: A Right and a Duty

According to Abu Hanifah, freedom of expression in a Muslim society and in an Islamic State is of as much importance as the independence of the judiciary. The Qur'an terms this freedom as *amr bi al-ma'ruf* and *nahi 'an al-munkar* (enjoining the right and forbidding the wrong). No doubt, an unqualified right of freedom of expression may sometimes assume an unbecoming, mischievous, immoral, or even

offensive form which no law can tolerate. But the Qur'an, by using the above-mentioned term for this freedom, clearly distinguishes it from all other kinds of freedom and, thus, circumscribing it within well-defined limits, declares it to be not only an inalienable right but also a duty of the public.

Abu Hanifah was particularly conscious of this right and duty because the political order of his day had rid the people of this right to such an extent that they actually doubted if it had anything of the nature of a duty about it. We have pointed out elsewhere that the Murji'ites, by preaching ultra-liberal doctrines were emboldening people towards sin. The Hashwiyyah professed that "Enjoining the right and forbidding the wrong" where the government was involved was mischievous and the Umayyad and 'Abbasid governments crushed the spirit of the people to raise a voice against the corruption and high-handedness of the ruling cliques. Abu Hanifah, with both speech and action, attempted to resurrect this spirit among the people and elucidated the extent to which it could be exploited. This is clear from Abu Hanifah's answer to a question from Ibrahim al-Sa'igh related by al-Jassas.⁵⁹

Abu Hanifah asserted the right of freedom of expression against law courts in the same manner, as well. If any court of law gave a wrong decision, he would not hesitate to point out whatever flaws of law or procedure he found in it. With him the respect of the courts did not mean letting the courts give wrong decisions. He was forbidden to pronounce verdicts on this account for a long time.⁶⁰

He was zealous in the matter of freedom of expression that he did not consider it lawful to imprison or otherwise punish a person who spoke ill, even of a legitimate ruler or his just government, not even if he went to the extent of abusing the Caliph and expressing an intention to kill him, until there was resolve on his part of an armed revolt or breach of peace. He argued this from an incident during the Caliphate of 'Ali. Five people were arrested and brought before him on the charge of abusing him openly in the streets of Kufah. One of them was also accused of saying that he would assassinate him. 'Ali ordered their release. It was said, "But they intended to kill you." He asked in reply, "But should I kill them only for expressing the intention to kill me?" It was added, "But they also abused you." He said, "If you like you may also abuse them."

The Question of Rebellion against Tyrannical Rule

Another important question that baffled the people of those days was whether or not it was lawful for the Muslim to rise in revolt against a ruler who perpetrated tyranny or transgressed the limits of *Shari'ah*. The Sunnis themselves were divided on this. A large section of the Traditionists (*ahl al-hadith*) allowed that they could raise voice against his tyranny and speak their mind before him but they could not rise in rebellion, even though he should seize upon their lawful rights and indulge in unjust bloodshed and open transgression.⁶¹ But Abu Hanifah's creed in this matter was that the Caliphate of an unjust incumbent was basically wrong and insupportable, and deserved to be overthrown, that people not only had the right, but it was their duty to rise in rebellion against it, that such a rebellion was not only allowed but obligatory, provided, however, that it promised to succeed in replacing the tyrant or transgressor by a just and virtuous ruler, and not fizzle out in mere loss of lives and power.

Private Council and Codification of Islamic Law

Abu Hanifah's greatest work which won him lasting eminence in the history of Islam was that he filled, on his own initiative, the vast gap caused in the Islamic legal system by the discontinuance of the *shura* (the Consultative Council) after the "Right-guided" Caliphate. We have already alluded to the consequences that followed this ill-happening. The loss resulting from this state of affairs lasting over a century was a matter of grave concern to every thinking person. The State had extended its boundaries from Spain to Sind, taking in its fold scores of peoples with various cultures, customs, rites, and habits of their own.

Facing it at home were problems relating to finance, commerce, agriculture, industry, marital relations, and the rest. There were civil and criminal cases to decide and ever-new constitutional, legal and procedural problems to solve. Abroad, the relations of this large State with the other States of the world, and issues like war, peace, diplomatic relations, foreign trade, communications (by land and sea), customs, etc., demanded urgent attention.

As the Muslims were a people with a distinct ideology, and claimed to guide themselves by principles and law of their own, it was necessary for them to solve their problems in the light of that ideology and those laws and principles.

But the institution of *Shura* having been discontinued there was no other properly established body or institution in which the trusted scholars, jurists, and lawyers of the community should meet to deliberate and devise such an authentic solution of every outstanding legal issue, as should be recognized as the accredited and uniform law of the land throughout the State. Thus, Islam was faced with a mighty challenge and there was no machinery to meet it.

The loss was being felt all round, from the Caliph to the governors and judges. It was not easy for every judge, lawyer, or head of a department to decide the innumerable problems that rose every day, there and then, on the strength of his own knowledge or by dint of his own understanding. Not only that, such individual decisions also conflicted with one another and created confusion. But a body with verdict carried authority could be established only the Government which, unluckily, lay in the hands of such people as knew for certain that they enjoyed no esteem or confidence with the public, nor were they prepared to face, nay, even endure, the learned, who, they feared, would confront them with things they would not like. They also knew that laws enacted under their patronage could never be accepted as parts of the Law of Islam.

Ibn al-Muqaffa' proposed to Mansur that in order to stop this gap he should convene a council of the learned lawyers of all schools of thought who should sit together and express their opinions on the various problems at hand. After hearing these opinions the Caliph himself should pronounce his decision on every case and that decision should be adopted as law. But Mansur knew his own position too well to make this mistake. His decisions could not equal decisions of Abu Bakr and 'Umar. They could, at best, have the whole realm that would respect and willingly follow a law enacted by him. He could make a

secular law all right, but he could not make a law which would become incorporated in the Islamic juridical code.

In these circumstances it struck Abu Hanifah to try an entirely new path to redeem the loss, and this was to institute a private legislative body, on his own initiative, independent of the Government. Only a far-sighted person like him could think of such a plan and only he could dare the adventure who trusted his own resources, character, and moral prestige well enough to be sure that the laws passed by a body raised under his auspices would enforce themselves by dint of their excellence in sufficiency, precision, adaptability, and the moral influence of their devisers, even without any political sanction behind them, and they would be adopted by the people of their own accord, and recognized by the different governments of their own free-will.

Abu Hanifah was no seer of the hidden future to perceive the results which his efforts produced within half a century of his departure, but he knew himself and his colleagues well enough. He knew the collective temperament of his community and had an eye on the circumstances of this day. With the perfect eye of a man of sharp intelligence and foresight he gauged that he could fill the yawning gap with his private endeavour if he would, and that surely it would be filled satisfactorily.

Abu Hanifah's own students, trained under his care and guidance in his college of law for years in deliberating over legal questions, looking into them in the proper scientific spirit, and arriving at conclusions with arguments, formed the members of this council. Almost all of them had learned the Qur'an, literature, history, and *Sirah* (biography of the Prophet) not only from Abu Hanifah, but also from many other learned scholars of the day. Many of them had specialized in certain branches.

Some had made a name in the field of "arguing conclusions by analogy," others for incomparable knowledge of the Prophet's traditions and precedents set by the Companions, judges, and Caliphs of old. Others yet had a reputation for interpreting the Qur'an or for being skilled in a particular branch of law or in grammar or *Sirah*. Abu Hanifah himself once described them by saying, "These are 36 men of whom 28 are fit to be judges, six to pronounce legal verdicts, and two good enough to teach judges and jurists."⁶²

The procedure of work adopted in this council as reported by the authentic chroniclers of Abu Hanifah should be described in their own words. Al-Muwaffaq bin Ahmad al-Makki (d. 568/1172) writes, "Abu Hanifah framed his legal system with the consultations of his learned students. His passion to do all that he could for the sake of his religion and his love of God, the Prophet, and the believers did not allow him to undertake his work by himself to the disregard of his student colleagues.

He put every problem before them, threw light on its various aspects, carefully heard all that each one of them had to say on it and put forth his own point of view for their consideration. These deliberations and discussions were so exhaustive that some questions took a month or even more to decide. At last, when unanimity was achieved, Abu Yusuf recorded it in the fundamental compilations of Hanafi Law."⁶³

Ibn al-Bazzaz al-Kardari (d. 827/1424), author of *Fatawa Bazzayyah* in his *Manaqib al-Imam al A'zam*, “His students debated each question to their heart’s content and discussed it from every point of view. Abu Hanifah, all the while, sat quietly listening to the discussion. When it was his turn to speak, there was such a silence in the house, as if there was none other present.”⁶⁴ “Abd Allah bin Mubarak tells that once the discussion on an issue lasted three days. On the evening of the third day he heard cries of *Allah-u Akbar* (God is most Great) from within and understood that a solution had been achieved.⁶⁵

It is recorded by another student, Abu ‘Abd Allah, that when Abu Hanifah had his views recorded on an issue, he had them afterwards read out to him to ensure their correctness. His own words are, “I read out the Imam’s words to him. Abu Yusuf (in recording the proceedings) used to record his own views, too, therein. Hence, I tried to read out the Imam’s words only, leaving out those of Abu Yusuf. Once I made a slip and read the other view, also. The Imam at once cut in, ‘Whose view is this second?’”⁶⁶

Another thing that we gather from al-Makki is that the work of classification of this council’s decisions under different heads and chapters also was completed in the life-time of Abu Hanifah. He says, “Abu Hanifah is the first man to gather the knowledge of the *Shari‘ah* (Islamic Law). None before him had done this work – Abu Hanifah compiled it in books, under different heads and chapters.”⁶⁷

This council recorded decisions on about 83,000 legal issues. These embraced not only those questions with which the public or the state was currently or had formerly been confronted but also others that might arise in the future. Possibilities were conceived and discussed freely to ensure that if ever they turned into actualities there should be laws ready to meet them. They related to almost all branches of law, internal (covered under the term *al-siyar*),⁶⁸ constitutional, civil, criminal, of evidence, of procedure, laws governing different aspects of economic life, marriage, divorce, and inheritance, personal, and aspects of economic life, and those dealing with worship. We can find all these subject-heads among the contents of books compiled by Abu Yusuf and later by Mohammad bin Hassan al-Shaibani from the material provided by the deliberations of this “legislative council.”

This regular codification of law soon deprived individuals of the confidence they enjoyed in its absences in their efforts at law-making. The opinions and verdicts of scattered individuals, be they doctors or judges of repute, could not carry weight before the wholesomely judicious and precise decisions arrived at in council of legists presided over and guided by a man of Abu Hanifah’s foresight and calibre, after thorough sifting of the Qur’anic injunctions and the Prophet’s Tradition and keeping in view of precedents and the verdicts of the scholars of old, drawn as they were with thoughtful and steady labour, bearing in mind the principles of *ijtihad* (deducing conclusions with thorough discretion) in the light of the *Shari‘ah*, embracing all aspects of life, and able to meet all exigencies. Therefore, as soon as it came to light, the common people, the rulers, the judges, all felt forced to turn to it. It answered the demand of the day. As a matter of fact, it was the long awaited help which everybody had been seeking.

The famous legist Yahya bin Adam (d. 203/818) tells that the opinions of other jurists paled into insignificance before those of Abu Hanifah, his ideas spread everywhere, the judges, rulers, and officers

of every place decided their cases in accordance with his law; in short, everything went according to it.⁶⁹ By the time of al-Mamun (198 – 218/813 – 833) it had acquired such popularity that one day Premier Fadl bin Sahl was advised by a jurist who was hostile towards Abu Hanifah, to issue orders to stop the use of Abu Hanifah's code. Fadl invited the wise and prudent man to advise him on this. They told him not to take this step for it would not succeed. On the other hand, the whole country, they said, would turn against the Government, adding that the man who had given him the counsel was surely a fool. The Premier agreed with them, saying that he himself did not see any wisdom in the course, nor was the Caliph likely to agree to it.⁷⁰

Thus came about the historical reality that a system of law was devised by a private legislative council became the law of countries and empires on the strength of its merits and the moral prestige of those who framed it. It had also another important consequence in that it opened up for Muslim thinkers' new lines for codification of Islamic Law. The chief legal systems devised later may have differed from it in their methods of deduction and in their results, but they were all inspired by and based on this model.

B. Abu Yusuf

In Abu Hanifah's lifetime, the relations between the Hanafi School of Law and the 'Abbasid rulers were strained, owing to his political creed and non-co-operation with the Government. The effect of this lasted for a long while after his death. The leaders of this school stuck to their policy of indifference towards authority. Thus, when after the death of Abu Hanifah, his great student Zufar bin Hadhail (d. 158/775) was asked to accept the post of a judge, he flatly refused it and fled to find safety in concealment.⁷¹ On the Government's side, was also the tendency from the days of Mansur to the early years of Harun's reign was to resist the influence of this school of thought.

Mansur and his successors earnestly desired that the gap in the legal system of the State, detailed in our previous discussion, should be filled by some other system of codification. Both Mansur and Mahdi in their respective reigns endeavoured to bring Malik to the fore.⁷² Harun also in 174/791, on the occasion of the pilgrimage, expressed his desire to make his book *al-Muwatta'* the law of the land.⁷³ At long last, a man of great strength and character belonging to the Hanafi School of Thought rose to bring this state of affairs to an end. With his great ability and personal influence he delivered the Empire from a continued state of legal chaos. The Hanafi code was made the law of the land which gave the whole Empire a uniform system of law. This man was Abu Yusuf, the ablest of the disciples of Abu Hanifah.

Brief Life Sketch

Abu Yusuf's (b. 113/731) personal name was Ya'qub. His father came from an Arab tribe of Bajilah, his mother of the Ansars of Medina with whom his father was also connected by ties of alliance; hence his family was known as Ansar. He chose to specialize in law after completing his elementary education and took his lessons from 'Abd al-Rahman bin Abi Laila.

Then he joined the school of Abu Hanifah and became permanently attached to him. His parents were extremely poor and did not want their son to continue his education. When Abu Hanifah came to know of it, he undertook to defray all the expenses not of the boy alone, but of the whole family. He himself said that Abu Hanifah never gave him occasion to express his want before him. On and off, he would send so much money to his family as would relieve him of worry on that account.⁷⁴

From the beginning, Abu Hanifah was very optimistic about his ward. When his father wanted to withdraw him from the school, the Imam told him not do so, for, if it pleased God, the lad promised to turn out to be a great man.⁷⁵

Apart from Abu Hanifah, Abu Yusuf learned a good deal from other famous scholars of the day and made himself well acquainted with Tradition, Qur'anic commentary, biography of the Prophet, history, language, literature, and scholastic theology. Particularly well versed in traditions, he knew them by heart, and men like Yahya bin Mu'in, Ahmad bin Hanbal, and 'Ali bin al-Madini declared him *thiqah*⁷⁶(dependable – a particular term used for a person of known veracity on whom reliance is placed in the transmission of traditions). His contemporaries all agreed that he was the outstanding among the disciples of Abu Hanifah.

Talhah bin Mohammad says, he was the greatest jurist of his age, none excelled him.⁷⁷ Dawud bin Rashid thinks that it would have been enough source of pride for Abu Hanifah if he had produced only this one disciple.⁷⁸ Abu Hanifah himself had great respect for him. He used to say that all of all his students the most acquisitive and adorned with learning was Abu Yusuf.⁷⁹ Once he was very ill and little hope was left of his life. Abu Hanifah, when coming out of the house after inquiring after his health, deplored that if the youth died he (Abu Hanifah) would not leave behind him a scholar more learned than himself.⁸⁰

For 16 years after the death of Abu Hanifah, he, too, in keeping with traditions of his school, remained indifferent to the Government. Nevertheless, he continued the intellectual and educative work of his master, adding to it the compilation of several books on almost all branches of law, and recording the decisions of Abu Hanifah's times supplemented with his own opinions.⁸¹

When these books spread throughout the country, they not only influenced the intellectual circles, but also impressed the courts and high officials connected with various government departments in favour of the Hanafi School of Thought, since there existed no other classified code of law to satisfy their wants as these books did. Malik's *al-Muwatta'* had come into the field long before, but it was not sufficiently comprehensive and elaborately classified to meet the needs of a government.⁸² Thus, Abu Yusuf's intellectual and literary work took hold of the minds of people before he came to power. It lacked only formal political sanction to enforce it as the law of the land.

Had Abu Yusuf's position been economically sound, he might have followed in the footsteps of his master and lived in continued indifference towards the Government. But he was a poor man and Abu

Hanifah's death had robbed him of his generous support. Reduced by poverty to live a miserable existence, he was obliged one day to sell off a girder of his wife's house, for which he was reproached by his mother-in-law in a manner he could not endure, and this forced him to look for employment. He made for Baghdad and arrived there in 166/782, saw the Caliph al-Mahdi who appointed him the judge of eastern Baghdad, an office he continued to hold until the end of al-Hadi's reign.

When Harun al-Rashid became Caliph Abu Yusuf steadily gained such influence that he at last appointed him Chief Justice of the whole 'Abbasid Empire. This was the first occasion that such a post was created in the Muslim State. None before Abu Yusuf had held the post of Chief Justice of the State in either the "Right-guided" Caliphate or the Umayyad and 'Abbasid rule.⁸³ His position was not only that of the head of the Supreme Court of the realm, as we may conceive from the practice of our modern institutions, it also invested him with the authority of the Minister of Law, that is to say, he did not merely have to judge cases and appoint judges for the lower courts, he had also to advise the Government on all legal matters, internal as external.

Abu Yusuf's appointment to this office bore three far-reaching results. In the first place, instead of a college where he lectured students, or a study from which he issued books, a vast field of work now engaged his attention – a field in which he dealt practically with the affairs of the biggest empire of the day. This provided him with opportunities of applying the Hanafi law to the actual affairs of life, thus making it, in fact, a practical system of law. Secondly, as the appointment and removal of judges was now entrusted to his charge, scholars connected with the Hanafi School were appointed judges in most of the places, and through them the Hanafi law automatically became the law of the realm. Thirdly, with the help of his great moral and intellectual influence he converted the Muslim State, which had assumed an autocratic character since the time of the Umayyads and was going, in a way without a constitution, into a State guided to a large extent by the constitution. Nay, he actually wrote a book of constitution for it, which has luckily come down to us intact in the shape of *Kitab al-Kharuj*.

Before we speak of this work on constitution, it is necessary to remove a widespread misunderstanding. Abu Yusuf's biographers have described such stories about him as often present him as the reader as one given to flattery and skilled wresting the law to suit the desires of Kings. But if we make the events recorded in history relating to Abu Yusuf's attitude to the Caliphs and their ministers and generals, it becomes impossible for us to believe that a mere flatterer could dare have it. In Hadi's time, when he was the judge of eastern Baghdad, he decided a case against the Caliph himself.⁸⁴

In Harun's time an old Christian filed a suit for a garden against the Caliph. Abu Yusuf not only heard the case, both confronting each other, but also asked the Caliph to deny on oath that he refused to accept the claimant's title to it. Even after this he was sorry for the rest of his life why he did not make the Caliph stand side by side with the suitor.⁸⁵ He declared 'Ali bin 'Isa, Prime Minister of Harun al-Rashid, an unreliable witness because, he said, he had heard him call himself the Caliph's slave. "If he is a slave in fact," he contended, his witness cannot be accepted. If he is not and calls himself so for flatter, he is a

liar and cannot be trusted.”⁸⁶ The same punishment he gave to a general of Harun’s forces.⁸⁷

‘Abd Allah bin Mubarak states that he used to go to Harun’s palace riding right up to the private enclosures (where even the Premier must go on foot) and the Caliph was always the first to greet him.⁸⁸ Harun was once asked why he had raised Abu Yusuf so high. He replied, “In whatever branch of knowledge I tried him I found him perfect. Besides, he is upright and a man of solid character. If there is another like him I would be pleased to see him.”⁸⁹

When he died (182/798) Harun himself accompanied the funeral procession on foot, led the funeral prayer, buried him in his own family graveyard and said it was a bereavement on which all the believers should condole with one another.⁹⁰ But nothing bears out all that has been said above so well as his work *Kitab al-Kharaj*. A perusal of its introduction alone will tell that it is just beyond an adulator to say such things as he did while addressing a king.

Kitab al-Kharaj

In Harun al-Rashid, Abu Yusuf found a king of the most conflicting disposition and humours, at once a fierce soldier, a luxurious monarch, and a God-fearing man. Abu al-Faraj Asbahani describes him in a sentence, “He would most easily melt into tears in response to an exhortation or admonition, but would be most unrelentingly cruel in response to something that kindled his wrath.”⁹¹

Abu Yusuf, prudently avoiding to touch upon the Caliph’s failings, skilfully set to work on his religious sentiment bringing to bear his great moral and intellectual influence to the task, and pursued this steadily until the Caliph’s heart was won and he proposed for him the assignment of preparing a constitution for him according to which he should guide the affairs of the State. This was how *Kitab al-Kharaj* came to be written.

The name of the book misleads one into thinking that its scope is limited to matters of revenue only. As a matter of fact, it deals with almost all the affairs of the State. Leaving aside all other details, we shall here examine its contents with only a view to seeing its basic conception of the Islamic State and its constitutional character.

Reversion to the “Right-guided” Caliphate

The first thing that strikes the reader who follows *Kitab al-Kharaj* closely is that Abu Yusuf desires the Caliph to give the Byzantine and Iranian traditions followed by the Umayyad and ‘Abbasid kings and revert faithfully to the traditions of the “Right-guided Caliphs. Although he has not directly asked him to give up following his forefathers, yet he has never lapsed even into quoting the conduct or the decisions of the Caliph’s forefathers as precedents worth following, much less those of his Umayyad predecessors. In every matter he bases his argument, either directly on the Qur’an or the Sunnah or else quotes precedents from Abu Bakr, ‘Umar, ‘Uthman and ‘Ali.

If he has ever quoted a precedent from a later period it is not from Mansur's or Mahdi's but from that of the Umayyad Caliph 'Umar bin Abd al-Aziz. In preparing this book, he completely ignored the conventions and precedents of the whole 132 years of Umayyad and 'Abbasid reigns, except those of the two and half years of 'Umar II's reign. Abu Yusuf's work may not have meant much, had it been done by some ingenious lawyer in his private capacity as a holy sermon for those who might like to follow it. But done as it was by the Chief Justice-cum-Law Minister of the State in his official capacity, at the express instance and request of the Caliph, it becomes something extra-ordinarily significant.

At the beginning of the book Abu Yusuf lays down the basic conception of the State before the Caliph in these words, "Oh Commander of Believers, God, the sole deserver of praise, has placed on you a heavy responsibility which carries with it a great reward and a great punishment. He has committed to your charge the affairs of this community, so that yours is the duty to work for a large number of people day and night. He has appointed you a guard over them, given you their trust, and tried you by them, for you are to conduct their affairs for them. An edifice founded on anything except fear of God does not take long to crumble. God shakes it to the foundation and makes it fall on its builders, and on them that helped in its construction... Kings will be called to account by God as a shepherd is called to account by the owner of the flock... Take not the crooked path, lest your flock should follow in your footsteps... Treat everybody alike in the Law of God, whether one is akin to you or not... Go not into the presence of God as one who has been committing excesses, for the Ruler of the Day of Retribution will judge men by their actions, and not by ranks. Guard against wasting the flock entrusted to your care, lest the owner of the flock take you to task for every little sheep of it."⁹²

After this he continues to press it on the Caliph everywhere in the book that he is not the owner of his kingdom but the Owner's Caliph (lit. deputy),⁹³ and that if he proved a just ruler he would see the best imaginable end, but if he proved unjust he would meet the worst punishment.⁹⁴ At one place he puts before him the words of 'Umar wherein he says, "None who enjoys the right of commanding obedience has risen so high as to ask anyone to obey him in disobedience of God."⁹⁵

Spirit of Democracy

Abu Yusuf conceives the Caliph to be answerable not only to God but also to the public, and has quoted at several places from the sayings of the Prophet and the Companions to prove that the Muslims have an unquestionable right to criticize their rulers and that such criticism contributes to the good of the people and the State.⁹⁶ "Enjoining the right and forbidding the wrong is an inalienable right and a duty and its negligence in a community is equivalent to inviting the wrath of God upon its head."⁹⁷ It is the duty of rulers to have forbearance for truth being spoken before them, as nothing is more hurtful in a ruler than this being short-tempered and intolerant of criticism,⁹⁸ and the Muslims have a right to call him to account in respect of their lawful rights on him and of their properties that have been entrusted to his care.⁹⁹

Duties of the Caliph

The following duties of the Caliph have been specifically mentioned: To establish the rights of God and enforce the limits prescribed by him, to determine correctly the rights of other right holders and ensure their enjoyment of their rights, to revive the conventions of virtuous rulers (that have been discarded by the wicked rulers of late),[100](#) to check injustice and redress the grievances of people after proper scrutiny,[101](#) in pursuance of orders of God, to command people to obey Him and stay away from the commission of sin, to apply the Law of God on himself and others alike, without regard to who suffers by it,[102](#) and to make only lawful exactions from people and expend them in lawful ways.[103](#)

Duties of Muslim Citizens

As opposed to these, the duties of the Muslims toward their rulers, as described in this book, are the following: They have to obey them, not to commit acts of disobedience, not lift arms against them, nor reproach them (unnecessarily), nor deceive them. They have to put up with excesses, to be sincerely helpful to them, to try to check them from wrong things and to co-operate with them in all that is good.[104](#)

The Exchequer

He calls the exchequer a trust of God and the people instead of its being the Caliph's property. Off and on he reminds the Caliph of the words of 'Umar wherein he compares the Caliph's position in relation to the orphan's property, and states that if he is well-to-do, he should not take anything from it, in deference to the advice of God, and manage it for Him without any consideration, and if he is needy, he may take from it an amount which everybody will recognize as just and proper.[105](#)

He also draws his attention to 'Umar's example in spending from the exchequer more sparingly than one would from one's private purse. He illustrates his point by reference to another instance where 'Umar, appointing a judge, a governor, and a revenue officer for Kufah, allowed them to take a goat everyday for the expense of their board, adding at the same time that a land from which the officers will pick up a goat everyday would soon be impoverished.[106](#) The Caliph is also asked to forbid his officials to spend public money for their private needs.[107](#)

Principles of Taxation

Abu Yusuf prescribes the following principles of taxation: Only the surplus wealth of people should be taxed and the burden of taxes should fall upon the people with their consent. The tax should vary according to the capacity of the tax-payer. Nobody should be taxed more than they can pay. The tax should be collected from the wealthy and spent on the poor.[108](#) Rates of tax should not be fixed so as to suck the blood of the people, nor should the tax be realized by coercive methods.[109](#) Government should refrain from extorting taxes which are not warranted and also forbid its officers and landlords to

make such exactions.¹¹⁰ Non-Muslims who accept Islam should not be charged poll-tax.¹¹¹

The practice of the “Right-guided” Caliphs is quoted as authority in this connection. He refers, for example, to the incident related to ‘Ali that while in public he advised his officials to realize every penny of revenue from the payers and not to be at all lenient to them in this matter, but calling them apart he instructed them to be careful not to beat anybody or make them stand in the sun or press them so hard that they should be obliged to sell their cattle or clothes or utensils to pay the tax.¹¹² Or the fact that ‘Umar used to examine thoroughly his revenue officers to satisfy himself that the farmers were not dealt with too harshly in the exaction of revenue, and when the collections actually came in, the representatives of the common people were summoned to bear witness that no Muslim or non-Muslim peasant was unjustly made to pay the tax.¹¹³

Rights of non-Muslim Subjects

With regard to the rights of non-Muslim subjects in the Islamic State, three principles are quoted again and again on the authority of ‘Umar:

1. Whatever agreement is made with them has to be faithfully observed.
2. The responsibility for the defence of the State does not lie on them, but on the Muslims alone.
3. They should not be burdened with excessive poll-tax and land revenue.¹¹⁴

Then it is said that the poor, the blind, the old, the recluse, workers at the houses of worship, women, and children are exempt from poll-tax, that there is no *zakat* (prescribed charity) chargeable on the wealth and cattle of non-Muslims, that none is allowed to resort to beating or inflicting other physical tortures on them for exacting the capitation, as the maximum punishment for its non-payment is only simple imprisonment. To realize more than the fixed amount from them is unlawful, and the poor and the cripple among them are to be supported from the State exchequer.¹¹⁵

Historical incidents are related to make the caliph see that it is for the good of the state to be kind and generous to the non-Muslim subjects. It was, according to him, magnanimity of the Muslims that in the days of ‘Umar won for them the hearts of the Syrian Christians to such a degree that they loved them more than their co-religionists, the Romans.¹¹⁶

Land Settlement

Abu Yusuf disallows the feudal system that of settlement in which the government, in order to realize the revenue from the farmers appoints a person to over-lord them, allowing him to exact from them whatever he likes and as he likes so long as he guarantees the payment of government dues. He condemns it as a most tyrannous system that is bound to lead to the ruin of the country and vehemently advocates that it must be shunned at all costs.¹¹⁷

He also calls it unlawful for the government to appropriate somebody's land and bestow it upon another. He says, "The Caliph is not authorized to dispossess any person, Muslim or non-Muslim, of anything that belongs to him unless a proved or valid right stands against him in law. To snatch from one to make over to another is like committing robbery for the sake of distributing alms.[118](#) Gifts of land are allowed only if uncultivated, not owned, or not inherited pieces of land are distributed within reasonable measure for purposes of cultivation or as rewards for some real, useful social service. Such donations, too, are to be withdrawn if the donees fail to cultivate such land within three years.[119](#)

Redress of Wrong

After this he tells Harun al-Rashid that it is not lawful for him to appoint tyrants and corrupt people to office of State or to employ them as officers of departments or governors of districts. If he did so, he would surely share the retribution of the wrongs that they do.[120](#) He asks him again and again to employ honest, righteous, and God fearing people to state services.

He emphasizes that in addition to their efficiency the government should also satisfy itself with regard to the moral character of its servants, and constantly keep a watch on them through its intelligence department, and if they tend to be corrupt or fall into cruel or cunning ways the caliph should know of the conduct and call them to account.[121](#)

He also tells Harun that the Caliph should listen regularly to the grievances of the people himself, and that occurrence of injustice could be made to stop if he has open court even once a month, where every grieved person is allowed to put his grief before the caliph and the officers are made to realize that what they do may one day reach the Caliph's ear.[122](#)

The Judiciary

The judiciary, according to him is meant to dispense justice, pure and undiluted. To punish one who is not guilty or to let one who is guilty go unpunished are alike unpardonable. But not should be punished on doubt. To go wrong in forgiveness is better than going wrong in awarding punishment. There should be no interference in the course of justice, nor should anybody's recommendation, position, or status count.[123](#)

Personal Liberty

Abu Yusuf also maintains that nobody can be incarcerated on a mere accusation. The accused person must be given a regular trial, and witnesses examined. If he proves guilty, he may be imprisoned, otherwise, he should be set free. He advises the Caliph that the cases of those who lie in person should be examined and those that are found to have been put there without sufficient proof or witness should be released. For the future all the governors should be instructed not to imprison anybody on the basis of mere allegation or suspicion without giving him a fair trial.[124](#) He also holds that it is illegal to beat or flog an accused person. Every person's back is immune from punishment unless a court declares him

worthy of the lash.[125](#)

Jail Reforms

In the reforms that he has suggested for the improvement of prisons, he affirms that every prisoner has a right to receive his board and clothing from the Government Exchequer. He severely condemns the Umayyad and ‘Abbasid practice of daily taking out the prisoners handcuffed and in chains to beg for their food and clothes. He requests the Caliph to put a stop to it and proposes that clothes suited to the season and sufficient food should be given to every prisoner by the Government.

The practice of burying the deceased heirless prisoners without wash and coffin, or without the funeral prayer, is also condemned in vigorous terms. “It is a matter of great shame for the Muslims,” he says. The proper wrapping and burial of these prisoners should be a Government charge. He has also recommended that no prisoner except those guilty of murder should be kept in fetters inside the prison.[126](#)

These are, in brief, the constitutional proposals which Abu Yusuf, as Law Minister and Chief Justice of the realm, placed before an autocrat 12 centuries ago. Placed beside the basic principles of an Islamic State and the traditions of the “Right-guided” caliphate, or compared with the teachings of his own master Abu Hanifah, they look far short of them indeed. There is no trace in them of the ideal way of choosing a Caliph. There is no mention of the advisory body, called the *shura*, guiding the administration of State affairs, nor of the idea that the wicked and the corrupt have no right to rule and if they come in, the public have a right to rise in revolt against them.

Not only that, many other important things also are missing and, judged from these and other such considerations, these proposals fall short of the true conception of an Islamic order. But this should not lead us to infer that Abu Yusuf’s conception of the Islamic State was restricted to the limits of these proposals of *Kitab al-Kharuj* and that he did not want anything more than what he put down there.

On the contrary, what we find here describes what he, as a practical thinker, conceived as the maximum that was possible and worthy of achievement in the particular circumstances of that period of the ‘Abbasid regime. In fact, the idea was not to present a theoretically perfect plan without regard to whether it was capable of being translated into practice or not. His intention was to draw up a constitutional plan which in addition to satisfying the minimum conditions required for the making of an Islamic State, should promise to be workable in the circumstances.

Bibliography

1. *Qur'an and Commentaries* – Al-Qur'an; ibn Kathir, *Tafsir al-Qur'an al-Azim*, Matba'ah Mustafa Mohammad, Egypt, 1937; Alusi, *Ruh al-Ma'ani*, Idarah al-Tab'at al-Muniriyyah, Egypt, 1345/1926; AL Jassas al-Hanafi, *Ahkam al-Qur'an*, al-Matba'at al-Bahiyyah, Egypt, 1345/1926; al-Jassas al-Hanafi,

Ahkam al-Qur'an, al-Matba'at al-Bahiyyah, Egypt, 1347/1928.

2. *Hadith and Commentaries* – Al-Bukhari; Abu Dawud; al-Nasa'i; Abu Dawud al-Tayalisi, *al-Musnad*, Dairatul-Maarif, Hyderabad, 1321/1903; Muslim; ibn Majah; al-Tirmidhi; Ahmad bin Hanbal, *al-Musnad*, Dar al-Ma'arif, Egypt, 3rd edition 1949; the same also published by al-Matba'at al-Maimaniyyah, Egypt, 1306/1888; ibn Hajar, *Fath al-Bari*, al-Matba'at al-Khairiyyah, Cairo, 1325/1907; al-Baihaqi, *al-Sunan al-Kubra*, Dairatul-Maarif, Hyderabad, 1355/1936.

3. *Al-Fiqh* – Abu Yusuf, *Kitab al-Kharaj*, al-Matba'at al-Salafiyyah, Egypt, 2nd ed., 1352/1933; al-Sarakhsī, *Sharh al-Siyar al-Kabir*, Matba'at al-Sa'adah, Egypt, 1324/1906; al-Sha'rānī, *Kitab al-Mizan*, al-Matba'at al-Azhariyyah, Egypt, 3rd ed., 1925.

4. *Dialectic Theology* – Al-Shahrastānī, *Kitab al-Milal w-al-Nihāl*, London; al-Asħ'arī, *Maqalat al-Islimiyyin*, Maktabat al-Nahdat al-Misriyyah Cairo; 'Abd al-Qāhir al-Baghdādī, *al-Farq bain al-Firaq*, Matba'at al-Adabiyyah, Egypt, 1317/1899; Mulla 'Ali Qari, *Sharh al-Fiqh al-Akbar*, Delhi, 1348/1929; al-Maghnisawī, *Sharh al-Fiqh al-Akbar*, Dairatul-Maarif, Hyderabad, 1321/1903; ibn Abī al-'Izz al-Hanafī, *Sharh al-Tahawīyah*, Da'irat al-Ma'arif, Egypt, 1373/1953; Mulla Husain, *al-Jauharat al-Munijat fi Sharh Wasiyyat al-Imam Abi Hanifah*, Dairatul-Maarif, Hyderabad, 1321/1903.

5. *Biographies* – Ibn al-Qayyim, *Zad al-Ma'ad*, Matba'ah Muhammād 'Alī Sabīh, Egypt, 1935; ibn Hishām, *al-Sirat al-Nabawiyyah*, Matba'ah Muṣṭafā al-Bābī, Egypt, 1936; ibn Khallikān, *Wafayat al-A'yan*, Maktabat al-Nahdat al-Misriyyah, Cairo, 1948; ibn 'Abd al-Barr, *al-Iṣṭi'ub*, Dairatul-Maarif, Hyderabad, 2nd ed.; *al-Intiqā' fi Fada'il al-Thalāthat al-A'immat al-Fuqaha*, Cairo, 1370/1950; ibn al-Bazzaz al-Kardārī, *Maṇaqib al-Imam al-A'zam*, Dairatul-Maarif, Hyderabad, 1st ed., 1321/1903; al-Muwaffaq bin Ahmad al-Makki, *Maṇaqib al-Imam al-A'zam Abi Hanifah*, Dairatul-Maarif, Hyderabad, 1st ed., 1321/1903; Mulla 'Ali Qari, *Dhail al-Jawahir al-Mudiyyah*, Dairatul-Maarif, Hyderabad, 1st ed., 1332/1913; al-Dhahabī, *Manqib al-Imam Abi Hanifah wa Sahibaihi*, Dar al-Kutub al-Misri, Egypt, 1366/1946; ibn Hajar, *al-Isabah*, Matba'ah Muṣṭafā Muḥammad, Egypt, 1939, Abu Nu'aim al-Asbahānī, *Hilyat al-Auliya'*, al-Matba'at al-Sa'adah, Egypt, 1355/1936.

6. *History* – Al-Ṭabarī, *Tarikh al-Ummāt w-al-Mulūk*, al-Matba'at al-Iṣtiqāmah, Cairo, 1939; ibn al-Āthīr, *al-Kamil fi al-Tarikh*, Idarat al-Taba'at al-Munriyyah, Egypt, 1356/1937; ibn Qutaybah, *al-Imamah w-al-Siyasah*, Matba'at al-Futuh, Egypt, 1331/1912; *'Uyan al-Akhbar*, Matba'ah Dar al-Kutub, 1928, 1st ed.; ibn Kathir, *al-Bidayah wa-al-Nihayah*, Matba'at al-Sa'adah, Egypt; al-Mas'udi, *Muruj al-Dhahab wa Ma'adin al-Jawahir*, al-Matba'at al-Bahiyyah, Egypt, 1346/1927; ibn Khaldūn, *al-Maqaddimah*, Matba'ah Muṣṭafā Muḥammad, Egypt; Al-Suyuti, *Tarikh al-Khulafa'*, Government Press, Lahore, 1870; *Husn al-Muhadarah fi Baghdaḍ*, Matba'at al-Sa'adah, Egypt, 1931; Ahmad Amin, *Duha al-Islam*, Matba'ah Lajnah al-Talif w-al-Tarjamah, Egypt, 4th ed., 1946; al-Maqrizī, *Kitab al-Suluk li Ma'rifat Duwal al-Muluk*, Dar al-Kutub al-Misriyyah, 1934; al-Jahshiyārī, *Kitab al-Wuzara' w-al-Kuttāb*, ed, Vienna, 1926; al-Yafī'i, *Mir'at al-Jinan wa 'ibrat al-Yaqzan*, Dairatul-Maarif, Hyderabad, 1st ed., 1937.

7. *Literature* – Al-Qalqashandi, *Sugh al-A'sha fi Sana'at al-Insha'*, Dar al-Kutub al-Misriyyah, Cairo, 1910; ibn al-Hadid, *Sharh Nahj al-Balaghah*, Dar al-Kutub al-'Arabiyyah, Egypt, 1329/1911; ibn 'Abd Rabbihim, *al-'Iqd al-Farid*, Lajnah al-Talif w-al-Tarjamah Cairo, 1940; Abu al-Faraj al-Asbahani, *Kitab al-Aghani*, al-Matba'at al-Misriyyah, Bulaq, Egypt, 1285/1868; al-Raghib al-Asbahani, *Muhadarat al-Udaba'*, Matba'at al-Futuh al-Adbiyyah, Egypt, 1336/1917; *Kitab al-Hayawin*, al-Matba'at al-Taqaddum, Egypt, 1906; *Thalث Rasa'il*, al-Matba'at al-Salafiyyah, Cairo, 1344/1225; al-Murtada, *al-Amali*, Matba'at al-Sa'adah, Egypt, 1st ed., 1907, Abu al-'Ala' al-Ma'arri, *Risalat al-Ghufran*, Dar al-Ma'arif, Egypt, 1950.

8. *Miscellaneous* – Tash Kubrazadah, *Miftah al-Sa'dah*, Dairatul-Maarif, Hyderabad, 1st ed. 1329/1911; ibn al-Nadim, *al-Fihrist*, al-Matba'at al-Rahmaniyyah, Egypt, 1348/1929.

1. Alp-Kardari, *Manaqib al-Imam al-A'zam*, Dairatul-Maarif, Hyderabad, 1321/1903, vol. I pp. 65, 66.
2. Al-Muwaffaq bin Ahmad al-Makki, *Manaqib alp-Imam al-A'zam Abi Hanifah*, Dairatul-Maarif, Hyderabad, 1321/1903, Vol. I, p. 162
3. Ibid., pp. 57 – 58.
4. Ibid., pp. 55, 59.
5. Ibid, p. 59
6. Ibid, p. 96; Vol. II, pp. 132, 136
7. Al-Yaf'i, *Mir'at al-Jinan wa 'Ibrat al-Yaqzan*, Dairatul-Maarif, Hyderabad, 1337/1918, Vo. I. p. 310.
8. Al-Makki, op. cit., p. 220
9. Al-Tabari, Vol. 6, p 238; ibn Kathir, *al-Bidayah w-al-Nihayah*, Vol. 10, p. 97.
10. Al-Khatib, vol. 13, p. 358; Mulla 'Ali Qari, *Dhail al-Jawahir al-Mudi'ah*, Dairatul-Maarif, Hyderabad, 1332/1913, p. 488.
11. For an instance of this see al-Makki, op. cit., pp. 219 – 20.
12. Al-Dhahabi, *Manaqib al-Imam Abu Hanifa wa Sahibaihi*, Dar al-Kutub al-'Arabi, Egypt, 1366/1046, p. 115.
13. Al-Raghib al-Asbahani, p. 206
14. Al-Dhahabi, op. cit., p. 26
15. Al-Khatib, Vo. 13, p. 360; Al-Makki, Vol 1, p. 262
16. Ibn Khallikan, Vol 5, pp. 422 – 23; al-Makki, Vol 2, p. 212
17. Before gaining currency as a term of the scholastics, the term Fiqh covered beliefs, general principles, law – in fact, everything under it. The differentiation was made by calling beliefs and general principles Fiqh al-Akbar, the fundamental or the main Fiqh, and Abu Hanifah gave the name to his compendium.

Recently, some scholars have doubted the authenticity of some parts of this book; they believe them to have been included later. However, the authenticity of those parts which we discuss here is undoubted, as whatever other sources we tap to collect Abu Hanifah's opinions on these matters, we find these tallying with them.

For instance, Abu Hanifah's al-Wasiyyah, al-Fiqh al-Absat reported by Abu Muti' al-Balkhi, and 'Aqidah Tahawiyyah in which Tahawi (c. 229 – 321/843 – 933) has described the doctrines reported from Abu Hanifah and his students, Abu Yusuf and Mohammad bin Hassan al-Shaibani.

18. Mulla 'Ali Qari, *Sharh al-Fiqh al-Akbar*, Delhi, 1348/1929, pp. 74 – 87; al-Maghnisawi, *Sharh al-Fiqh al-Akbar*, Dairatul-Maarif, Hyderabad, 1321/1903, pp. 25, 26.
19. Ibn Abi al-'Izz al-Hanafi, *Sharh al-Tahawiyyah*, Dar al-Ma'arif, Egypt, 1373/1953, pp. 403 – 16.
20. Al-Kardari, Vol. 2, p. 72.
21. Ibn 'Abd al-Barr, *al-Intiqā'*, al-Maktabat al-Qudsi, Cairo, 1370/1950, p. 163; al-Sarakhsī, *Sharh al-Siyar al-Kabir*, Vol. 1, Shirkah Musahmah Misriyyah, Egypt, 1957. The same was Malik's and Yahya bin Sa'id al-Qattan's opinion. Ibn 'Abd al-

- Barr, al-Isti‘ab, Vol. II, p. 467.
- [22.](#) Mulla ‘Ali Qari, p., 87; al-Maghnisawi, p. 26.
- [23.](#) Ibn Abi al-‘Izz, p. 398.
- [24.](#) Al-Makki, Vol, 2, pp. 83, 84; al-Kardari, Vol, 2, pp. 71, 72. This, too, was not the opinion of Abu Hanifah alone. All the ahl al-sunnah had agreed upon this. Ibn Hajar, al-Isabah, Matban‘ah Mustafa Mohammad, Egypt, 1939, Vol. 2. p. 502.
- [25.](#) Mulla ‘Ali Qari, p. 103; al-Maghnisawi, p. 33.
- [26.](#) Mulla Husain, al-Jauharat al-Munifat fi Sharh Wasiyyat al-Imam Abu Hanifah, Dairatul-Maarif, Hyderabad, 1321/1903, pp. 3, 6, 7
- [27.](#) Mulla ‘Ali Qari, pp., 86 – 89; al-Maghnisawi, pp. 27 – 28.
- [28.](#) Mulla Husain, p. 6
- [29.](#) Ibn Abi al-‘Izz, p. 265.
- [30.](#) Al-Qur‘an, 16:27; 5: 118; 26: 113 – 14.
- [31.](#) Al-Makki, Vol. 1, pp. 124 – 25.
- [32.](#) Mulla ‘Ali al-Qari, p. 91; al-Maghnisawi, p. 28.
- [33.](#) Ibn Abi al-‘Izz, p. 322.
- [34.](#) Ahkam al-Qur‘an, Vol 1, pp. 80 – 81: al-Sarakhsî has also explained this in his al-Mabsut, Matba‘at al-Sa‘adah, Egypt, 1324/1906, p. 130.
- [35.](#) Mulla ‘Ali Qari, p. 92; al-Maghnisawi, pp. 28 – 29.
- [36.](#) Mulla ‘Ali Qari, p., 92; al-Maghnisawi, p. 29
- [37.](#) Ibn Abi al-‘Izz, pp. 312 – 13.
- [38.](#) Al-Khatib, Vol, 13, p. 368; al-Makki, Vol 1, p. 89; al-Dhahabi, p. 20.
- [39.](#) Al-Dhahabi, p. 21.
- [40.](#) Al-Sha‘rani, Kitab al-Mizan, Matba‘at al-Azhariyyah, Egypt, 3rd ed., 1925, Vol. 1, p. 61.
- [41.](#) Ibid., p. 62.
- [42.](#) Al-Kardari, Vol. 2, pp., 15 – 16.
- [43.](#) Al-Qur‘an, 2:124
- [44.](#) Al-Jassas, Vol. 1, p. 80
- [45.](#) Al-Dhahabi, p. 17; al-Makki has also quoted this opinion of Abu Hanifah, Vol. 2, p. 100.
- [46.](#) Al-Mas‘udi, Vol. 2, p. 192.
- [47.](#) Al-Shahrastani, Vol. 1, p. 106; ‘Abd al-Qahir Baghdadi, p. 340.
- [48.](#) Muqaddimah, pp. 195 – 96.
- [49.](#) Ibn Hajar, Fath al-Bari, Vol. 13, pp. 93, 96, 97; Ahmad, Musnad, al-Matba‘at al-Maimaniyyah, Egypt, 1306/1888, Vol. 3, pp. 129, 183; Vol. 4, p. 421; Abu Dawud al-Tayalisi, Musnad, Dairatul-Maarif, Hyderabad, 1321/1903, Tr. No. 926, 2133.
- [50.](#) Al-Tabari, Vol. 3, p. 192.
- [51.](#) Ibn Hajar, Vol. 13, p. 95.
- [52.](#) Al-Sarakhsî, Sharh al-Siyar al-Kabir, vol. 1, p. 98.
- [53.](#) Al-Makki, Vol. 2, p. 100
- [54.](#) Ibid., pp. 21 – 24; ibn Khallikan, vol. 5, p. 41; ibn ‘Abd al-Barr, al-Intiqâ’, p. 171.
- [55.](#) Manaqib al-Imam, p. 30.
- [56.](#) Al-Makki, Vol. 2 pp. 72, 173, 178.
- [57.](#) Ibid., Vol 1. p. 215
- [58.](#) Al-Makki, Vol. 2, pp. 173, 174, 182; ibn Khallikan, Vol. 5, p., 46; al-Yafi‘i, vol. 1, p. 310
- [59.](#) Ahkam al-Qur‘an, Vol. 1, p. 81
- [60.](#) Al-Kadari, Vol. 1, pp. 160, 165, 166; ibn ‘Abd al-Barr, al-Intiqâ’, pp. 152, 153; al-Khatib, Vol. 13, p. 351
- [61.](#) Al-Ash‘ari, Vol. 2, p. 125
- [62.](#) Al-Makki, Vol. 2. p. 246.
- [63.](#) Ibid., p. 133.
- [64.](#) Al-Kardari, Vol. 2, p. 108.

- [65.](#) Al-Makki, Vol. 2, p. 54.
- [66.](#) Al-Kardari, Vol. 2, p. 109
- [67.](#) Al-Makki, Vol. 2, p. 136
- [68.](#) People of the present day labour under the wrong impression that International Law is a thing of themodern times and its founder is Grotius of Holland (991 – 1055/1583 – 1645). But whoever has seen al-Siyar of Abu Hanifah’s student Mohammad bin Hassan al-Shaibani (132 – 189/749 – 805) knows that the codification of this law was accomplished by Abu Hanifah 900 years before Grotius, and that if, on the one hand, his discussions hardly leave any aspect of it untouched; on the other, they encompass the finest and most vital issues., This has recently been acknowledged by a group of scholars and a Shaibani Society of International Law has been founded in Germany.
- [69.](#) Al-Makki, vol. 2 p. 41
- [70.](#) Ibid, pp. 157 – 58; al-Kardary, Vol. 2, pp. 106 – 07.
- [71.](#) Al-Kardari, Vol. 2, p. 183; Tash Kubrazadah, Miftah al-Sa‘adah, Vol. 2, p. 114.
- [72.](#) Ibn ‘Abd al-Barr, al-Intiqa, pp. 40 – 41.
- [73.](#) Abu -Na‘aim al-Asbahani, Hilat alpAuliya', al-Matba‘at al-Sa‘adah, Egypt, 1355/1936, Vol. 6, p. 332; Tash Kubrazadah, op. cit., Vol 2, p. 87.
- [74.](#) Al-Makki, Vol. 2, p. 212
- [75.](#) Ibid, p. 214
- [76.](#) Ibn Khallikan, Vol. 5, p. 422; ibn ‘Abd al-Barr, al-Intiqa’, p. 172.
- [77.](#) Ibn Khallikan, Vol. 5, p. 423.
- [78.](#) Al-Makki, vol. 2, p. 232
- [79.](#) Al-Kardari, Vol. 2, p. 126
- [80.](#) Ibn Khallikan, vol 5, p. 424; al-Kardari, vol. 2, p. 126.
- [81.](#) Ibn al-Nadim, al-Fihrist, al-Matba‘at al-Rahmaniyyah, Egypt, 1348/1929. Ibn Khallikan (Vol. 5, p. 242) writes on the authority of Talhah bin Mohammad that Abu Yusuf was the first man to compile books on all fundamental branches of Law in accordance with the Hanafi creed, and thus spread Abu Hanifah’s knowledge to all corners of the world.
- [82.](#) It must be understood that the codification of Islamic law according to the Maliki principles enabling it to serve the needs of a government took place later on the model of Mohammad bin Hassan al-Shaibani’s books.
- [83.](#) Al-Makki, Vol. 2, pp. 211 – 39; ibn Khalikan, Vol. 5, p. 421.
- [84.](#) Al-Kardari, Vol. 2, p. 128.
- [85.](#) Al-Sarakhs, Kitab al-Mabsut, Vol. 16, p. 61; al-Makki, Vol. 2, pp 243 – 44.
- [86.](#) Al-Makki, Vol. 2, p. 226 – 27.
- [87.](#) Ibid., p. 240.
- [88.](#) Ibid.; Mulla ‘Ali Qari, Dhail al-Jawahir al-Mudiyyah, p. 526.
- [89.](#) Al-Makki, Vol 2, p. 232.
- [90.](#) Al-Karadari, Vol. 2, p. 120.
- [91.](#) Kitab al-Aghni, Vol. 3, p. 178.
- [92.](#) Kitab al-Kharaj, pp. 3, 4, 5
- [93.](#) Ibid., p. 5
- [94.](#) Ibid., p. 8.
- [95.](#) Ibid., p. 117
- [96.](#) Ibid., p. 12
- [97.](#) Ibid., p. 10 – 11
- [98.](#) Ibid, p. 12
- [99.](#) Ibid, p. 117.
- [100.](#) Ibid., p. 5.
- [101.](#) Ibid., p.6.
- [102.](#) Ibid., p. 13.
- [103.](#) Ibid., p. 108.

- [104.](#) Ibid., pp. 9, 12.
- [105.](#) Ibid., pp. 36, 117.
- [106.](#) Ibid., p. 36.
- [107.](#) Ibid., 186.
- [108.](#) Ibid., p. 14.
- [109.](#) Ibid., pp. 16, 37, 109, 114.
- [110.](#) Ibid., pp. 109, 132.
- [111.](#) Ibid., pp. 122, 131.
- [112.](#) Ibid., pp. 15, 16.
- [113.](#) Ibid., pp. 37, 114.
- [114.](#) Ibid., pp. 14, 37, 125.
- [115.](#) Ibid., pp. 122 – 26.
- [116.](#) Ibid., p. 139.
- [117.](#) Ibid. p. 105
- [118.](#) Ibid., pp. 58, 60, 66
- [119.](#) Ibid., pp. 59 – 66.
- [120.](#) Ibid., p. 111.
- [121.](#) Ibid., pp. 106, 107, 111, 132, 186.
- [122.](#) Ibid., pp. 111, 112.
- [123.](#) Ibid., pp. 152 – 53.
- [124.](#) Ibid., 175 – 76.
- [125.](#) Ibid., p. 151.
- [126.](#) Ibid., pp. 149, 151.

Chapter 35: Al-Farabi

A. Society And Its Goal

An account of the life and philosophical thought of Abu Nasr Mohammad ibn Tarkhan al-Farabi (d. 339/950) has already been given in a previous chapter. The reader must have noted that, while recasting the philosophical views of Plato, Aristotle, and other Greek thinkers, al-Farabi always keeps in view the Islamic tenets which have formed the inner links of his writings. In his political philosophy, he has followed the same line. Under the influence of Plato and Aristotle he evolves his own system which markedly differs from the system of the Greeks, the Iranians, as well as the Indians.

This will be shown in these pages which have been prepared in the light of 1) *Kitab Ara’ Ahal al-Madinat al-Fadilah* (Book on the Views of the People of the Excellent State), 2) *Kitab al-Siyasat al-Madaniyyah* (Book on Caution on the Path of Administration), 3) *Kitab Tahsil al-Sa‘adah* (Book on the Achievement of Happiness, 4) *Kitab al-Tanbih ‘ala Sabil al-Sa‘addah* (Book on Caution on the path of Happiness), and 5) the Bodleian manuscript of his *Fusul al-Madini* (Chapters on the Civilian).

The City State

According to al-Farabi, the City State (*Madinah*) and the Family State are places that contain inhabitants, no matter whether their dwellings are constructed of wood, mud, wool or hair.¹

The house or family is limited to only four relationships: husband and wife, master and slave, father and son, and property and proprietor. He who makes them unite in co-operation and aims at providing for them an abode with the best facilities and maintenance, is called the master of the family. He is in the house what the administrator of the city is in the city.²

Necessity of Society

Men are naturally so constituted that they need many things for their best achievements. Hence, they need mutual help and co-operation – everyone doing his best for obtaining a particular kind of object. Thus, by uniting their individual efforts for different objects they organize different societies.³

The greater the society, the better are the facilities it achieves for its individuals. The grouping of men is not confined to a house. It extends to lanes, localities, villages, towns, and cities. Men work for the welfare of society and in the long run serve the State. The people living in a state are called a nation (*Ummah*). One nation can be distinguished from another by natural character, temperament, habits, and language.⁴

Human societies are either perfect or imperfect. The perfect society may be great, middling, or small. The great human society is the one consisting of several nations uniting themselves in one unity and helping one another. The middling one is the society of one nation in a part of the world, and the small is the society of the people of a city.⁵

The imperfect society is that of the people of a village, a locality, a lane, or a house, the last being the smallest.

Now, the highest good and perfection are primarily achieved through volition and will. Similarly, evil finds its scope by volition and will. The City-State can, therefore, develop by mutual help and efforts to attain some evil purpose or to attain happiness. The city in which the members of the society co-operate to attain happiness is in reality the ideal City-State (*al-madinat al-fadilah*), the society, the ideal society, and the nation.⁶ In this State the citizens help one another to achieve qualities of the greatest life perpetually.⁷ But if they help one another to obtain the bare necessities of life and its preservation, this City-State is evidently the necessary State.⁸

How to Achieve Happiness

Al-Farabi speaks of happiness both of this world and hereafter. He explains that when human factors or the four excellences – speculative virtues (*al-jada'il al-nazariyyah*), theoretical virtues (*jada'il al-*

fikriyyah), the moral virtues (*fada'il al-khuluqiyah*), and the practical arts (*al-sana'at al-'amaliyyah*) – form the qualities of a nation or of the people of a city, their worldly happiness in this life and the lasting happiness in the next are insured.

Speculative virtues (*al-fuda'il al-nazariyyah*) represent those sciences which aim at the highest object, knowledge of existing things including all their requirements. These sciences are either innate in man, or they are achieved by effort and learning.⁹

Now, the principal factors of existing bodies and accidents, as explained by al-Farabi, are of six kinds with six grades: The first cause in the first grade, the secondary causes in the second grade, active intellect in the third grade, soul in the fourth grade, form in the fifth grade, and matter in the sixth grade. The first grade is confined to one individual only; it cannot have more than one. But other grades can have more than one occupant. Out of this six, three, viz. the first cause, the secondary cause, and the active intellect, are neither bodies nor are they contained in bodies. The other three: soul, form and matter are not bodies, but exist in bodies.

As for bodies, they are of six types: the heavenly bodies, rational animals, irrational animals, plants, minerals and the four elements. All these six bodies as a whole form the universe. The first to be believed in is God, the Almighty, who is the immediate cause of the existence of the secondary causes and the active intellect. The secondary causes are the causes of the existence of heavenly bodies and their substance. The secondary causes should be called the spirits, the angels, and so on.

The function of the active intellect is to attend the rational animal, man, and to enable him to attain the highest perfection he can reach. The highest perfect of man consists in his highest happiness which he achieves when he raises himself to the stage of the active intellect by abstracting himself from bodies, matter, and accidents, and continues to enjoy this perfection perpetually. In essence, the active intellect is one but in gradation it includes all that is purified from the rational animal and attains to happiness. The active intellect should be called the Holy Spirit (*al-ruh al-Amin* or *al-Ruh al-Quodus*) or the like and its grades be called the spiritual realm (*al-malakut*) or the like.

Souls have three grades: souls of celestial bodies, souls of the rational animal, and souls of the irrational animals. The souls of the rational animal are the rational faculty, the appetitive faculty, the imaginative faculty, and the perceiving faculty. The rational faculty equips man with sciences and arts, and enables him to distinguish good from evil manners and actions. Through this faculty man inclines to do good and avoid evil and realizes the useful, the harmful, the pleasant and the unpleasant.¹⁰

1) The rational faculty is either speculative or practical; the first is that through which man obtains the knowledge of all that he is not at all supposed to know by his own effort, and the second is that through which he knows all that he can know if he wills it so. The second is again divided into that through which arts and crafts are obtained (*mahaniyah*), and that through which imagination and insight concerning doing or not doing a thing are achieved (*marwiyyah*).

- 2) The appetitive faculty manifests the human inclination of wanting something or running away from something, of desiring or not desiring something, of giving preference to something or avoiding something. All psychological feelings – hatred, affection, love, friendship, enmity, fear, anger, passion, mercy, etc. – are expressed by this faculty.
- 3) The faculty of imagination retains the impression of the sensible objects after they have disappeared from sense-perception, unites some of them with some others, or separates some of them from some others both in wakefulness and sleep producing true or false propositions. This faculty also perceives the useful, harmful, pleasant, and unpleasant manners and action.
- 4) The faculty of sense-perception obviously perceives the sensible through the five sense-organs – the pleasant and the unpleasant, without discriminating between the harmful and the useful, and without distinguishing good from evil.

The three faculties other than the rational faculty are available to animals, imaginative faculty serving them as the rational faculty serves man. Some animals, however, possess only the sensible and the appetitive faculties.

The celestial souls are different from the animal souls in so far as the former are actual souls that understand the intelligible, whereas the latter are at first potential and then become actual.[11](#)

Having explained the gradation of cosmos and the relation that the different grades have with the First, al-Farabi emphasizes the point that the whole cosmos depends for its existence on God, the First Necessary Being.

Man, however, understands and realizes happiness only through the speculative rational faculty. The imaginative and the sensitive faculties help the rational faculty in moving man towards those actions which lead to happiness. The good is characterized as “voluntary.” But if the rational faculty feels happiness only by making an effort to perceive it, while other faculties do not perceive it, then sometimes man considers the pleasant and the useful to the ultimate ends of life.

Again, when one becomes indifferent or slow in accomplishing the sensitive rational part and does not feel happiness in doing so, one hastens to attain to it by exercising one’s appetitive faculty in aiming at and making all effort to achieve things other than happiness, and in this effort one is assisted also by the faculties of imagination and sense-perception, and produces what may be rightly called voluntary evil.

Similarly, he produces only evil who attains to happiness which he does not recognize as his aim, does not desire it, or desires it with the faint desire, and adopts something other than happiness at his end, and exerts all his faculties to achieve that end.[12](#)

Since man has been created to achieve happiness which is the highest perfection that remains perpetually, it is possible to obtain it through the active intellect which gives primarily the first intelligible or the first objects of knowledge. But men differ in their capacity to receive the primary intelligible.

B. Human Nature

Human nature is not the same in all individuals; it varies in accordance with the physical qualities of individuals. Some can easily grasp the first intelligible or the first known things, some do not receive them directly. Again, some of them do not receive anything from the first intelligible in a natural way at all, and some others receive them in a way different from theirs. There are still others who receive them in respect of their own selves.

Human beings in this third group are free from defect, their nature being homogeneous, prepared to receive intelligible which are common to them and through which they advance to the affairs and actions that are common to them. After this stage, they differ from one another, as some receive those intelligible which are peculiar to them, and are not common to others. Those belonging to this group endeavour towards a particular genus without allowing anything else to share it.

Similarly, human beings excel one another in the faculties through which they derive the objects of one genus, some having the ability of deriving all the individuals of a genus and others perceiving only a few individuals thereof. Again, sometimes it so happens that two individuals do not prove to be equal in their capacity of deriving the external objects, one being swift and the other slow, or one being swift in deriving the genus of the greatest excellence and the other in deriving the basest of the genus. It is also possible that both are equal in power, but one is able enough to teach what one has derived, and can offer guidance to others, but the other has no such power of teaching and guiding others. They also differ in performing corporeal deeds.

Natural dispositions do not oppose one another, nor do they insist on action, but they facilitate performance, and are not moved by anything external towards opposite actions. Even if they are moved in opposite directions they resist and offer hindrance.

All these natural dispositions require a suitable teacher. Hence, they are trained in matters that prepare them to be in their highest or nearly highest perfection. Some are trained in mean things which produce excellent actions from a mean genus.[13](#)

People have different calibres by nature, and they vary in ranks in accordance with the ranks in genus, arts, and sciences for which they have naturally been prepared. They also differ in the capacity of training and giving guidance. Some are stronger than others, and, hence, they differ in receiving and training. For some can be trained for a part of the genus only. Now, he who is an expert in imparting training and guidance is called the *chief*.[14](#)

C. Education

Man has been created to attain to the highest happiness (*sa'ddah*). He should, therefore, know what happiness is and should make it the aim of his life. He, then, needs to know those factors and arts

through which he can achieve happiness. He will have to exercise all those arts which will enable him to attain to it. But since it has been explained that human individuals differ in nature, it is not in the nature of every man to know happiness or those factors which enable him to reach it by himself. He, therefore, needs a teacher, a guide.

Some people require less guidance and teaching, and some need more. It is also not necessary that one should learn all that one is taught, or receive all the guidance one is given. Hence, some people require constant teaching and guidance to urge them to do what they have been taught to do.[15](#)

Teaching (*ta'lim*) means creating speculative excellences in nations and cities, while upbringing (*tadib*) is the method of creating and developing moral virtues and scientific arts in nations. Teaching is possible only by expressing; *tadib* or discipline is to make nations and citizens habituated to the deeds done through scientific habits. That is, their resolutions will move them to perform those actions, so much so that these resolutions will dominate their souls, and they will become devoted to those actions.

To exert one's resolution to do something is possible either by expression or by performance. While al-Farabi agrees with Plato in the system of education and in learning from childhood, he emphasizes that speculative sciences are learned either by kings and leaders (*imams*) or by those who preserve these sciences and teach kings and leaders in several ways. First of all, they should know the primary axioms, and the first known object in every genus of speculative sciences, and then they should know the various forms of premises and their arrangement through which they can lead to conclusions. After they have completed their education, and have accustomed themselves to logical methods, they will be made kings in each of the partial States, and will be promoted little by little until the stage of the great State is achieved.

Speculative sciences must be taught through convincing methods. Men very often understand these sciences by a process of thinking, because they understand them after realizing many known principles which are not corporeal. The common people can understand their images by the method of convincing only.

The teacher should also distinguish what should be imparted to a particular nation and how to make it common to all nations or to all the people of every city. He should also know what should be taught to the entire nation, or city, and what only to a particular group in the city. All these distinctions can be made by the imaginative virtue which enables one to achieve the speculative virtues.

As for practical virtues and practical arts, people must habituate themselves to practising them by two methods. First, the teacher should train them by convincing and effective expressions to engender the values of these actions and habits perfectly in their hearts so that their convictions may move them to perform them submissively. Secondly, he should use the method of force which is employed for the disobedient and revolutionary citizens, and those who do not move to righteousness meekly on their own accord or by persuasion.[16](#)

The virtuous teachers and artists can be divided into two groups in respect of the above-mentioned two methods – one group teaching and training those who are obedient, the other group teaching the disobedient. In both respects, the king is the teacher of nations whom he trains to achieve virtues, and the master of the house is the teacher of the people of the house. Similar is the case with one who is in charge of children or the youth.[17](#)

The Imaginative Virtue

The imaginative virtue enables a man to think of an exceedingly useful purpose which is common to the comity of nations, to a nation, or to a city. This virtue is called the civil imaginative virtue. But if this virtue is common to a group of citizens or the members of a house only, then it is ascribed to that particular group and is called family imaginative virtue, or State imaginative virtue. Sometimes this virtue is further divided. Since it is derived from what is most useful and beautiful in respect of a particular art or profession for a limited time, it is divided into the various kinds of arts and professions. The most accomplished one in this virtue is the strongest one who succeeds in creating a great State.

The imaginative virtue confined to different aspects of the State – defence, finance, and so on – is followed by moral virtue which is related to the imaginative virtue as the imaginative virtue is related to different arts, professions, or families. This virtue is, first of all, needed for organizing and maintaining the army. The moral virtue alone impels the warriors to display their bravery, and the best kind of valour. It also urges citizens to earn the wealth of the State with honesty and legal means. In fact, it plays a major role in all departments of the State.[18](#)

D. The Chief

It is evident that every man cannot be the chief. People differ in their intellectual capacity, in physical strength, in the exercise of virtuous deeds, and in the acquisition of excellent habits of thinking, feeling, willing, and doing. In every department of life and arts the strongest person, of excellent manners, who also knows, acts, and directs, is the chief of that department, the rest being the subjects. The chief is either one of the first rank who is not sub-servient to anyone, or he is of the second rank, dominating some, and being dominated by some others. Such ranks develop in relation to the forms of art, e.g. cultivation, trade, medical profession, or in respect of all kinds of human beings.[19](#)

The first chief in general is he who needs no help from anyone. Sciences and arts are his property in actuality, and he needs no guidance from any person in any respect.[20](#)

The first chief of the excellent (ideal) city is one who is chief in all respects. His profession must excel all the rest in attaining to perfection, and in intending by all actions of the ideal state to achieve the highest happiness. This man is not sub-servient to any other. He is a man accomplished in all virtues, and, therefore, he is intellect and intelligible in actuality, having his imaginative faculty naturally so perfected as to be able to receive particulars from the active intellect either in themselves, or as images in sleep,

or in wakeful state. His passive intellect receives the intelligible in complete perfection, so that nothing which has become an intellect in actuality is denied to him.

Whosoever invests his passive intellect with intelligibles becomes intellect and intelligible in actuality. His understanding of himself is more perfect, more separable from matter, nearer to the active intellect, and is called the derived intellect. This derived intellect has a rank between the passive and the active intellect. The passive intellect is, therefore, like matter and sub-stratum for the derived intellect which is like matter and sub-stratum for the active intellect.[21](#)

The rational faculty[22](#) which is the natural form, supplies material sub-stratum for the passive intellect and makes it the actual intellect. The actual intellect is the first stage at which man is called man and being human becomes common to all human beings. When the passive intellect and the natural form become one in the same way as the composite of matter and form becomes one and the same thing, and man receives human form, the actual intellect is achieved; and when the natural form becomes the matter of the passive intellect which has thus becomes the actual intellect, it becomes the matter of the derived intellect, which in its turn becomes the matter of the active intellect, and all of these become like one thing, then man enjoys the presence of the active intellect in himself.

If the active intellect is present in both parts of the rational faculty – the speculative and the practical – then man receives revelation in his imaginative faculty. Allah, the Exalted and Sublime, sends revelation to him through the active intellect. If the active intellect extends what it receives from Allah to his passive intellect through his derived intellect and then to his imaginative faculty, then man, through what descends upon his passive intellect, becomes a wise philosopher and possessor of perfect understanding, and through what descends upon his imaginative faculty, a prophet, a warner against what is going to take place, and an informer of what particulars exist, as he understands them for God. This man is in the most perfect stage of humanity and in the highest place of blessing, his soul being perfect, united with the active intellect in the manner described. This the man who is aware of every action that would enable one to achieve grace and is the chief, the leader, who cannot be led by anybody else.

E. Characteristics Of The Chief Of The Ideal State

The Imam or the chief of the ideal State is the chief of the ideal nation, and for the matter of that, of the whole inhabited part of the earth. This position is only attained by a man who naturally possesses the following 12 characteristics as his second nature:

1. Sound health, and perfect organs, performing their functions with ease and facility and in harmony will faculties.
2. Intelligence and sagacity, so as to be able to grasp the intention of a speaker in his particular situations and circumstances.

3. Good memory, so as to retain in his mind all that he understands, sees, hears, and perceives.
4. Prudence and talent, to understand a problem from the perspective in which it has been presented to him.
5. Eloquence, so that his tongue may assist him in expressing in a perfect manner all that is in his mind.
6. Devotion to education and learning, and submission to receive knowledge with ease without feeling any annoyance.
7. No greed for food, drink and sex, avoidance of play, and dislike of pleasures caused by these.
8. Friendliness towards truth and truthful persons and condemnation of falsehood and those who are inclined to falsehood.
9. Bigness of heart, loving nobility, and natural magnanimity without any trace of meanness.
10. Indifference to *dirham* and *dinar* and other forms of wealth.
11. Devotion by nature to justice and just people, abhorrence of injustice and oppression and unjust and oppressive people, offering half of one's possessions and those of one's family to help the oppressed, and urging others to do the same, helping everything good and beautiful, and being easy to bend to justice but difficult to oppression and evil.
12. Strong resolution, courage, and promptitude without any sign of fear or psychological weakness.

If a person possessed of these qualities happens to live in an ideal State he is the chief.

It is, however, impossible to have all these qualities in one man. People are scarcely equipped with all of them. If no one having these qualities is found in the State, the laws promulgated by the former chief or his successors should be kept in force.

The second chief who succeeds the first should fulfil at least the following six requirements:

1. He should be wise and philosophical.
2. Learned and abreast with the laws, customs, rites and rituals adopted by his predecessor to discharge the function of the ideal State with all perfection.
3. He should be an expert in deriving principles in case he does not find any law.
4. He should be far-sighted, possessing an insight to frame rules and regulations in accordance with the conditions and circumstances he finds himself in, and capable of keeping up the reforms he introduces.
5. He should also be well experienced and eloquent in giving directions to urge the people to follow him

in accordance with the *Shari‘ah*.

6. In addition, he should be skilful in physical display of exercises needed in warfare, and in the use of arms, ammunition, and other equipments.

In other words, this ruler must have insight to derive inferences from the possessed records of the customs, rites, and rituals, and accurate opinion in understanding the events that take place and may increase the prosperity of the State. He must have the power to convince others and struggle hard. This sovereign is called the king of the tradition, and the State is called *al-mulk al-sunnah* the country of traditions and customs.

If all the conditions described for the chief are not found in one man, and are available in two persons – one wise and the other possessing other qualities – then both will be the chiefs of the State. If, however, these conditions are scattered in a group of people agreeable to work together, then these members will be the ideal chiefs. But if wisdom does not form a part of the State while other conditions are fulfilled entirely, the city will be best without a sovereign, but it will be exposed to destruction. The State without a philosopher to whom it may be entrusted will perish in no time.[23](#)

F. The Ideal State

The sovereigns of an ideal State who succeed one another are all like one soul, as if there were one king who continued all the time. Similar is the case with a group of people who administer the State together at a time in one or more than one city. The whole group is just like one sovereign, their souls being like one soul. Uniformity is found in every stage and in every part of the State, and people flourishing at different times look as they were one soul working at all times in the same way. If there is continuity and harmony at a particular stage, even different groups of people, whether of one or more than one State, would appear as one soul.[24](#)

The people of the ideal State have something common to all of them in their learning and acting, but different groups of people belonging to different ranks and stages have some sciences and deeds peculiar to them. Through both of these, people achieve happiness, and by displaying these they obtain an ideal physical form. This form grows stronger and stronger and better and better by constant performance of those deeds. For example, the art of writing has some pre-requisite performances. The more they are executed by the expert, the greater is the excellence of his art. Not only that, the scribe enjoys his art by repeating his exercises, and grows in love for it.

The same is the case with happiness, which increases with the constant practice of deeds that lead to it. The soul grows in happiness to such a degree that it becomes free from matter. It does not perish with matter, for it is no longer required for its existence. At this stage, being separated from matter, the soul frees itself from all corporeal qualities so much so that even movement and rest cannot be ascribed to it. As this state is very unusual, it is very difficult to form an idea of it.

G. Arts And Blessings

As art has three grades, happiness or bliss is also divided into three grades in respect of species, quality, and quantity. There are such species of art as weaving, cloth-trading, perfumery, and sweeping, or as dancing, jurisprudence, philosophy, and rhetoric. Thus, arts excel one another in different species.

The artists of the same art excel one another in skill and efficiency. Two scribes, for example, differ in their skill, because, besides a good hand, their art requires some knowledge of lexicon, rhetoric, and arithmetic. Now, one may be an expert in good hand and rhetoric, another in good hand, lexicon, and rhetoric, and yet another in all the four arts. Again, two scribes may differ in the quality of their art, for one of them maybe better than the other. Similarly, happiness excels in species, quantity, and quality.

The people of an imperfect State have but little virtue. They have evil psychical forms and their actions are not good. The greater their activity, the more does their profession display defect and imperfection. In consequence, they become ill inasmuch as they do not enjoy edibles, and become annoyed with beautiful and excellent things. Some of them even regard themselves as healthy and perfect, though they are actually not so, and do not pay any heed to the advice of the physician or the well-wisher.

H. Inhabitants Of The Ideal State

The excellent or the ideal State consists of five kinds of people: the excellent, the linguists, the secluded, the struggling, and the steady. The excellent people are the philosophers, the intellectuals, and “the People of Opinion” in great affairs. As for linguists, they are the orators, speakers, poets, musicians, writers, and the like. The secluded people are the mathematicians, statisticians, physicians, astronomers, and the like. The struggling people are the fighters, the defenders, and all those who take their place. The steady are those who earn money in the city, for example cultivators, traders, and those engaged in other pursuits.²⁵

I. Imperfect States

The excellent State as explained above is the State administered by the best and most talented who aim at prosperity and happiness for all and sundry. If its constitution fails to provide the people with prosperity, and the rulers do not possess the qualities of ideal rulers, then the State ceases to be excellent and is called the evil-doing State (*al-madinat al-fasiqah*), the ignorant state (*al-madinat al-jahilah*) or the astray going State (*al-madinat al-dallah*). People in the evil doing State are like weeds in a field. They are no better than savages and can have no organization worthy of a State.²⁶

As for the people of the ignorant State, they possess their own constitution and culture. But their civic organization varies. They look after the necessities of life in a necessary State; organize the society of the contemptible in the contemptible State, the society of the vile in the vile State, the society of the

extravagant in the extravagant State, the society of the dominant in the dominant State, or the society of the free in the social State.

The necessary organization is the State which endeavours to earn what is evidently necessary for the constitution and the upkeep of the body.²⁷ The State of the contemptible is the one which tries to achieve wealth in abundance, and the money which they hoard due to the love of wealth and niggardliness is spent only for the needs of the body. The vile state broods over sensuous pleasures and achieves the best means for the sake of pleasure only. This State is the most coveted one.

The extravagant State is the organization of the profusely generous in which the individuals help one another to reach nobility in expression and action. The people of this State are called generous either by themselves or by the people of other States.²⁸ This is the best State among all the States of the ignorant.

The state of the dominant people tries to over-power others in power and wealth; they shed blood, subjugate others, and indulge in all sorts of pleasures. The State of the dominant excels the State of the generous in showing power.²⁹ As for the social State, everybody is free in it to do whatever he likes, and believes that no man has any superiority over others by any means. But independence often leads to extremes, and, therefore, there arise in this State different rites and rituals, customs and manners, and people are misled by evil propensities. Thus, this State splits into different groups and parties.

In all these States there is always unrest prevailing among the people, as everybody tries to become the chief and, by virtue of his wits, to lead the State of prosperity and happiness.

The evil doing States differ from the States mentioned above in so far as the people of these States believe in the principles held and the forms of happiness conceived by the people of the excellent State, and also invite others to do the same, but they themselves do nothing to achieve their object, nor do they try by action to attain the happiness they believe in. On the contrary, they incline to their own whims and propensities, that is to say, they like to enjoy power, nobility, and domination, and direct their actions towards their achievement. In activities, these States are like the States of the ignorant. In manners, their peoples resemble the peoples of the said States. The peoples of these two States differ only in belief. None of these states ever achieve happiness and prosperity.

The astray going States are those whose people suffer from some delusion. They adopt such principles, actions, and deeds as appear to them to be those of the excellent State, but in fact are not. The same is true of their goal of happiness and prosperity which they conceive to be so but which actually is not so.

The offspring of societies which develop in these States are of various types and all of them aim at personal gain and victory and not at real happiness and true prosperity.³⁰

J. Conclusion

According to al-Farabi, the chief of the state should be physically free from all defects, and should have a sharp intellect, memory, and wit. He should be devoted to sciences, truth-loving, and not easily upset by difficulties, contented, without greed for things to eat, and disinclined towards sensuous pleasures. He should abhor falsehood and liars, be ambitious with lofty ideals, a lover of justice, without thought of wealth or worldly position, and should have strong resolution, boldness, and courage. Plato's philosopher king has also been described as truth loving, fond of the knowledge of existents, one who keeps away from vice, is free-thinking, intelligent, sagacious, witty, and ambitious. But the state of al-Farabi is international in character.

While the State of Plato is only a City-State, that of al-Farabi can be as vast as a World-State. Plato wants to entrust the affairs of the State to a group of philosophers and names the organization "aristocracy." Al-Farabi not only calls the Head of State Imam but identifies him with prophet. It is in the absence of the Imam or the second chief who has the necessary qualities to follow the tradition of the Imam that he entrusts the affairs of the State of the chief. It is, therefore, not true to say that al-Farabi has based his theory entirely on the *Republic* of Plato, or that he is simply Aristotelian in his thought.

Bibliography

Al-Farabi, *Fusul al-Madini*, Bodleian MS.; *Kitab Ara' Ahl al-Madinat al-Fadilah*; *Kitab al-Siyasat al-Madaniyyah Kitab Tahsil al-Sa'adah*; M. Horten, "Das Buch der Ringsteine Farabis mit dem Kommento des Emir Isma'il al-Hoseini al-Farani ubersetzt und erlautere," *Beitrage zur Geach. des Philosophie des Mittelalters*, Vol. 5, Munster, 1906, with a bibliography; M. Steinschneider, "Al-Farabi des arabischen Philosophen Leben und Schriften" in the *Memoires d'Acad. imperial des Sciences de St. Perersbourg*, Vol. 13, No. 4, St. Petersbourg, 1869;

Dieterici, *Alfarabis Philosophische Abhandlungen*, Leiden, 1890, (Arabic text); Bronnle, *Alfarabi, Die Staateleitung*, Leiden, 1904; T. J. de Boer, *The History of Philosophy in Islam*, English tr., London, 1903; Carra de Vaux, *Avicenne*, Paris, 1900; M. Worms, Die Lehre von der Anfangslosigkeit der Welt," *Beitrage zur Geasch. der Philosophic des Mittelalters*, Vol. 3, Munster, 1900; Brockelman, *Geach. der arab. Litt.*; R. P. Janssen, Youssef Karam, J. Chlala, *Al-Farabi: Idees des habitants de la cite vertueuse*, Cairo, 1949.

1. Al-Farabi, *Fusul alp-Madini*, Bodleian MS., Fol. 97a.

2. Ibid., Fol. 97b

3. *Kitab Ara' Ahl al-Madinat al-Fadilah*, p. 60.

4. *Kitab al-Siyasat al-Madaniyyah*, p. 39.

5. Ibid., p. 39.

6. *Kitab Ar' Ahl-Madinat al-Fidilah*, p. 61.

7. *Fusul al-Madini*, Bodleian MS., Fol. 98b.

8. Ibid.

- [9.](#) Kitab Tahsil alp-Sa'adah, p. 2
- [10.](#) Kitab al-Siyasah, pp. 3, 4.
- [11.](#) Ibid., p. 5.
- [12.](#) Ibid., pp. 43 – 44.
- [13.](#) Ibid., p. 46.
- [14.](#) Ibid., p. 47.
- [15.](#) Ibid., p. 48
- [16.](#) Kitab tasil al-Sa'adah, pp. 29 – 31.
- [17.](#) Ibid., p. 31.
- [18.](#) Ibid., pp. 24 – 36.
- [19.](#) Kitab alpSiyasat, p. 48.
- [20.](#) Ibid., p. 49
- [21.](#) Kitab Ara' Ahl al-Madinat al-Fadilah, pp. 64 –65.
- [22.](#) Ibid., pp. 65, 66.
- [23.](#) Ibid., p. 67.
- [24.](#) Ibid., p. 70.
- [25.](#) Fusul al-Madini, Bodleian MS., pp. 40 – 41; (Proceedings of the Fourth) Pakistan Philosophical Congress, p. 336.
- [26.](#) Kitab al-Siyasat, p. 57.
- [27.](#) Ibid., p. 58.
- [28.](#) Ibid., pp. 59 – 60.
- [29.](#) Ibid., p. 64.
- [30.](#) Ibid., p. 74.

Chapter 36: Al-Mawardi

A. Life And Works

Abu al-Hassan al-Mawardi was born in Basrah (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 here and rose in literary renown at an early age. He especially 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-Qadir, summoned four jurists representing the four schools of Islamic Law to write a legal epitome. Al-Mawardi was chosen to represent the Shafi'ite school and he wrote *Kitab al-Iqna'*; al-Quduri produced his famous *al-Mukhtasar* for the Hanafites. The other two books were of no importance.

The Caliph, however, recognized al-Mawardi's work as the best and in appreciation of his merit appointed him as the *Aqda al-Qudat*. This designation was objected to by many leading jurists like Abu al-Tayyib, al-Tabari, and al-Simyari, who said that it did not become anyone except God. But al-Mawardi took no notice of these objections and retained the designation until his death in 450/1058, because the same jurists had previously approved the title of *Malik al-Muluk al-A'zam* for Jalal al-

Daulah, the Buwaihid chief.

Although al-Mawardi was a staunch Sunnite and Shaf'ite jurist, he had the good fortune of being equally favoured by both the Buwaihids and 'Abbasids. 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 Yaqut, "He was held in great esteem by the Buwaihid Sultans who deputed him to negotiate between them and their opponents, and were pleased with his mediation, and affirmed his settlements."

Al-Mawardi was acclaimed as one of the ablest men of his age. He was not only a distinguished judge but also a distinguished author. He wrote mostly on law and politics. His well-known extant works are: *Kitab al-Hawi*, *al-Iqna'*, *Siyasut al-Mulk*, *Qawanin al-Wizarah*, *Adab al-Dunya w-al-Din*, and *al-Ahkum al-Sultaniyyah*. But it is this last work on which his fame chiefly rests. In Muslim history it is one 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 Khallikan quotes a report that none of al-Mawardi'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-Ahkam al-Sultaniyyah*, because there exists another book with the same title by Abu Ya'la al-Farra', who was a contemporary of al-Mawardi and who died in 458/1066.

Abu Ya'la's book is almost an exact replica of al-Mawardi's work so far as its pattern and subjects of discussion are concerned. Even the language and arguments are almost the same as in al-Mawardi in most places. It is, therefore, certain that Abu Ya'la had seen the published work of al-Mawardi while the latter was still alive, because the dates of their deaths are so approximate to each other and because it is not proven that Abu Ya'la had personal relations with al-Mawardi. This conclusion is further strengthened by the fact that Yaqut, who died in 626/1229, does not mention this story, and the authority of ibn Khallikan, who died in 681/1282, cannot be accepted in this matter.

B. Political Theory

Al-Mawardi's main political thought is embodied in his *al-Ahkam al-Sultaniyyah*. 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 his 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-Mawardi profited a good deal from previous sources in the elaboration of his theory, for he says that it is the epitome of the views of various schools of jurisprudence, we do not possess in our hands today any 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/11th century. The *Usul al-Din* of ‘Abd al-Qahir al-Baghdadi gives theologically a more copious discussion of the Imamate than al-Mawardi’s book, but al-Baghdadi (d. 429/1037) was a contemporary of al-Mawardi. Hence, the conclusion is that most of al-Mawardi’s ideas are partly a heritage of the past and partly a clever manipulation of the opinions current in his time.

A closer examination of his work, however, discloses that he is not a mere recorder of facts handed down to him but a shrewd statesman and diplomat. There is enough historical data to sanction the view that on many fundamental questions al-Mawardi’s opinions were dictated by the exigencies of his time and the special circumstances of his life. In the preface of his *al-Ahkam al-Sultaniyyah* 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 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 fulfillment, and what he owes to them so he may fulfill 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-Mawardi had been raised to the high office of *Aqda al-Qudat*,² and represented the Caliph in his negotiations with the Buwaihids.

Further, it is necessary to point out that the declining power of the Buwaihids in the beginning of the fifth/11th century because of internal conflicts and insurrections in the army and because of Mahmud of Ghaznah’s solicitations for the ‘Abbasids, made the Caliph al-Qadir and his son al-Qa’im aspire to regain the lost glory of their fore-fathers. 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 to oblivion.

The historical situation explains al-Mawardi’s efforts to propound a theory of the caliphate in which everything depends on the authority of the Caliph, in an age in which the prestige of the Caliphate had fallen to its lowest ebb. Al-Mawardi’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-Mawardi 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 and expresses views opposed to the views of earlier authorities, or gives out opinions altogether original.

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

1. The institution of the Imamate is a necessary requirement of the *Shari'ah* and not of reason. The appointment of an imam by the consensus of the Muslim community is obligatory.³ There is a similar passage in al-Baghdadi,⁴ who remarks that this is al-Ash'ari's opinion is opposed to the Mu'tazilite view.
2. The Imamate is instituted by means of election. The Electoral College shall consist of persons with special qualifications.⁵ Also, the candidates for the Imamate must fulfil certain conditions.⁶ This elective principle of the Imamate is obviously opposed to the Shi'ite claim of bequeathal or divine nomination. Al-Mawardi, however, does not discuss the election of a licentious person as Imam. Al-Baghdadi says that his election will be void, even if it has taken place through a properly constituted Electoral College. Al-Mawardi's omission is deliberate, being a concession to the 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 people possessing the necessary qualifications for the Imamate generally reside there.⁷ This principle was hotly contended by the Khawarij who believed in complete democracy and universal franchise.
4. Among the seven conditions which according to al-Mawardi must be fulfilled by a candidate, the seventh one, that is, the Quraishite descent is very important. Al-Mawardi 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 Sa'idah.⁸
5. The Imam is appointed in one of two ways:⁹ (a) He may be elected by the Electoral College, or (b) he may be nominated by the ruling Imam.

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

6. The above extreme opinion has been advocated by al-Mawardi to advance another important opinion given in the next section, where he discusses the case of two candidates equally qualified for the Imamate. He says that the Electoral College may nominate anyone of the two as Imam without assigning any reason.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 Imamate.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 inferior person cannot have precedence over a superior one. They coined this theory to assert that since 'Ali and his descendants in the Fatimid line were superior to the rest of mankind, anyone who assumed the Caliphate power was a mere usurper. The refutation of this dogma was essential to establish the above doctrine. But al-Mawardi is not alone in this respect, for this is the agreed opinion of Sunnite jurists and theologians.

8. If there is only one suitable candidate for the Imamate, he automatically becomes the Imam, and election is required.¹⁴ Al-Mawardi seems to be inclined to this view; the jurists and scholars, however, assert that election must be held even if there is only one candidate for it; otherwise the Imam cannot acquire legal status. This insistence on election is obviously directed against the Shi'ite theory of divine appointment.

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

C. Succession

1. The ruling Imam 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 Imam and there was no choice for the Muslims to do otherwise.¹⁸

2. The Imam can nominate any suitable person as his successor, provided he does not happen to be his father or son. The concurrence of the *ahl al-hall 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 be 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 Caliphate was maintained by the Umayyads, the 'Abbisids, the Fatimids, and the Turks, but the spirit of Islamic

democracy was cast away with the shedding of the blood of ‘Uthman, the third successor of the Prophet.

Al-Mawardi’s contention that Abu Bakr’s nomination of ‘Umar could not be challenged by the Companions, for it was the valid enactment of a valid Imam, is nothing but historical fiction having no basis in historical fact. One of the earliest and most reliable authorities on that period, ibn Qutaibah, reports in his *al-Imamah w-al-Siyasah* that when symptoms of death approached Abu Bakr, he became very anxious as to who should succeed him to the Caliphal authority.

After much deliberation he decided to nominate ‘Umar to succeed him. He called ‘Uthman to his bedside and dictated to him the deed of succession. When the news spread, people flocked to him from every quarter and began to question his choice. Thereupon he said, “If God asked me about this matter, I would tell Him that I appointed over them one whom I considered 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, “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-Mawardi’s theory of nomination. It is quite obvious that Abu Bakr did not deprive the people of their democratic right to elect the head of the State freely. He simply gave his personal opinion. The people could accept his opinion as well as reject it. There was no political bar in their way, no Caliphal decree to prevent the exercise of their right of franchise.²³

Al-Mawardi’s second argument in support of his thesis that the limited college of electors prescribed by ‘Umar had the sole right of nominating the new Caliph,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 full well that the probable candidates for the Caliphate were the very people whom he had nominated for it. Not only that, he was perfectly sure that either ‘Uthman 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 over-riding authority over the hearts and minds of people, by means of which he so wonderfully ruled half the world for 12 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'an 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 Ansars 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 Ansars 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 extra-ordinary 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-Mawardi was not very concerned about theory. He was a leading Sunnite legal doctor of the Shafi'ite school, and was intimately associated with the 'Abbasids; hence, his chief interest lay in emancipating the Sunnite Caliphate from the Shi'ite tyranny of the Buwaihids. This explains why he gave the stamp of validity to the monarchical system of the 'Abbasids. He had already before him the precedent of the Umayyads. Moreover, the jurists had, by the force of circumstances, reconciled themselves to the imperialistic order of the day, and given it to the form and sanction of religious authority.

Al-Mawardi, 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 a 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 Imam cannot withdraw the nomination until there occurs in this heir apparent some important change which invalidates him legally. So, also, an Imam cannot be deposed until a similar change occurs in him.²⁹ Now, these are only logical deductions from the fundamentals of the *Shari'ah* for there are no historical precedents to vouch-safe them.

4. The Imam can appoint the Electoral College as well as the persons who may contest for the Imamate.³⁰ This opinion is based on the election of 'Uthman by means of a limited *shura* appointed by 'Umar, the derivation of a general principle out of it is certainly most dangerous to sound polity and to the stability of the State. The piety, honesty, intelligence, and statesmanship of 'Umar could well be relied upon. The same cannot be said of another personality after him in the 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 *shura*, who came out unsuccessful in the contest, at once started plotting against ‘Uthman 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 Imam, it is bound to make him absolute and despotic. In truth, it was this theory that developed into divine right with ‘Alids and the ‘Abbasids. And it was this theory that throttled the growth of democracy in Islamic polity.

5. The Imam can nominate two or more heirs apparent to succeed him one after the other. The argument has been derived from the battle of Mutah, in which the prophet appointed Zaid bin Harithah 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 Talib who was to be succeeded by ‘Abd Allah bin Rawabah. If ibn Rawabah also fell, then the Muslims could choose anyone from among themselves as their commander. Apparently, the citation of this incident in support of a fundamental issue, like that of the Caliphate, is but 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 Imam, the people should entrust all their affairs to him and must give him their unquestioning obedience. The Imam may not consult them in the affairs of the State, yet they must obey him.³⁴
2. The Imam may be addressed as the *Khalifat Allah*, but the majority of jurists say that this title is forbidden, for no human being can represent God on Earth, since man is mortal and imperfect. Hence the Imam may either be a mere *Khalifah* or *Khalifat al-Rasul Allah*.³⁵ Once when Abu Bakr was addressed as *Khalifat Allah* he exclaimed, “Do not address me as *Khalifat Allah* but as the *Khalifat al-Rasul Allah*.”

E. Duties And Functions Of The Imam

The Imam has the following ten principle duties to perform:

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

This is undoubtedly the foremost duty of the Imam under the *Shari‘ah*. But unfortunately it is under the

cover of this pre-text that throughout the last 13 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 Hashimites, and the Zubairites under the same pre-text.

When the 'Abbasids, the Fatimids, and the Safawids 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.

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

2. The dispensation of justice and disposal of all litigations in accordance with the *Shari-ah*. The Imam 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'an 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 Imam is bound to be the covenant of God to establish the supremacy of Islam over all other religions and faith.
7. The collection of *kharaj* and *zakat* taxes in accordance with the laws of the *Shari'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-Mal*) to those who are entitled to them. This money should not be expended with extravagance or stinginess, and must not be either pre-paid or delayed.
9. The appointment of honest and sincere men to the principal offices of State and to the treasure to secure sound and effective administration and to safe-guard the finances of the State.
10. The Imam should personally look into and apprise himself of the affairs of his dominions so that he may himself direct the national policy and protect the interests of the people. He should not entrust his responsibility to others and engross himself in luxury or religious devotion.

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

This enumeration of the ten-fold functions of the Imam 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 safe-guard of religious principles and the dispensation of justice, as the principal duties of the Imam, al-Mawardi lays the main stress on the administrative responsibility 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 ‘Abbasids. The Buwaihids, who had no legal claim to sovereignty, and who had not clarified their position, had long been intriguing to over-throw the Caliphate outright. Al-Mawardi’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-Mawardi hardly quotes anywhere any of these jurists, but since he was the greatest judge of Baghdad, 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 Imam

Al-Mawardi has given detailed consideration to the subject of an Imam’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 Imam, he cannot be removed from that office until there has occurred some definite change in him.³⁶ Then after discussing the duties of the imam, he reverts to the subject and dilates on it at length. He says that the Imam loses his title and authority on account of one of the following reasons:

1. If there occurs a change in his moral status, technically known as ‘*adalah* (sense of justice). The moral change is of two kinds:
 - (a) The one connected with the 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 Imam 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 opinion as amount to an abrogation of the accepted principles, he can neither be initiated as Imam nor continue to hold that office.³⁹ In this there is a clear denunciation of the stand of Buwahids and of the Shi‘ite and Fatimid claims to the Caliphate.

2. If there occurs a change in the person of the Imam. 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 Imamate or make 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 ‘Abbasid 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 Imam nor can he continue in that office. Such is the loss of the two hands or of the two feet.

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

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

(i) If the Imam is over-powered by one of his counsellors and assistants, who appropriates all authority to himself, but does not openly defy the Imam, the Imam will continue in his office, provided the usurper rules in accordance with the injunctions of the *Shari‘ah*, and in deference to the accepted norms of justice. This is to ensure that the functions of the Imamate should continue to be performed, and that the people do not fall 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 Imam 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-Mawardi with great care and legal acumen. In the next chapter he takes it up again and discusses it in full 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 ‘Abbasid Caliphate had been placed during the two centuries preceding the death of al-Mawardi.

The Buwaihid usurpation in Baghdad and falling of the Caliphal 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 Buwaihids and the ‘Abbasids. This was a clear departure from the principle of the Caliphate enunciated by al-Mawardi in the earlier part of his book. But he devised a *via media* to remove this glaring contradiction.

If the absolute governor or the usurper (*Amir bi al-Istila*) declares his allegiance to the Caliph and promises to maintain the unity of the Caliphate, enforces the laws 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 Baghdad and, on the other an unconcealed warning to the Buwaihids that if they transgressed their limits they could be brought to book with the help of the Ghaznawid power which was an open ally of the ‘Abbasid caliphate. In a passage, al-Mawardi says that in case the usurper shows an uncompromising and rebellious attitude, the Caliph can call in the help of one who can relieve him of the straits. The person referred to is none but Mahmud of Ghaznah.

There is little doubt that al-Mawardi 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 Imamate 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 them on the will of the people with brute force and sheer might. Further, if it served as one of the main incentives for the dismemberment of the ‘Abbasid Empire, it also greatly influenced the suppression of democratic thought and practice in the Muslim world. Al-Mawardi may have been well-intentioned but the legacy he left completely changed the concept of Muslim polity in the centuries that followed. And the charge that occurred was simply un-Islamic, undemocratic and vicious.

(ii) If the Imam falls a prisoner to 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 Imam and another person may be elected to officiate in his absence. But if all hope is lost, he will be deemed to have relinquished his office, and a new election shall take place.

If the Imam is captured by a Muslim rebel army, and the rebels have not appointed an Imam of their own, the captured Imam shall continue to command the loyalty of the people, and an acting Imam shall be appointed by him, if possible, or by the Electoral College. But if the rebels have appointed an Imam of their own, the existing Imam shall forfeit his claim to the Imamate, and the responsible men (*ahl al-hall*

w-al-‘aqd) shall elect a new Imam according to their discretion.⁴⁷ Al-Mawardi’s wording in this passage is full of meaning. He means to say that a victorious rebel leader does not automatically become the Imam.

G. Conclusion

Al-Mawardi’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-Mawardi, he had one short-coming – 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 were 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.

Bibliography

Al-Mawardi, *al-Ahkam al-Sultaniyyah*; al-Baghdadi, *Usul al-Dine*; ibn Qutaibah, *al-Imamah w-al-Siyasah*; *Kitab al-Ma‘arif*; ibn Hisham, *al-Sirat al-Nabawiyyah*; ibn Khallikan, *Wafayat al-A‘yan*, Cairo, 1299; Yaqut, *Irshad al-Arab*; al-Subki, *Tabaqat al-Shafi‘iyyah*; Rafiq Bek, *Ashhar Mashahir al-Islam*; Wustenfeld, *Schafiiiten*, No. 395; R. Enger, *De vita et scriptis Mawerdii*, Bonn, 1851; Brockelmann, *GAL*; *Kitab Mohammad b. Tumari Mahdi al-Muwahhidin*, ed. Luciani, Alger, 1903; E. Tyan, *Le Califat Institutions du Droit Public Musulman*, Vol. 1, Paris, 1954; E. I. J. Rosenthal, *Political Thought in Medieval Islam*, Cambridge, 1958.

1. Al-Mawardi, *al-Akhiam al-Sultaniyyah*, p. 1.

2. Literally “the greatest Judge,” but paradoxically enough the office was sub-ordinate to that of the Qadi al-Qudat, the Chief Justice (Yaqut, Vol. 5, p. 407).

3. Al-Mawardi, op. cit., p. 3.

4. Al-Baghdadi, *Usul al-Din*, p. 272.

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

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

7. *Ibid.*

8. *Ibid.*

9. *Ibid.*

10. *Ibid.*, p. 7.

11. Al-Baghdadi, op. cit., pp. 275 – 77.

12. Al-Mawardi, op. cit., p. 9.

13. *Ibid.*, p. 10.

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.
- [22.](#) Al-Imamah w-al-Siyasah, pp. 19 – 23.
- [23.](#) In one of his pilgrimage to Mecca ‘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-Rahman bin ‘Auf, returned to Medina 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, therefore, if anyone of you swears allegiance to a person without consulting the general body of Muslims, such a person shall not be deemed as elected, and the likelihood is that both these persons may be beheaded.” (Ibn Hisham, al-Sirat al-Nabawiyyah, Vol. 4, pp. 308 – 09).
- [24.](#) Al-Mawardi, op. cit., pp. 13 – 14.
- [25.](#) Ibn Qutabibah, Kitab al-Ma‘arif, p. 23.
- [26.](#) Ibid., p. 25.
- [27.](#) Ibid., p. 19.
- [28.](#) Ibid., p. 24.
- [29.](#) Al-Mawardi, op. cit., p. 16.
- [30.](#) Ibid., p. 21.
- [31.](#) Rafiq Bek, Ashhar Mashahir al-Islam, Vol. 1.
- [32.](#) Ibn Qutaibah, op. cit., p. 48.
- [33.](#) Al-Mawardi, op. cit., p. 22.
- [34.](#) Ibid., p. 27.
- [35.](#) Ibid., pp. 27 – 28.
- [36.](#) Ibid., p. 16.
- [37.](#) Ibid., p. 31.
- [38.](#) Abu Ya‘la, p. 4.
- [39.](#) Al-Mawardi, op. cit., p. 32.
- [40.](#) Ibid., p. 33.
- [41.](#) Ibid., p. 35.
- [42.](#) Ibid., p. 37.
- [43.](#) Ibid., p. 38.
- [44.](#) Ibid., pp. 67 – 70.
- [45.](#) Ibid., p. 68.
- [46.](#) Ibid., p. 38.
- [47.](#) Ibid., p. 40.

Chapter 37: Political Theory Of The Shiites

The death of the Prophet of Islam ushered an era which is known as the period of the Orthodox Caliphate (11 – 41/632 – 661).

The supporters of ‘Ali the fourth Caliph in the chronological order 35 – 41/646 – 661), were known as the Shi’ah which literally means a faction, a supporting group in the sense that they supported ‘Ali’s claim to succession after the death of the Prophet, both as a temporal ruler and a religious leader.

It may be stated authoritatively that ‘Ali’s claim to the Caliphate was not regarded by his supporters and adherents as a political ambition. On the contrary, it was considered that he had been ordained by Providence to succeed the Prophet and the Prophet himself had placed the question of succession beyond any doubt by his testament, as it were, at Ghadir al-Khumm.¹

During the Caliphate of ‘Uthman, ibn Saba’ of Yemen, who had settled ultimately in Egypt, openly preached that the first three Caliphs were usurpers as distinguished from ‘Ali who was divinely ordained to succeed the Prophet as his executor or plenipotentiary (*wasi*). The extreme Shi’ites (Ghulah) believed that the Prophet himself was reincarnated in the form of ‘Ali and “that the divine spirit which dwells in every prophet was transferred at Mohammad’s death to ‘Ali and from ‘Ali to his descendants who succeeded him in the Imamate.”

It would be pointless, so far as we are concerned, to access and evaluate the truth of the claim made by the Shi’ites that ‘Ali had been designated as the Prophet’s successor by the Prophet himself in accordance with the command of God, but it is necessary to point out that the Shi’ites, whether holding moderate or extreme views, refused, as it were, from the beginning to concede with the *ijma*‘ has any authority to confer any person the right to govern a Muslim State. They maintained that at all times a living descendant of ‘Ali, whether concealed (*mastur*) or unconcealed, demands and receives allegiance from the Muslims and is in point of fact the only rightful Caliph (temporal ruler) and Imam (religious leader) of the Islamic peoples.

It may perhaps be added that the term Shi’ah was invested with all its dogmatic connotations after the coming into power of the ‘Abbasids. In the Beginning the word only meant a group of people which were in favour of the succession of ‘Ali to the Caliphate.

With the rise of the Umayyads the pure Arabs found greater favour with the rulers than the clients of the subject races. This policy which, most probably, had been initiated by the third Caliph, no doubt, for justifiable reasons, would not have proved disastrous in itself if Yazid had not perpetrated the horrible deeds which are known as the tragedy of Karbala. The old rivalry of the Umayyads and the Hashimites, which had remained subdued during the life-time of the Prophet, now manifested itself in many ways.

All these factors led to what is known as the ‘Abbasids propaganda carried on in collaboration with the Shi‘ites in the name of Hashim who was acceptable both to the supporters of ‘Ali and the descendants of ‘Abbas as against the Umayyads who had taken possession of the State and were living in luxury, while their more celebrated Quraish brethren were forced to act merely as spectators of the splendour of the rival branch.

The relationship of the Hashimites and the ‘Alids with the Umayyads would appear from the following genealogical tables.

The ‘Abbasid propaganda ultimately bore fruit and the House of ‘Abbas, mainly with the help of the Iranians who had flocked to Abu Muslim, an Iranian leader of great courage and patriotic fervour, succeeded in their machinations. The Umayyads were overthrown; Marwan, the last Caliph was slain on the 15th Dh. H. 132/August 5, 750, followed by a general massacre of the members of the Royal House of the Umayyads, and Saffah ascended the throne 132/750.

After the revolution had become an accomplished fact, the Shi‘ites who disillusioned and sadly disappointed, were under the impression that a member of the House of ‘Ali would be enthroned. The treacherous murder of Abu Muslim (138/755) further convinced the Shi‘ites, if such conviction was needed, that their ‘Abbasid cousins were no less hostile to them and their claim than the Umayyads and it was during this period of bitter frustration, disappointment, and stark disillusionment that the term “Shi‘ah” was invested with its basic political and religious connotations.

The Shi‘ites claimed that the House of ‘Abbas had usurped the Caliphate as the Umayyads and the three Orthodox Caliphs had done. They contended that, although *de facto* sovereignty vested in the ‘Abbasids, legal sovereignty remained with the descendants of ‘Ali who were divinely ordained to be the temporal and religious leaders of the Islamic peoples.

The Orthodox Shi‘ites (*Ithna ‘Ashariyyah*), as contra-distinguished from other sects who were either extremists in their beliefs or had made a drastic departure from the tenets of their orthodox brethren, believed that the Imamate had descended from Mohammad, the Prophet, to ‘Ali and his descendants according to the table given below.

According to the Shi‘ite traditions, the 12th Imam, namely, Mehdi (the expected one), was born in Samarra in 255 or 256/ 868 or 869. At the time of the death of his father, he would have been only four or five years of age. He was designated as Imam a few days before the death of his father and very soon after his death he disappeared or went into concealment which consists of two periods, short (*sughra*) and long (*kubra*). For a period of 70 years he was represented by four *wakils* (agents or advocates), namely, ‘Uthman ibn Sa‘id, Abu Ja‘far, Abu al-Qasima and Abu al-Hassan.

The last named refused to nominate an agent on his behalf and died saying, “Now the matter is with God.” Accordingly, the period when the hidden Imam was represented by the *wakils* is known as the lesser concealment and this period extended to 329/940. Since that time the Shi‘ite Mehdi or the hidden

Imam has been in “the great concealment” and he is expected to return near the end of time.

The political theories of the Orthodox Shi‘ites depend on three fundamental precepts, namely, (1) the divine right of the descendants of ‘Ali to succeed to the Imamate, (2) the sinlessness of all the imams, and (3) the return of Mehdi, the 12th Imam.

The first precept means that democratic election, i.e., consent of the people or any other method of choosing a successor to Prophet Mohammad is manifestly and palpably wrong and, as a matter of fact, sinful. Sovereignty, with all responsibilities that it entails for its holder as a temporal ruler and duties that it entails for him as a religious chief, is a gift from God which is conferred only on those who have descended from Mohammad through ‘Ali and Fatima. (The descendants of ‘Ali not born of Fatima has no right to the Caliphate or the Imamate.) The Shi‘ite theologians obviously contend that the divine right of the Imam to become the Commander of the Faithful depends on the word of God as conveyed by the Prophet to ‘Ali and by ‘Ali to his descendants.

It has been conjectured, however, that the theory of the divine right of the Imams, which was analogous to the theory of the divine right of kings, was evolved and developed by the Persian supporters of the House of ‘Ali who had witnessed the rise and fall of great empires wherein the emperors more often than not laid claims to Godhead.

In all great Eastern empires of the remote past, the kings at some time or another claimed to be gods or semi-gods at least, perhaps in order to stabilize the State and to keep the subject races unified through the worship of the sovereign. When we consider that the Shi‘ite theologians and historians have accepted it as a fact that a daughter of the last Sassanian King of Persia was married to Hussain (all Imams being descendants from her), it becomes easy enough to appreciate the position of the Persian adherents of ‘Ali in relation to the Caliphate and the Imamate. The fact that many of the Shi‘ah sects believed in the Godhead of ‘Ali further lends support to the theory that the concept of the divine right of the Imams to succeed the Prophet and infiltrated into Arabia through Persian channels.

Once we accept that the Imams are divinely ordained to rule the Faithful, we must accept the fact that the State as envisaged by the Shi‘ite theologians is a theocracy in the most rigid sense of the word, in which the ruler – temporal head as well as a religious chief – cannot be deposed even if he palpably commits sins and crimes of a most serious nature.

This is the logical conclusion of the acceptance of the theory of divine right because the supporters of this theory would contend that “what our limited knowledge visualizes as a crime or as a sin is really virtue.” We, with our limited knowledge and understanding, cannot appreciate or assess the significance of an act of the Imam. This logical conclusion was accepted by the Isma‘ilites specifically and categorically, although the Orthodox Shi‘ites contented themselves with saying that it is not possible for the Imam to commit a sin or a crime.

The concept of sinlessness is a logical corollary of the acceptance of the first precept.

It would follow, therefore, that in theocracy as envisaged by the Shi'ites, the Caliph who is also the Imam can neither be deposed nor interfered with in any matter of administrative or religious nature. From the purely political point of view, this theocratic State has elements of stability and strength which are peculiarly its own, but it may not appeal to those who believe that sovereignty vests really in the people ultimately and that the negation of the right to depose, irrespective of the fact whether the ruler is just or unjust and cruel, is contrary to all principles of equity and justice inherent in all constitution-making.

The Shi'ite theologians may reply that the Imam, being divinely ordained, is capable of committing a sin or crime and will exercise his authority in a benevolent manner, and although he will be sovereign in every sense of the word, he will be bound by the restrictions imposed upon him by the Qur'an, the traditions of the Prophet as narrated by the Imams and the examples of the Imams' lives.

The belief that the 12th Imam, Mehdi, is bound to return is most significant in the sense that the Shi'ite theologians are in a position to encourage their adherents whenever they are passing through dangerous or chaotic periods and ask them to stand fast since the advent of the Mehdi will be the end of all tyranny, despotism, suffering, misery, wretchedness, and sinfulness and the beginning of a new era of prosperity, bliss, happiness, and ecstasy never experienced before by humanity.

It is obvious that temporal and religious problems are to be solved during the concealment of the 12th Imam. The ideal theocratic Shi'ite State envisages the existence of righteous, erudite, competent, learned, and virtuous persons who administer the Law and solve all theological problems and juristic questions by *ijtihad* (effort). These competent persons are known as *mujtahids* and are supposed to derive their wisdom and acumen from the representatives of the hidden Imam who is in contact with them.

The *mujtahids* have always exercised very great influence in the Shi'ite States and have been considered to be the Caliphs of the Imam. It is of course possible to visualize periods when wide powers are misused and unlimited authority is converted into tyranny. Human nature is frail and whenever human beings are vested with unlimited powers, they are apt to misuse them at some time or other.

It may be stated therefore, that Shi'ite envisaged their ideal State as a rigidly theocratic one, with the concealed Imam as the arbiter of the destines of the Faithful working out a pattern of society through the *mujtahids*, who derived their power to adjudicate from the Imam himself or his representatives with whom they are in contact. All persons, sovereigns, rulers and pontiffs, wherever they may be are usurpers if they do not derive their right to rule from the commands of the Imam or from his representatives.

The chaotic conditions which prevail will be set right by the advent or emergence of the Mehdi who will establish this ideal theocratic State, holding sway over the whole world and laying the law for all creatures who inhabit it.

Political Theory Of The Ismailites

The sixth Imam of the Shi'ites, namely, Imam Ja'far Sadiq (the Truthful) is justly considered to be one of the greatest authorities on Law and tradition. He is regarded as one of the most celebrated of the jurists. He instructed some of the greatest traditionists known to the Muslim peoples and also known as the originator or, at least, the greatest exponent of the occult science known as *jafar*.

Curiously enough, it was during his life-time that the Shi'ite world was torn asunder and there emerged upon the scene a new group or sect of the Shi'ites, known by many names, for example, the Isma'ilites, as the latest research has established beyond any doubt. It is the term "Isma'ilites" which is indicative of the true origin of the sect, other appellations being either misleading or based on hostility to this sect in general and to Orthodox Shi'ites in particular.

Form the tangle of conflicting evidence, contradictory claims and inconsistent theories, the basic facts relating to the origin of this sect appear as follows:

It is admitted by all concerned that Imam Ja'far died in 148/765. Before his death he had designated his son Isma'il to his successor and the rightful Imam. Now this Isma'il died sometime between the year 136/753 and 146/763. It is clear that he could not have died before 136/754 – the year that the 'Abbasid Caliph, Mansur, ascended the throne, because we find it stated on unimpeachable authority that the fact of his death was reported to the Caliph, who, obviously, watched the movements of the Shi'ite Imams carefully and sometimes with great anxiety, because almost all the movements which aimed at the overthrow of the 'Abbasid Caliphate used the name of the reigning Shi'ite Imam as a cloak.

The 'Abbasid Caliphs, therefore, even when convinced that the Imam themselves were not in any way associated with the movement in question, very carefully kept them under State observation. According to the Shi'ites, they were, for all practical purposes, prisoners of the State and their movements were restricted by "political expediency," the seriousness or the significance of which was determined by the corresponding seriousness of the revolt or the movement which gave birth to it.

Again, this is admitted by all concerned that before the death of Isma'il, Imam Ja'far had revoked the authority of succession of the case of Isma'il and had in his place Imam Musa Kazim as the rightful successor and Imam of the Shi'ites.

The reasons, which led the Imam to take this step which caused the Shi'ite community to be torn asunder and divided into hostile groups, cannot be determined at this stage. The Orthodox Shi'ites – and Sunni authorities are not lacking in support thereof – assert that Imam Isma'il was, one unfortunate day, found drinking wine and thus committing an action which is admittedly a sin. Imam Ja'far – so the story goes – thereupon repudiated Isma'il and designated his brother as his successor.

This repudiation of sanction or authority, technically known as *nass* was not and could not be accepted

by some of the Shi'ites because it opposed and falsified the fundamental postulates of the Shi'ites in general.

Those who would not accept this repudiation and revocation argue as follows:

The sinlessness of the Imam is an established fact. Isma'il was declared to be the Imam-Designate by Ja'far. He, therefore, was incapable of committing any sin or perpetrating any crime. The allegation that he was found drinking wine was either incorrect or related to one of those mysterious acts of the Imam-Designate the significance of which is known to him only. Since he was incapable of committing a sin, his drinking must have been a cloak for some other activity. In other words, drinking was an appearance (*zahir*), the reality (*batin*) of which was known only to the Imam or to those in whom he confided.

The supporters of Isma'il also contend that he was appointed Imam-Designate by Imam Ja'far in accordance with divine command. God is infallible. It is impossible to conceive that God was not aware that Isma'il one day would be found drinking. If, therefore, he allowed Isma'il to be declared as the successor of Imam Ja'far, the story that Isma'il was found drinking wine must either be untrue or must be considered and treated as an act innocent in itself, the significance of which is known only to God, the Imam, and his successor.

They contend that it was quite possible that the wine drinking of Isma'il may have been considered expedient by God and since all actions of the Imam flow from God, no action of Isma'il, however sinful it may have appeared, can be considered to be unjustified and condemned, since it is in fact an act performed as ordained by Providence.

During the lifetime of Imam Ja'far, the controversy and the ferment consequent upon the revocation of authority remained subdued, but as soon as he died the supporters of Isma'il came forward and contested the succession of Imam Musa Kazim. Since Isma'il had died during the lifetime of his father, it was contended that the *nass* (sanction, authority) had been transferred from Isma'il to his son Mohammad who had from then on become the rightful Imam, the spiritual and temporal leader of the Shi'ites and the rightful ruler of all territorial possessions.

There are some who believed that Isma'il had not really died and was the last rightful Imam, but they were in a minority. Slowly but steadily the supporters of Mohammad, the son of Isma'il gained ascendancy and laid the foundation of the Isma'ili sect which culminated in the establishment of one of the greatest Muslim empires of the East – the Empire of the Fatimids of Egypt.

DeGoeje and Dozy have it “that a certain ‘Abd Allah b. Maimun, an occulist (*qaddah*) by profession and a Persian,” was inspired by religious fervour, political ambition, and inveterate hatred against the “Arabs and Islam,” to “bind together in one association the conquered and the conquerors, to combine in one secret society, wherein there should be several grades of indication, the free thinkers who saw in religion only a curb for the common people and the bigots of all sects, to make use of the believers to bring about the reign of the unbelievers and of the conquerors to overthrow the empire which they had

themselves founded, to form for himself, in short, a party, numerous, compact, and schooled to obedience, which, when the moment was come, would give the throne, if not to himself, at least to his descendants. Such was the dominant idea of ‘Abd Allah b. Maimun, an idea which, grotesque and audacious though it was, he realized with astonishing tact, incomparable skill, and a profound knowledge of the human heart.”

There is a very significant old adage that if you fling sufficient mud some is bound to stick. This is exactly what happened in the case of Maimun and his son ‘Abd Allah. The Orientalists – nay even such an erudite Iranian scholar as Mohammad Qazwini, the editor of *Tarikh-i Jahan-Gusha* by ‘Ata Malik Juwaini – were misled by the voluminous ‘Abbasid propaganda, hostile commentary of the Orthodox Shi‘ites, and the specious argument of those opposed to the Isma‘ilites, into thinking that Maimun and his son ‘Abd Allah were opposed to the tenets of Islam or were inspired by the hatred for the Arabs. As a matter of fact, as the latest research has established beyond any doubt, Maimun was the name adopted by Imam Mohammad when he went into concealment (*ghaibah*). In other words, during the period of concealment those who were in his confidence knew Imam Mohammad to be Maimun.

No doubt, this is a daring postulate but, once we accept it, all conflicts are resolved, all inconsistencies removed, and all confusions laid to rest. It is quite evident that when the Orthodox Shi‘ites assert that Maimun was a narrator of traditions under Imam Baqir and Imam Ja‘far, they are speaking the literal truth. So are the Isma‘ilites when they say that Maimun and his ‘Abd Allah were the staunchest supporters of the Isma‘ilite cause.

It is clear that the Orthodox Shi‘ites were not taken into confidence by the supporters of Imam Mohammad when he was in concealment and were, therefore, unable to appreciate that Maimun and Mohammad are one and the same person. By accepting this postulate we are also in a position to appreciate and understand the attitude adopted by the ‘Abbasid Caliphs in relation of both Maimun and his son ‘Abd Allah. It is quite likely that some of the spies of the ‘Abbasids might have brought to the notice of the Caliph that Maimun was the concealed Imam, and political expediency might have forbidden the broadcasting of this highly significant and equally dangerous information.

The stream of invectives poured upon the head of Maimun and his son ‘Abd Allah by the ‘Abbasid caliphs, the Orthodox Shi‘ites, and the Sunni historians in general, is in itself significant and tends to support the theory that both these persons were not only supporters of the Isma‘ilites’ cause but were the pivots and props thereof.

After the death of Ja‘far, Mohammad went into concealment adopting the name of Maimun. He spent some time at Kufah and Rayy. The ‘Abbasid Caliph being informed that Mohammad was laying the foundation of a powerful organization even in concealment and sending out preachers to different parts of Persia made some efforts to seize, but it would appear that either these efforts were half-hearted or they failed.

Ultimately, ‘Abd Allah al-Mehdi in direct line of descent from Mohammad, the son of Isma‘il succeeded in laying the foundation of an enviable empire in Egypt, the rulers of which are known to history as the Fatimids or the descendants of Fatima though ‘Ali.

At this juncture it is perhaps expedient to state in the most explicit terms that the Carmathians were not associated with the Isma‘ilites, nor were they identical with them as it is sometimes wrongly supposed.

Hollister has ascertained their position as follows. “We find the word Carmathian used, (1) as an equivalent for Isma‘ilis in general, (2) for the dissident groups of Isma‘ilites who joined in the invasion of Syria and came very close to capturing Damascus and establishing there a Fatimid Kingdom somewhat earlier than that established in North Africa, (3) for the followers of Hamdan Qarmat and ‘Abdan, his brother-in-law, who seceded from the Isma‘ilites, and (4) for the Qarmatians of Bahrain. The more recent studies, supported by Isma‘ilite authorities, have made it clear that only this last group is really entitled to the name Qarmatian (Carmathian).”

The Fatimid Caliphs (297 – 567/909 – 1171), broadly speaking, tried to establish a theocratic State and were, on the whole, just rulers and efficient administrators. One of them, al-Hakam, however, claimed divinity for himself. In other words, he not only claimed to be the Imam, but further contended that the divine light had entered his body so that he had become identical with the Creator. His claim was laughed out of Egypt, but the Druze of Lebanon up to this day believe in his divinity and look forward to the return confident that he merely disappeared as an Imam often does, and would reappear in due course as the herald of a new era of prosperity, righteousness, and godliness on Earth.

Amazingly enough, the Isma‘ilites were destined to be split again into two powerful groups. Al-Mustansir died in 428/1036 and the Imamate should have been transferred to his eldest son Nizar who, his supporters claimed, had been properly designated as Imam. However, he was not in Cairo when his father died, and before he could take effective steps, his brother al-Musta‘li, ascended the throne and Nizar was faced with a *fait accompli*.

Nizar never succeeded to the throne, but he found a very staunch supporter in Hassan Sabbah who had come to Persia during the reign of al-Mustansir. This Hassan Sabbah was really an amazing person, learned, erudite, ambitious, outwardly pious, wily, and blessed with administrative ability and infinite capacity to work.

In order to further his own ends, he supported the cause of Nizar as the rightful Imam and the ruler of the Islamic world, and in his name took possession of many fortresses in Persia, including the famous Alamut (the Eagle’s Nest), which, in due course of time became the centre of Hassan’s activities.

The movement initiated by Hassan is known as *Da‘wat-i Jadid* or New Propaganda. The Nizaari Imams of Alamut, beginning with Hassan Sabbah, held sway in certain parts of Persia until the last Imam Khurshah was killed by the Mongols in the seventh/13th century. The Nizari branch of the Isma‘ilites recognizes the Agha Khan as its head and their members are known in the Indo-Pakistan sub-continent

as Khojas. The adherents of Must'li are known as Bohras.

According to the Isma'ilites as to the Orthodox Shi'ites, the only rightful State is a theocratic one which has as its Head the Imam who, as we have already emphasized, is divinely ordained to hold his office.

The Imam of the Head of State never becomes *functus officio* in the sense that when he is concealed his representatives become operative and spread the light. As a matter of fact, both sects, the 12ers and the Isma'ilites, believe in the continuity of the office of the Imam. There can be no vacuum so far as the performance of the functions pertaining to the Imamate is concerned. There may be and sometimes a long period between the death of one prophet and the birth of another, but during this period the Imam continues to perform his functions in the light of revelation.

It is believed that every Prophet had an Imam to whom he revealed the truth. Technically, the Prophet is called *natiq* and the Imam as *sumit*.

It is admitted that, although revelation is only vouchsafed to the prophet, it is interpreted and enforced by the Imam, since the esoteric meanings of the revelation are known to him alone. During the Fatimid period, 'Ali, the fourth Caliph, was given the place of *asas* or the foundation of the Imamate and was, thus, raised to a position above all other Imams.

In the theocratic State envisaged by the Isma'ilites every Imam has a chief minister who is termed *Bab* (the door, the gate). He is the intermediary between the Imam and the inner circle of preachers. All information sought to be conveyed to the Imam is conveyed through the *Bab* and all orders passed by the Imam are communicated to the persons concerned by the same *Bab*. It is on record that Hassan Sabbah claimed that he had been refused permission to see the Imam on account of the fact that Badr, the *Bab*, and the minister of Mustansir would not allow him to do so.

The Isma'ilite creed emphasizes the importance of cycles. Obviously, one source of revelation is not sufficient to lead humanity to the true path. Therefore, there have been cycles of revelations, each introduced by a prophet or *natiq* succeeded by six Imams. The seventh initiates a new cycle and really ranks as a prophet.

This is the reason why Isma'il is held in such reverence by the Isma'ilites: he completes the cycle which began with Prophet Mohammad and introduces a new one.

Salvation of mankind depends upon recognizing the basic principle that must identify the Imam and take the oath of allegiance (*bai'ah*) to him. Those who do not recognize the Imam remain in a state of sin.

It has been mentioned that the Shi'ites believe in the doctrine of the sinlessness of the Imam. It has also been stated that Isma'ilites, more than any other Shi'ite sect, accept unflinchingly the conclusions which are attendant upon this belief. In other words, if it be proved beyond any shadow of doubt by unimpeachable evidence that Isma'il was observed drinking wine, the Isma'ilites would argue that since

the Imam is incapable of committing a sin his wine-drinking must be considered to be an act which is capable of an esoteric interpretation (*ta’wil*).

As a matter of fact, the basis of the Isma‘ilite creed, as it crystallized under Fatimids of Egypt, is the belief that there are two aspects of knowledge, namely, the apparent or manifest (*zahir*) and the esoteric or inner (*batin*). The *zahir* of the Qur'an is *tanzil* while the *batin* is the *ta’wil*. The exoteric meaning is known to the Prophet who imparts knowledge to his Imam. The Imam then spreads the light through his representatives, “Every person who wishes to belong to the *Da’wat* enters into covenant with him (the Imam), on behalf of God. This is called *bai’ah*. Man and woman must both take a like oath in a ceremony known as *mithaq*. They must quite justly oppose everything that is unlawful...and keep secret those things and the religious knowledge which are entrusted to them. Obedience to all the dictates of religion is the most important duty of the Faithful. Salvation can be attained only through obedience completed in word, action, desire and thought.”

Whereas the Sunnis and the 12ers (*Ithna ‘Ashariyyah*) have commentaries relating to the meaning of the Qur'an, the Isma‘ilites do not and cannot possess any such works.

Ivanow has it that in Isma‘ilism there is no such thing as a work of *Tafsir* (commentary on the Qur'an). It would appear that the passages which seem obscure or ambiguous can only be referred to the Imam and whoever has the good fortune to learn the esoteric meaning from the Imam or his representatives is bound to keep such information confidential and secret on account of the oath of allegiance taken by him.

All subjects of a theocratic State, as envisaged by the Isma‘ilites, therefore, are initiated in the mysteries of religion in accordance with their intelligence, capacity, integrity, and loyalty. It is needless to add that if a subject of this theocratic State breaks the oath of allegiance and becomes a convert to any other religion, he is severely punished (provided he is captured).

Until the Fatimid regime came into power the Isma‘ilites, like other Shi‘ite sects, were anxiously waiting for the advent of the Mehdi who would bring peace and prosperity to the world. After the establishment of the Fatimids, the conception of a personal Mehdi as *al-qā’im* was changed. Every Caliph of the Fatimid dynasty was named *al-qā’im* and thus “the idea of Mehdi became merged, so to speak, in the Imamate, in the dynasty whose mission comes to include the objects which Mehdi was to effect, if not under an Imam, then under one of his successors.”

The theocratic state of the Isma‘ilites enjoins upon all the subjects to wage a holy war (*jihad*) against the people “who turn away from religion.” The duty to wage war is obligatory, but it is restricted by an important condition: it can be justified only under the guidance either of the Imam or of his accredited representative.

All subjects of this theocratic State believed in the expediency of dissimulation (*taqiyyah*) although its necessity was reduced almost to nothingness during the regime of the Fatimids. Still *taqiyyah* is an

accepted fact and whenever the Imam is in concealment, his disciples are obliged to practise it so that they may come to no harm. Before the Fatimid regime, even the Imams themselves, practiced *taqiyyah*, according to authentic evidence endorsed by the Isma'ilites.

It has been mentioned that the sect of the 12 as well as the Isma'ilites believe that the only rightful ruler of all territorial possessions of the world is the Imam. Since at a given moment a theocratic Isma'ilite State may or may not exist, it is the duty of all Isma'ilites to encourage the preaching of their creed.

The Fatimids paid great attention to the intellectual equipment of a preacher (*da'i*). The *da'i* was supposed to answer any question that a student or an opponent might ask. He was, therefore, made to study jurisprudence, all branches of Tradition, the philosophical interpretation of the Qur'an, *ta'wil* or allegorical meanings, and the art of controversy and dialectics.

The theocratic State of the Isma'ilites established under the Fatimids encouraged the acquisition of knowledge. In a way, it aimed at rationalization of the precepts of religion. It was by arousing the curiosity of the people that the Isma'ilii preachers ultimately succeeded in winning them over. It is paradoxical, indeed, that the Isma'ilites, who believed that mere knowledge is not sufficient for the achievement of salvation and that one has to recognize an Imam and follow unstinted in all matters, established seats of learning, schools and universities where the students were encouraged to think for themselves. The Azhar University of Cairo was built by the Fatimids and has continued since then to be regarded as the outstanding educational institution in the entire Muslim world.

The Fatimids also established observatories and libraries and these institutions were accessible to all peoples and classes irrespective of religion or creed. Public gatherings were addressed by learned men in robes which may be regarded as forerunners of the academic gowns worn by professors today. All costs pertaining to these institutions were borne by the Government and for the teaching of different sciences; learned professors were imported from Spain and from the farthest parts of Asia.

It may be said, therefore, that a theocratic State, rigid in its framework and immutable in its convictions, gave birth to rational movements aimed at the correlation of religious precepts with scientific and philosophic truths as known at the time. It became the harbinger of rational thinking, and by encouraging the pursuit of knowledge it gave to learning and letters a new impetus. If we believe Nasir Khusrau, and we have no reason to disbelieve him, the State which was established by the Fatimids had become the centre of all learning and knowledge and from it radiated waves and movements towards different parts of the Muslim world encouraging others to pursue knowledge, to think for themselves, and to ponder over religious matters in the light reason.

It is an amazing co-incidence of history that a theocratic State should give birth to rational thought and should encourage the study of philosophy even collective mental state which is opposed to the rigidity of a truly theocratic State. The Fatimids deserve all honour, therefore, for advancing the cause of their own State and sealing their own doom.

Bibliography

Maulavi Sayyid Ahmad ‘Ali Muhani, *Sahifah-i Kamilah, or the Prayers of Imam Zain al-Abidin*, two parts, Madresat al-Wa‘isin, Lucknow, 1931; Syed Amir Ali, *Mohammeden Law*, Thacker Spink & Co., Calcutta and Simla, 1929, two vols. fifth ed; *The Spirit of Islam*, Christophers, London, 1935; Sir Thomas W. Arnolde, *The Caliphate*, Clarendon Press, Oxford, 1913; Abu Mansur ‘Abd al-Qahir ibn Tahir al-Baghdadi, *al-Farq bain al-Firaq*, tr. Kate Chambers Seelye, Columbia University Press, New York, 1920; *al-Farq bain al-Firaq (Characteristics of Muslim Sects)*, abr. ed. Philip K. Hitti, al-Hilal Printing Press, Cairo, 1924; Nail Baillie, *A Digest of Mohammedan law*, Vol. 2, London, 1875; C. H. Becker, *The Cambridge Medieval History*, Vol. 2, *The Rise of the Saracens*; Ahmad bin Yahya bin Jabir al-Baladhuri, *Futuh al-Buldan*, pp. 113 – 30; Lt. Col. M. H. Court, *Malcolm’s History of Persia*, Civil & Military Gazette, Lahore, 1888; Dwight M. Donaldson, *The Shi‘ite Religion*, Luzac & Co., Ltd., London, 1933; Israel Friedlander, *The Heterodoxies of the Shi‘ites*; William Loftus Hare, Ed., *Religions of the Empire*, Duckworth, London, 1925; Sir Mohammad Iqbal, *The Reconstruction of Religious Thought in Islam*, Oxford University Press, London, 1934

Wildimir Ivanow, *Ismailitica* – Memoirs of the Asiatic Society of Bengal, The Baptist Mission Press, the Asiatic Society, Calcutta, 1932; *A Guide to Isma‘ili Literature*, Royal Asiatic Society, London, 1933; *Two Early Isma‘ili Treatises: Haft-Babi Baba Sayyidna and matlub al-Mu‘minin* by Tusi, Islamic Research Association, Bombay, 1935; *The Rise of the Fatimids*, Oxford University Press, 1942; Major H. S. Jarrett, *History of the Caliphs*; Stanley Lane-Poole, *A history of Egypt in the Middle Ages*, Methuen & Co. Ltd., London, fourth ed. , 1925; Bernard Lewis, *The Origin of Isma‘ilism*, W. Heffer & Sons., Ltd., London 4th ed., 1940; Duncan B. Macdonald, *Development of Muslim Theology, Jurisprudence and Constitutional Theory*, Charles Scribners’ Sons, New York, 1926; Mulla Mohammad Baqir al-Majlisi, *Hayat al-Qulub*, tr. J. L. Merrick, Phillips Lampson & Co., Boston 1859; Sir John Malcolm, *The History of Persia*, two vols, John Murray, London, 1929; Prince P. H. Mamour, *Polemics on the Origin of the Fatimid Caliphs*, Luzac Co., London, 1934; Sayyid Maqbul Ahmad, *Qur‘an and Shi‘ah Tafsir*, three vols., Munshi Sayyid Zafaryab ‘Ali, Delhi; D. S. Morgoliouth, *The Early Development of Mohamenedanism*, Williams & Norgate, London, 1914; *Umayyads and ‘Abbasids*, being a trans. of Part 4 of Zaydan’s *History of Islamic Civilization*, Gibb Memorial Series, vol. 4; James L. Merrick, *The Life and Religion of Mohammad*; William McElwee Miller, *A Treatise on the Principles of Shi‘ite Theology*;

Mirza Mohammad ibn ‘Abdul Wahhab Qazwini, *The Tarikh-i Jahan-Gusha* of ‘Ala al-Din ‘Àla Malik Juwaini, Part 3, Luzac & Co., London, 1937; Mubsin Fani, *Dabistan al-Madhabib*, translated from the original Persian by David Shea and Anthony Troyer, M. Walter Dunn, Washington and London, 1901; Sir William Muir, *The Caliphate, Its Rise, Decline and Fall*, Religious Tract Society, London, 1891; Abi Mohammad al-Hassan ibn Musa al-Naubakhti, *Kitab Firaq al-Shi‘ah*, tr. Helmut Ritter, Vol. 4 of the *Bibliotheca Islamica*, Istanbul, 1931; Simon Lacy O’Leary, *History of the Fatimid Caliphate*, Kegan Paul, Trench Trubner & Co., London, 1923; Canon Edward Sell, *The Cult of ‘Ali*, Christian Literature Society for India, Madras, 1910–; *Ithna ‘Ashariyya, or the 12 Shi‘ah Imams*, Madras, 1923; *Studies in Islam*, C. M.

S., London, 1928, Bernhard H. Springett, *Secret Sects of Syria and the Lebanon*, George Allen & Unwin, London, 1922; Sir Percy Sykes, *History of Persia*, two vols., Macmillan & Co., London, 1930; and Ahmad Din Khan, *The Glory of the Shi'ah World*, tr. and ed. from a Persian MS., Macmillan & Co., London, 1910; W. Cooke Taylor, *The History of Mohammadanism and Its Sects*, John W. Parker, London, 1841, third ed.; A. J. Wensinck, *A Handbook of Early Mohammadan Traditions*, Leyden, 1927;

Mohammad ibn Ya'qub Kulaini, *Kafi fi 'ilm al-Din* (A Compendium of the Science of Religion), lithographed, two vols., Teheran, 1889; Abu al-Hassan Mohammad b. Musa Sayyid Radi, *Nahj al-Balaghah*: The Open Road of Eloquence (containing discourses attributed to 'Ali), lithographed in Meshed, 1892; Koelle, *Mohammad and Mohammadanism*, 1889; Khuda Bukhsh, *Contributions to the History of Islamic Civilizations*, tr. from A. von Kremer's *Culture Geschichtliche Streifzuge aus dem Gebiete des Islam*, Culcutta, 1905 and 1929; *The Encyclopaedia Britannica*, Cambridge, 11th edition with Supplementary vols. 30 – 32, 1922; *The Encyclopaedia of Islam*, Leiden, four vols. with Supplement, 1908 – 38; Carl Brockelmann, *History of Islamic peoples*, London; Arnold J. Toynbee, *Study of History*.

[1.](#) “A spring between Mecca and al-Medina where the Shi'ite tradition asserts the Prophet declared, ‘Whomsoever I am lord of, his lord is ‘Ali also.’” Ibn Sa‘ad, Vol. 5, p 235; Mas‘udi, Tanbit, pp. 225 – 56; Philip K. Hitti, History of the Arabs, p. 471, note 1.

Chapter 38: Zizam Al-Mulk Tusi

Nizam al-Mulk Tusi was born in 408/1018^{[1](#)} and died in 485/1092. He was not only a minister of the Saljuqs for the last 30 years of his life, a scholar,^{[2](#)} and a patron of arts and sciences, but also the founder^{[3](#)} of the famous university styled after his name the *Nizamiyyah*.

He lived in an age which witnessed the lowest degradation of the caliphate, following its transformation during a period of three centuries,^{[4](#)} from a democracy into an autocracy and from autocracy into a mere puppetry in the hands of powerful masters. That period also saw the fall of the Ghaznawid Empire and the Buwaihid Kingdom, and the rise of the Saljuqs after their victory over the Ghaznawids in 431/1040, when their nomadic life changed into the life of a gigantic empire, extending from the Oxus and Jaxartos to the Bosphorus. It was an age of change and fusion of social and political ideas and institutions, especially in that part of the Muslim world in which Nizam al-Mulk lived and worked.

The rise of the Persian element in political power in the early period of the 'Abbasids was followed by a gradual revival of the Persian political institutions under the patronage of the Samanids, the Ghaznawids, and then of the Saljuqs. These institutions in their turn, together with their theoretical foundations, came to be assimilated by Muslim thought. For this assimilation, no battle of ideas was ever fought, it came as a process of cultural development in which Nizam al-Mulk stood as one of the representatives of

Persian culture, with a bias towards Islamic thought.

Nizam al-Mulk was not really his name. It was a title of honour conferred upon him by his Saljuq master, Alp Arslan, after his appointment as a minister. His name was Abu 'Ali Hassan, and his father's name was Abu al-Hassan 'Ali, who belonged to a family of landowners (*dihqans*)⁵ of Radhkan,⁶ a small town in the suburb of Tus where Nizam al-Mulk was born. In the days of the Ghaznawids his father was appointed a tax-collector of Tus by Abu al-Fadl Suri, who was the Governor of Khurasan.⁷

His early education started with the study of Tradition (*Hadith*) and jurisprudence (*Fiqh*), and as his father wanted him to take up the legal profession for his future career; he was put under the care of 'Abd al-Samad Funduraji,⁸ who was a profound scholar of Law.⁹

In the famous "Tale of the Three School Fellows," it is related of him that in his school days in Nishapur, where he was sent to attend the lectures of Imam Muwaffaq, he made friends with two boys, who later became eminent personalities. One was 'Umar Khayyam, the great poet and astronomer, and the other Hassan b. Sabbab, the founder of the Batiniyyah sect of the Assassins. Research by the late Sayyid Sulaiman Nadawi makes it unnecessary to discuss this controversial point¹⁰ of Nizam al-Mulk's life. This tale, he proves, is a fabrication.

From what the author of *Tarikh-i Baihaqi* relates about Nizam's family on the reliable authority of his grandfather Shaikh al-Islam Amirak, who had seen Nizam al-Mulk in his boyhood, it may be concluded that it was after he had reached the age of maturity and not in his early years, and after his father had been relieved of financial worries¹¹ that he was able to attend Imam Muwaffaq's lectures in order to complete his higher studies.

His studies over, he travelled to Bukhara and Merv, and to a number of towns¹² in Transoxiana, most probably in search of a post, and after 441/1049¹³ he went to Ghaznah, where he sought service with the Gaznawids, thus getting an opportunity to acquaint himself with their administration. When Sultan 'Abd al-Rashid was murdered in 444/1052 and the political affairs were upset, he escaped to Balkh and entered the service of 'Ali b. Shadhan,¹⁴ who was then the governor of that province on behalf of the Saljuq ruler Chaghari Beg Dawud. Annoyed with the habits of this man, who extorted heavy sums from him every year,¹⁵ he fled to Merv.

Once there, Chaghari Beg appointed him the *mushir* (counsellor) and the *katib* (secretary)¹⁶ of his son, Alp Arslan. It was on the advice of 'Ali b. Shadhan¹⁷ that Alp Aralan, after his accession to the throne in 455/1062, raised him to the position of a Joint Minister with 'Amid al-Mulk Kunduri. But Kunduri was soon deposed and then put to death, it is said,¹⁸ on the advice of Nizam al-Mulk, who had then become the full-fledged Prime Minister of the Saljuq Empire.

He became the real master of the whole realm with the succession of Malik-shah to his father's throne in 465/1072, which he owed entirely to Nizam al-Mulk's efforts.¹⁹ From the capital of the Saljuqs, his influence spread to the capital of the 'Abbasid Caliph, who is said to have dignified him with the title of

Radi-u Amir al-Mu'minin, never before conferred on a vizier.²⁰ He had done much to stabilize the power of the Saljuqs, and to improve their administration, and, therefore, when Malik shah once threatened him with dismissal he dare to reply that the kingship was linked with his vizierate.²¹

In his last days, he came into collision with the Isma'iliyyah movement of Hassan b. Sabbah, in whose activities he saw danger to the Saljuq Empire. He had actually once deputed Abu Muslim Radi to arrest Hassan,²² but Abu Muslim was himself assassinated by one of the *fida'is* (the Assassins) in 485/1092.

It will be in place here to refer to the two Persian works of Nizam al-Mulk, which are the chief sources for the study of his political ideas: the *Siyasat Nameh* (The Book on State-craft) and the *Dastur al-Wuzara'* (The Conduct of Ministers) or, as it is more generally known, the *Wasaya-i Khuwaja Nizam al-Mulk* (The Precepts of Khuwaja Nizam al-Mulk). He is said to have written yet another work entitled as *Safar Nameh* (The Book of Travels) which is now extinct.²³

Certain changes and additions may have been made to the original text in a later period, but the *Siyasat Nameh* has generally been recognized as the genuine composition of Nizam al-Mulk himself. There has been some controversy among scholars about the authenticity of the *Wasaya* on account of the doubtful "Tale of the Three School Fellows," which has been set out in detail in the preface of the treatise. There is no need to revive this half a century old controversy²⁴ as it has nothing to do with the study of his political thought.

The *Wasaya* is not claimed to be the composition of Nizam al-Mulk himself in the sense in which the *Siyasat Nameh* is considered to be his work. It was compiled in the ninth/15th²⁵ century by an anonymous person whose family, as he claims in the preface, descended from Nizam al-Mulk. He compiled it partly from the books and partly from the oral traditions handed down in his own family.²⁶ Therefore, the anecdotes cited in it begin invariably with the phrase, "So says Khuwaja Nizam al-Mulk."

The preface, which is one of the reliable sources of Nizam al-Mulk's life, is evidently from the pen of the compiler. But the other two chapters, which form the main part of the work and contain much valuable material on the political ideas of this famous vizier, are composed from his own authentic writings and utterances. It has been justly remarked²⁷ that there is no internal evidence in the main part of the work to show that it does not owe its contents to his pen. A large part of the *Wasaya* may be regarded as the actual utterances of Nizam al-Mulk.²⁸

We are fortunate in having these two important works of Nizam al-Mulk representing his thoughts about kingship and vizierate, which were the two political institutions of primary importance in his days. The *Siyasat Nameh*, which is the exposition of his theory of kingship, was originally written to serve as a "monarch's primer."²⁹ It is said that in 484/1091³⁰ Sultan Malik-shah (r. 465 – 1072/485/1092) instructed some of his dignitaries to think over the state of affairs in his realm and write down the principles of conduct that were followed by monarchs in the past, and were required to be observed by himself.³¹

The treatise of Nizam al-Mulk among the works presented to the Sultan was the only one which he

approved of and adopted as a guide (*imam*).³² But it must not be treated as a mere handbook of day-to-day administration, nor must it be regarded as containing simply practical suggestions for the improvement of an administrative system. It is more than that. It is, in fact, the expression of a realistic political theory which emerges out of an actual political situation, and, therefore, helps us to understand the stage in the development of Muslim polity reached in the fifth/11th century.

The *Wasaya* is the exposition of his theory of vizierate. It consists of the counsels which he is said to have addressed in the “last days of his life,”³³ to his eldest son, Fakhr al-Mulk, who also held the office of vizier under the Saljuq Sultans Barkiyaruq and Sanjuar, and was assassinated, like his father, by a Batini.³⁴ in 500/1106.

It is fairly easy to present Nizam al-Mulk as one who largely differs from the past writers of political treatises and from his contemporaries, both in his selection of the political institutions which form the subject matter of his writings, and in his approach to those institutions. The method adopted by him in explaining the principles of State administration throws light on his outlook and about the political situation in his days. His approach and outlook regarding the political problems are, indeed, inter-related.

A modern scholar, author of a pioneer work on Muslim political thought, regards his method as “historical.” “If it is possible,” he writes, “to label the Khuwaja’s method with any particular epithet, it is that his method is, to a large extent, historical.”³⁵ He considers it historical because “in nearly every case he proves the truth of a principle which he chooses to propound, on the touchstone of tradition or historical facts, though some of the facts he relates are not chronologically correct.”³⁶

But it is in a limited sense that his approach can be regarded as historical. It is true that he makes reiterated references to history. But this is not all that makes the historical method what it really is. This method does not consist exclusively in citing historical instances. That is only a preliminary. The historical method consists basically in drawing conclusions objectively from the study of historical facts. The political maxims which Nizam al-Mulk lays down as the guiding principles for the successful administration of the State, are, in fact, the inductive generalizations from the study of history.

They are, indeed, empirical conclusions drawn from his personal experience of practical politics and from his observation of existing conditions. “No event,” he believes, “ever happens to take place in the world which might not have occurred already several times. As one might have read, or known, or heard about the circumstances a particular event had brought in, one can surmise the consequences that would follow it in case it happens to occur again.”³⁷

In effect he is arguing that history repeats itself, but instead of proceeding from the past to the present he follows a reverse course when he first draws conclusions from the observation of the conditions around him and then turns them back upon the past. History, for him, is not the solution of problems, but the endorser of pre-conceived solutions. The essence of his approach to the political issue lies in the

blood of the historical method and the method of observation. Though not very successful in following the historical method, he may be regarded as the most historically-minded writer on political topics both among his predecessors and his contemporaries.

This treatment of history squares well with the object with which he proceeds to formulate a particular political theory. He is concerned with theorizing those institutions and their principles and problems which had developed into an actual political constitution, resting mainly on the Sultanate (kingship) and the vizierate, and to bring them to their possible perfection by suggesting practical reforms. He makes ample use of the past and contemporary history to give his personal ideas the appearance of historical facts.

The political institutions of which he speaks had real roots in the political life of the peoples who inhabited a large part of the eastern lands of the 'Abbasid Caliphate, mostly non-Arab races. Most of those institutions had existed there long before the Great Saljuqs came to adopt them, and still much earlier than they could find their theoretical exposition in the writings of Nizam al-Mulk. The absolute monarchy, for instance, the office of vizierate, the monarchical form of administration of justice, the feudal system, the order of courtiers, the system of espionage, etc., were the institutions handed down by ancient Persia to the successive generations.

Though modified in some respects under the influence of the new Muslim political theory, those political institutions had, nevertheless, succeeded in preserving much of their original Persian character, and exerting, in their turn, a good deal of influence both on the political thought of the indigenous people even after their conversion to Islam as well as on the political system, largely of Persian origin, that Nizam al-Mulk seeks to set out. This makes us look upon his writings as the earliest exposition of what may be called the Persian political theory.

Side by side with this political theory, but with different notions and with a different approach to political problems, there existed the constitutional theory of the Arab jurists of whom Mawardi³⁸ (c. 364/974 – 450/1058), the author of the *Ahkam al-Sultaniyyah*, was the most eminent. Among this small group of jurists mention must be made of Abu Ya'la (380/990 – 450/1066), a contemporary of Mawardi, and author of another *Ahkam al-Sultaniyyah*,³⁹ and of Imam al-Haramain al-Juwaini (419/1028 – 478/1085), an intimate friend⁴⁰ of Nizam al-Mulk, whose treatise *Ghiyath al-Umam*⁴¹ has not yet seen the light of day. (As political thinkers, the two have not yet been properly studied by students of the history of Muslim constitutional theory.⁴²)

While the Persian political theory attempts to throw light on the sovereign powers of the king, by analysing the institutions characteristic of this royal office, the constitutional theory puts forward the doctrine of Caliphate. It will be in place here to look into the general nature of the juristic approach to the political problems, and more especially to the institution of kingship, which Nizam al-Mulk also treats, with even greater interest. This will help us to appreciate the realistic element in his thought and approach.

In the first instance, these two sets of contemporary theories, one of the jurists and the other of an administrator, differ in their subject matter. A comparison of the contents of the two treatises of Nizam al-Mulk with those, for example, of the *Ahkam al-Sultaniyyah* of Mawardi, would hardly make one regard the two writers as dealing with the problem and institutions of the same political community living in the same age.

Of the office of the *Khalifah*, his powers and qualifications, the method of his election, the division of vizierate between the unlimited vizierate (*wizarat tanfidh*), the legal difference between their powers, the economic institutions of *jizyah* (poll tax), *zakat* (tax on the accumulated property), *fai'* (goods taken from non-believers), *kharaj* (land tax), and of so many other institutions of religio-political character, which from the chapter heads of the *Ahkam al-Sultaniyyah*, the author of the *Siyasat Nameh* and the *Wasaya* makes no mention at all, and, likewise, most of the topics discussed by Nizam al Mulk have been avoided by Mawardi and other jurists, except the offices of the Sultan and vizier, which they treat on a different plane of thought. In their constitutional theory, the Sultan occupies a position which is quite different from what he actually enjoyed in the political set-up of those days.

To treat the Sultan as a governor by usurpation (*amir bi al-istila*) is to bring him down to the position of the other provincial governors appointed by the Caliph. This amounts to arguing, as they seem to do, that the Sultan did actually derive his powers from the "Imperial" authority of the Caliph. They leave actual facts out of account by putting the main emphasis on the formal legitimization of the Sultan's authority by the *Khalifah*, which was but an insignificant aspect of their mutual relations. In doing so, they are apt to lose sight of his sovereign powers, which he enjoyed independently of the Caliph's assent.

This limitation of the juristic approach to contemporary politics was bound to arise from the fact that its exponents were building their argument on the foundations of the political order of the Caliphate, which had ceased to exist as a real force for about 200 years. Deprived of any real power to shape the political life of Muslims, the Caliphate, as a political system, continued to exist in theory, which found its elaborate exposition in the writings of the juristic school of the fifth/11th century.

But by interpreting the political fiction of the Caliphate in terms of political realities of their times, these jurists, regardless of the actual facts, were indoctrinating the people with the belief that the caliph was still the real source of all authority.

They were, thus, unable to appreciate the fact that it was the autocratic rule of the independent prince, and not that of the 'Abbasid Caliph, under which the people had actually been living, and they failed to see that by legitimizing the authority of the Sultan, the Caliph only recognized his *de facto* sovereignty, and that this in practice did not render him sub-ordinate to the Caliph. Their juristic theory could not take into full account the growth of absolute monarchy in the Muslim polity upon which a formidable political structure had come to rest.

It is this monarchical system of government developing under the aristocratic rule of the prince, as

against the constitutional structure of the Caliphate, which Nizam al-Mulk attempts to study. His political theory represents a particular phase of the development of the Muslim polity which was characterized by kingship. As such, it is an essential part of his contribution to Muslim political thought.

The first thing remarkable about his exposition of the institution of kingship is that he is careful to make no reference to the *Khalifah* as the head of the Muslim community, and to say nothing about the constitutional relations of the Saljuq ruler with the ‘Abbasid Caliph. He rarely uses the title of Sultan for the Saljuq King,⁴³ and as for the term *amir muslauli* (governor by usurpation), it does not occur at all through his writings, both being the terms of the constitutional law employed by the jurists to denote the legal superiority of the caliph over the prince. Instead, he generally calls his ruler *padshah* – a Persian term for the king. All this may reasonably be taken as a conscious effort on the part of Nizam al-Mulk to avoid any discussion or even a phrase which might involve any reference to the legal relations of the Caliph and the prince, for his object in studying the monarchical constitution of the Saljuq Empire is to represent his royal master in his full independent position.

To this political objective his *Siyasat Nameh* was expressly dedicated, for it was composed at the instance of the great Saljuq ruler, Malik-shah, as the *Ahkam al-Sultaniyyah*, the earliest treatise on the constitutional theory of the Caliphate had been written by Mawardi only 40 years before at the instance of an ‘Abbasid Caliph⁴⁴ to vindicate his claim to sovereign authority. This indicates the existence of a theoretical conflict between the powers of the Caliph and the king, which of course has been prompted by the historical events which preceded it.

Conscious of the growing weakness of the Buwaihid dynasty in the beginning of the fifth/11th century, the ‘Abbasid Caliph Qadir (381/991 – 422/1031) and his successor Qa’im (422/1031 – 407/1075), during whose rules the juristic theory of the Caliphate was formulated, attempted to achieve independence from the tutelage of the Buwaihids.⁴⁵ On the other hand, the Saljuqs, too, who had succeeded both the Buwaihids and the Ghaznawids after over-throwing their power, were no less keen to assert the authority they had established at the point of the sword.

In spite of acknowledging the nominal authority of the *Khalifah*,⁴⁶ who, in turn, had legitimized their rule and conferred upon them titles of honour,⁴⁷ the Saljuqs did not hesitate to inflict humiliation upon him whenever it was demanded by the political situation. Kunduri, the vizier of Tughril Beg (d. 455/1062), is said to have withheld the pension of the Caliph on his refusal to marry his daughter to the Suljuq prince.⁴⁸ On another occasion, Malik shah is said to have intended to banish the Caliph al-Muqtadi from Baghdad.⁴⁹

Under this situation it was not possible for Nizam al-Mulk to make any mention of the *Khalifah* without recognizing him as the supreme authority over his Saljuq prince. This would have been inconsistent with the objective he had in mind in writing his treatise.

His effort to avoid any discussion of the legal or political relations of the Caliph and the king is significant.

He is seeking to defend his prince against the theoretical encroachment on his independent position by the advocates of the Caliph's authority.

From the outset Nizam al- Mulk seems to have taken if for granted that the real source from which the king derives his authority, in theory or in practice, is not the institution of the Caliphate. That point has been removed from the plan of discussion. The reason is not far to seek. As it was inconsistent with his political ends to recognize the Caliph as the supreme authority, so an explicit refutation of his claims in this respect would have made Nizam al-Mulk unnecessarily provoke a controversy about the powers of the two offices. To this dilemma he finds a solution in what may be called in modern language the theory of divine right – the theory that the king enjoys the right to rule over his subjects by virtue of divine appointment.

This becomes obvious from the study of the first chapters in the *Siyasat Nameh*, which mainly explain the divine nature of this institution, and its functions ordained by God. He puts it in very clear words when he says, “In every age God selects one from amongst mankind and adorns him with princely skills, and entrusts him with the affairs of the world and the comfort of the subjects.”⁵⁰ This is the remarkably simplified hypothesis of his theory of kingship; he does not argue to prove it, but simply states it as a self-evident truth.

This proposition, as advanced by Nizam al-Mulk, suffers theological weakness common to all the expositions of the divine right theory which set out this hypothesis as a *fait accompli*, to be simply accepted rather than to be argued. It is indeed a dogmatic belief rather than a rational proposition. It is, however, important for our purpose, because it serves to explain how Nizam al-Mulk comes to expound a political theory which is out and out a vindication of autocracy, and how he is led from the outset to reject the democratic principles and enunciated by the advocates of the Caliphate.

After explaining the nature of the king's appointment, Nizam al-Mulk discusses the purposes of kingship in a political community. He argues the *raison d'êtes* of this institution, and throws more light on its divine nature. The essential function which the king has to fulfil in human society is to bring order of chaos, and to maintain peace and justice. This is what he means when he says, “If the people show any sign of disobedience or contempt towards the *Shari'ah* (the Canon-Law), or if they fail to obey God and to comply with His commands, then he intends to inflict punishment on them for their conduct...Due to their sin they bring this wrath upon themselves.

Benevolent kinds disappear from amongst them. Swords are drawn and blood-shed follows, and whosoever is powerful does as he pleases, until the sinners to one of the people whom God by His grace blesses with success according to his worth, and endows with wisdom and knowledge.⁵¹

Then Nizam al-Mulk goes on to say that the ultimate object to which the king should direct his efforts is to create and maintain wholesome conditions so “that the people may live with comfort under the shadow of his justice.”⁵²

It amounts to a sort of “mystical” interpretation of historical changes, bringing about the rise and fall of rulers. The king has been represented here as an instrument of God’s will, fulfilling a divine function in political upheavals. It is the punishment for their disobedience that people are first deprived by the Almighty of the benevolent king. Then His wrath takes the shape of calamities and upheavals. And it is again by His mercy that a man rises to the position of a sovereign and brings about peace and order. Thus, in this divine order of political society all things proceed from God’s will, and it is from His supreme authority that the king derives his powers.

While speaking of the monarch who succeeds in establishing his rule by subduing the warring elements and in executing God’s will by bringing peace and tranquility to the people, Nizam al-Mulk is not unmindful of the victorious career of the Saljuq dynasty, which had risen to sovereign position by its own strength and successfully established an orderly government. This becomes clear when he says that it is by divine providence that his Saljuq master has been destined to rule his subjects.⁵³

This implies that the king’s authority rests, in the first place, on direct authorization from God and, in the second place, on his own ability to gain political power in which he is helped by God the Almighty. He is equally emphatic on the principle of hereditary kingship, which is always an essential part of the divine right doctrine. According to him, the kingly office is essentially of divine origin as well as hereditary, and should pass, like the kingship in ancient Persia, from father to son.⁵⁴ And it is according to this principle that his Saljuq prince, he claims, has inherited this dignified office from his great ancestors.⁵⁵

Nizam al-Mulk’s vindication of the claims of the king to sovereign powers is based on a three-fold justification, namely, the divine sanction, the conquest of power, and the hereditary succession. He later states this more clearly in an anecdote in which Nushirwan, the Persian King, has been shown as asserting his eligibility to the throne in a royal speech addressed to his feudatories, “First, this kingship has been bestowed upon me by God the Almighty, secondly, I have inherited it from my father, thirdly,...I have recaptured the kingdom by the sword.”⁵⁶

It is obvious now that in explaining the nature of the supreme authority in the political community, he takes the position of a legitimist” who believes not in human choice, but in divine appointment and hereditary succession.

This exposition of kingship is significant from yet another point of view. There is more in it than the mere explanation of the divine origin of the king’s powers. It may be regarded as an effort of Nizam al-Mulk to seek moral justification for the passive obedience which the monarch has the right to demand from his subjects, and also for his unlimited authority to control the administration and political life of the people. The two are correlative to each other and follow as corollaries from this legitimist doctrine. This helps us to understand the relation between ruler and subjects as envisaged in his political theory.

He lays great emphasis on obedience as the most essential duty of the people towards the ruler, since he brings to them peace and prosperity after they have been deprived of it as a punishment for their

disobedience to God. This has been stated more explicitly in another work, the *Wasaya*, in which he discusses the question of obedience to royal authority. “No doubt,” he says, “it is but obligatory to worship the Almighty, and to obey the king. The common people generally, and the royal favourites and courtiers particularly are under the obligation of such obedience, and more especially one who has been entrusted with authority in the matters of administration and finance.”⁵⁷

The king is entitled to receive obedience from his subjects as a divinely appointed authority. Nizam al-Mulk asserts that the very fact that the king succeeds in establishing his rule in sufficient to make us regard his authority as resting on the divine sanction. Without the aid of God Almighty,” he argues, “an individual can never become a ruler, nor can he bring the world into the bondage of subjugation. Though there might be several causes of his rise to political power, they all refer undoubtedly to the same divine help.”⁵⁸

The gist of this remarkably simplified contention is that it is the duty of the people to obey the prince without questioning the validity of his authority: it is valid as *de facto*. A *de facto* ruler may be unjust and may put the country into disorder, but Nizam al-Mulk, like a true legitimist, is careful to avoid this question as it ultimately involves the right of the people to resist a ruler who is doing wrong to them. If confusion and disorder ever take place in a political society, he attempts to interpret it as resulting not from the misrule of the monarch but from the sinful acts of the people themselves.

It is, therefore, by remaining obedient to the king that they can enjoy peace and prosperity which is restored to them under his rule. The king can rightly inflict punishment upon those who, “not realizing the value of security and comfort,” might revolt against his authority.⁵⁹ There is no doubt that Nizam al-Mulk believes in the principle of passive and unconditional obedience on the part of the people, and leaves them without any moral right to resist the royal authority.

A political theory like this, with the belief in the divine appointment of the king, coupled with the principle of passive obedience by the people, can result only in the advocacy of absolute monarchy. The prince of whom Nizam al-Mulk is speaking here is surely an absolute monarch in that his powers are unrestricted by any human power. The only authority which could claim, at least in theory, a certain amount of legal right to impose any obligations on a Muslim prince as the ‘Abbasid Caliph, to whom, we have seen Nizam al-Mulk avoids making any reference in this respect.

It is obvious from his attempt to explain the administrative system with constant reference to the royal office that the monarch is the sovereign authority in his realm, and, as such, is the source of all political power, all are sub-ordinate to him, and are endowed by him with powers and privileges according to their capability. In spite of representing the king as directly responsible for the welfare of the whole country, Nizam al-Mulk does not regard him as accountable to the people for his political conduct. On the question of the kings’ responsibility in public affairs he seems to take again the position of the people, but before God. That, however, has not been laid down expressly, and has to be concluded only indirectly from the statements in which, for example, he says that on the Day of Judgment the king will

be summoned before God to answer for his conduct towards his subjects,⁶⁰ and that the government officials are accountable to the king, and the king in his turn is responsible to the Almighty.⁶¹

What Nizam al-Mulk is attempting to set out here is indeed the concept of absolute monarchy. At this point he comes much nearer to the Persian idea of kingship and the Shi'ite doctrine of *imamah* (the leadership of political community), both founded on the divine right of the Head of the State, than to the constitutional theory of the Sunni Arab jurists, which was based on democratic principles. An absolute monarch claiming direct authorization from God to manage the affairs of a political society was an idea quite foreign to Arab thinkers. The *Khalifah* had always been regarded by them, at least in theory, as an elected functionary⁶² to whom powers were delegated, not directly by God, but by the electors. They, therefore, held that the *Khalifah* was subject to certain legal restrictions. This democratic idea of Caliphate is in striking contrast with the Persian notion of absolute monarchy revived in Nizam al-Mulk's political theory.

It would not be wrong to suppose that this concept of a divinely appointed ruler came to him mainly from the political system of ancient Persia, and not from the contemporary Shi'ite doctrine,⁶³ which, as systematically evolved under the Fatimid rule in Egypt, was definitely a much later development in comparison with the Persian concept. This is obvious from his repeated references to the political principle on which the monarchical constitution in ancient Persia was based, but he makes no such references to the political ideas of the Shi'ites, of whose political activities in the form of Batini movement he is, on the contrary, vehemently critical.⁶⁴ But it must be admitted at the same time that his exposition of divine right is lacking both in philosophical depth and systematic treatment with which this doctrine was set out in the Fatimid dogmatics.

The reason for imitating the Persian model of kingship is to be sought in his contemporary historical conditions. On the one hand, he is expressing, as pointed out before, the popular idea of kingship prevailing in the territories conquered by the Saljuqs, and, on the other hand, he is seeking to replace the Turkish concept of tribal leadership by the Persian ideal of absolute monarchy.

The peculiar conditions under which he had to work out his political theory, made the adoption of autocratic rule inevitable. The institution of *Khanat*, that is, the tribal leadership among the Saljuqs, had largely become inconsistent with the stage of political power under tribal customs, their Khan was far from having any territorial basis for his authority, with the result that their tribal system of government was found inadequate to cope with the problems of the large territorial empire which they had come to rule. The Empire they had inherited from the Ghaznawids and the Buwahids was far vaster than the territory hitherto known to them, and more advanced in political principles as compared with their own tribal customs. Despite the large powers that were conferred upon the Khan by the tribal system, he was regarded much more the leader of a large tribe, than as a sovereign in the proper sense.

There were other "minor leaders" of small groups of families who, at least in the early stage of their political career, could lay claim to political power derived not from the "major" tribal leader but from the

tribal customary law. It was not until the reign of Malik Shah, the third ruler of the great Saljuq dynasty, that the Saljuq prince could become a real autocratic mind⁶⁵ in all State affairs throughout the reign of Alp Arslan and Malik Shah, who was mainly responsible for altering their nomadic tribal political organization to harmonize with the requirements of a territorial empire. He converted their power into a centralized autocratic authority essential for successful government in his time.

What he is attempting now in his writings by theorizing about kingship and its institutional organization is to provide the Saljuq monarchy with a theoretical basis. He is seeking, moreover, to shape it on the model of Persian kingship about which he had read in the “works of the ancients” (*kutub-i pishinagan*),⁶⁶ and had seen revived in the monarchical constitution of the Ghaznawids. To him this Persian monarchy, with its autocratic principles, was more adaptable to the new circumstances than any other type of institution which was founded on democratic principles.

Only an absolute monarchy, he thinks, can vigorously deal with the nomad Turkumans and the *petit* leaders of the Ghuzz tribes in subduing their power to a centralized authority. Therefore, he advises his prince that “God Almighty has created the king most powerful of all people, and all are sub-ordinate to him. It is from that they take their subsistence money and their position. He should treat them in such a way that they always realize their position, and may not throw off the bondage of allegiance, and, moreover, they should not be allowed to do whatever they like; they should do only what they have been ordered to do.”⁶⁷ His aim in stressing the absolute superiority of the king is to introduce a central authority with autocratic powers in the political system of the Saljuqs, the majority of whom were not yet fully accustomed to this principle of government and administration.

To imitate the Persian absolute monarchy was also useful in tackling the problems of the growing “feudal system” in the Saljuq Empire. The Persian institution of kingship had a record of feudal traditions, and could furnish the Saljuqs with the laws applicable in many respects to their relation with the feudatories and the subjects.

The system of land assignment – what Nizam al-Mulk calls the *iqta' dari*⁶⁸ – may be regarded undoubtedly as the Eastern form of feudalism as against the feudalism of medieval Europe. To a great extent, Nizam al-Mulk may be considered responsible for developing, if not for introducing, it on systematic lines within the political structure of the Saljuq Empire. It was due to the military organization of the Saljuqs, on which their political structure ultimately came to rest, together with the problems of revenue administration, that the practice of assigning fiefs (*iqta's*) to the military chiefs, soldiers, and to other private persons was adopted. There were also the *dihqans*, the old Persian land-owners, who continued to exercise proprietary rights as before. This system, in brief, was designed as a means of paying the soldiers and of collecting revenues.

The principles on which Nizam al-Mulk suggests that the *iqta' dari* should be based develop it into a feudal system very different from the Western feudalism, both in character and in social and political consequences. It is basically different in the tenure of the feudatories, in their legal rights over the land

and the *ra'iyyah* (vassals) as well as in the relation of the king as the over-lord with the *muqta's* (feudatories), on the one hand, and with the subjects, on the other, and with the subjects, strictly hereditary as a general rule. There is nothing in his writing to suggest that he is in favour of assigning lands to an individual with a specified legal right to transmit it by inheritance.

On the other hand, in his system the feudatories come to occupy a position more akin to that of the tax-collectors with large administrative powers than that of the “feudal lords,” in the medieval sense. In their relations with the vassals they are like the *shihnahs* (guards, and in case a feudatory fails to treat them well, “the fief, it is suggested, must be withdrawn from him.”⁶⁹ Besides, “the officials and the feudatories must be changed every two to three years so that they may not get strong enough in their fortifications.”⁷⁰

It appears that side by side with developing the *iqta'* system, Nizam al-Mulk attempts to enlarge the powers of the king as a means of checking the centrifugal tendencies which tend to appear in feudalism. This leads him to put forward a theory of land ownership which goes well with his idea of absolute monarchy. He holds that “the feudatories who hold the fiefs must know that civility and courtesy the lawful amount which has been assigned to them, i.e., to the feudatories, and when that has been taken, the subjects shall be secure in their persons, property, wives, and children, and in their goods and estates....They must know that the land and the subjects all belong to the king, and the feudatories and the governors (*walis*), set over their head, are like the guards to the subjects, as the king is to others.”⁷¹

In entertaining such a view regarding land ownership, Nizam al-Mulk departs from what may be regarded as the Islamic theory, which attributes the absolute ownership of land, not to the Head of the State, but to the State itself, as entrusted to by God. It is also a clear departure from the traditional concept of the Ghuzz tribes, who looked upon the land that they would come to occupy as the common property of their families. It was this tribal concept of land ownership of Nizam al-Mulk was seeking to modify basically, as it was out of tune with the administrative principle of a centralized empire which had now passed into their hands. To him it was essential to bring both the land and the subjects under the central authority of the king.

A good deal of his theory, it appears, has come to him from the old feudal Persia. This is evident from his attempt to explain this principle by an anecdote from Persian history in which the famous vizier Buzurjmihr has been represented as advising Nushirwan that “the kingdom (wilayah) belongs to the king (malik), and the king has entrusted the dominion, and not the subjects, to the military When the military is not well wishing unto the kingdom, and kind to the people...and takes the power to arrest and imprison...and to appoint and dismiss, what difference then remains between the king and the military, for that power really belongs to the king, and not to the military.”⁷² On another occasion Nushirwan exhorts his feudatories to treat the people well, and only to take from them what is due and just, and he stresses the fact that the dominion belongs to him, and it is by him that the estates have been assigned to them.⁷³

Nizam al-Mulk's feudal theory takes away much of the powers from the hands of feudal lords which they enjoyed, for instance, in Western feudalism. It leaves them with limited power to collect the revenues, and to have only "a fixed amount in their hands."⁷⁴ Moreover, it removes them from the position of being the sole intermediaries between the king and the subjects, preventing the latter from getting into direct contact with him.⁷⁵ In his system, the direct responsibility for the well-being of the subjects rests not with the feudatories, but with the king, and, therefore, he suggests that the king should send spies (*jasusan*) and special confidants (*khwas*)⁷⁶ to inquire secretly about administration in the fiefs in order to get reliable information about the condition of the subjects, and urges him to dismiss a feudatory who forbids subjects to represent their cases to the king in order to seek redress for grievances.⁷⁷

All this results in the concentration of all the political administrative powers, as sought my Nizam al-Mulk, in the central authority of the king which was once enjoyed by the Persian autocrat.

Though his idea of kingship is in essence of Persian origin, it differs in certain respects from the Old Persian prototype, and has been refashioned in other respects under the influence of Muslim political theory and practice. It is, on the whole, an attempt to readjust the Persian model with the contemporary social and political structure.

The most important point of difference is that Nizam al-Mulk is not an incarnationist. Unlike the ancients who could look upon their Persian monarch as the incarnation of Divinity,⁷⁸ he treats his ruler as a simple human being. In spite of once calling the prince the "shadow of God on earth" (*zill Allah fi al-ard*) in the *Wasaya*⁷⁹ – a phrase which does not occur at all in the *Siyasat Nameh* – he does not go to the extent of clothing him with divine attributes so as to make him appear an embodiment of Divinity. The phrase is devoid here of any mystical meanings, and has been used in the ordinary sense of a metaphor, to mean that the exalted office of the king is like a shadow provided by God on earth under which mankind may find peace and security. No doubt, he speaks of this monarch as "adorned with the virtues and excellences which were lacking by kings all over the world,"⁸⁰ yet there is in him no tendency to regard the king as a super-human being in any metaphysical sense. Among those excellent virtues with which his prince is adorned, he counts, for example, good appearance, justice, courage, generosity, etc.⁸¹ but they are all divinely gifted qualities, not divine attributes. Therefore, his prince is by no means an incarnation of God.

Far from attaching any "mystical" or metaphysical sense to the concept of kingship, he believes that "the king is endowed by God with wisdom and knowledge so that he can treat each of his subjects according to his worth and can give each a position according to his value,"⁸² and, again, "His (i.e. the king's) wisdom is just like a lamp that gives off abundant light. People can find their way in its light and can come out of darkness,⁸³ and he does not need himself to be guided by others." We can see his prince bearing a small resemblance both to the philosopher-king⁸⁴ and to the Shi'ite teacher-Imam,⁸⁵ but suffering from an innate inability to become the true image of either. This seems mainly due to the fact that Nizam al-Mulk is by temperament much more a matter-of-fact exponent of popular ideas than a

real philosopher, unable to develop his thoughts into philosophical concepts. He may be taken as possibly expressing a general belief about kingship prevailing in his days, in which the old Persian idea of the divinely-appointed monarch in its moderate form – and not the concept of divine monarch – was superficially inter-mingled with the Neo-Platonic interpretation of the philosopher-king as an embodiment of perfect wisdom. His concept of the king is that of a statesman who is primarily concerned with general beliefs rather than with philosophical generalizations.

His Persian ideal is modified also in another respect, obviously under the direct influence of Muslim thought. Though he treats his prince as a divinely-appointed ruler, invested with unlimited powers, he does not regard him by any means as a law-giver. A human authority with absolute legislative powers has never existed in Muslim polity, because *legislation* in the proper sense of the term has never been recognized as a human function in the Muslim legal theory. According to this theory, there does already exist a divine Law (*Shari'ah*) supreme, eternal, and perfect, which is theoretically as binding on the ruler himself, however autocratic he may be in practice, as on his subjects. This is what seems to have prevented Nizam al-Mulk from attributing any legislative power to his prince. His king, on the other hand, is subject to the supreme Law of God, and, is, moreover, an instrument for enforcing that law, and for making people abide by it. He emphasizes that it is obligatory for the king to seek knowledge of religion matters and to comply with, and make arrangements to carry out the commands of God and the traditions of the Prophet, and to pay respect to religious scholars.”⁸⁶ Therefore, it is the duty of the ruler to appoint judges (*qadis*) to execute the *Shari'ah* as his deputies (*na'ibin*).

This discussion of the ruler's responsibility in enforcing the *Shari'ah*, apart from explaining a principle of Muslim policy, is also interesting for its historical significance in respect of the Saljuqs. This shows Nizam al-Mulk's attempt to teach the Saljuqs the principles of the Muslim legal system and to familiarize them with the law of the more civilized people of whom they had become the rulers. But his royal masters were altogether strangers to all culture,⁸⁷ and there is no reliable information to prove that they could even read and write. Therefore, books, as the direct source of knowledge of religious Law, were out of their reach. This seems to be the reason why Nizam al-Mulk advises his prince to get himself acquainted with the teachings of religion through the debates of the scholars ('*ulama*') which he should cause to be held occasionally in his presence, once or twice a week. “Thus, one day he will become conversant with most of the laws of the *Shari'ah*, the commentary of the Qur'an and the traditions of the Prophet and, thus, the methods of dealing with temporal and religious affairs would become easy for him.”⁸⁸

This discussion leads us at this point to another important question, namely, the place that religion must have, according to Nizam al-Mulk, both in the conduct of a ruler and in the political life of a people, where we can see again that his concept of kingship is modified by the influence of Muslim thought. In spite of his love for the political principles of pre-Islamic Persia, he is essentially a religious-minded man who can believe only in the religious values of social life and enunciated by Islam, and can look upon a political community as dedicated out and out to religious ends. His political theory is made up of

reconciliation between the Old Persian ideals and the Muslim political ideology.

To him, in the first place, religion and politics are inseparably joined together and, as such are complementary to each other. “The State (and kingship) and religion,” he believes, “are like two brothers.”⁸⁹ And throughout his writings, the two have been treated in the same spirit. In dealing with them, he closely follows the spirit of Muslim polity which is largely based on the concept of the indivisible unity of religion and politics.

The principles of conduct which he lays down for his king under the influence of this religious trend are in striking contrast with those prescribed by Machiavelli for his prince. Unlike the Machiavellian prince who is advised to handle religion merely as a useful instrument for achieving political ends, and who is taught to appear rather than become religious,⁹⁰ Nizam al-Mulk’s prince is taught to believe sincerely in religious truths, and to exercise political power as an essential means of attaining them. According to him, both the State and religion are dependent upon each other for their existence; therefore, the king must treat them both alike. “Whenever there is any disorder in the state,” says Nizam al-Mulk, “there is confusion in the religion of its people also, and the heretics and mischief-makers make their appearance. And whenever religious affairs are disturbed, the State is thrown into disorder, the mischief makers grow strong, and heresy makes itself manifest.”⁹¹ He believes that “the most virtuous thing for the king is to uphold the right faith.”⁹² To him a wise and just ruler is one who follows the tenets of religion faithfully, and eradicates heresy from his realm.⁹³

It is obvious that the concern of his prince with religion is not mere politics; it is rather a matter of genuine faith in the religious values of social life. It is an instrument to preserve the State as well as a means of salvation in the life to come.⁹⁴ “The ruler who strives to uphold the faith successfully is entrusted by God with temporal and religious affairs, and his wishes are granted in both worlds.”⁹⁵

This shows how Nizam al-Mulk is at pains to make his prince a religious as well as mundane authority. It is, however, no artificiality with him to blend the religious and temporal powers in one and the same office. With a religious man like him, looking to faith for guidance in the spiritual as well as in the worldly affairs, it is more natural to combine them than to treat them as separate. Besides his own outlook about the relation of religion and politics, which led him to attribute religious function to kingship, there arose a historical situation in which the king came to be regarded not only as a temporal authority but also as a religious functionary. The age of the Caliph, when he was the undisputed leader of the Muslim community, had practically come to a close by this time, giving rise to the power of the independent autocratic monarch to whom the people now looked for leadership, there arose a historical situation in which the king came to be regarded not only as a temporal authority but also as a religious functionary.

The age of the Caliph, when he was the undisputed leader of the Muslim community, had practically come to a close by this time, giving rise to the power of the independent autocratic monarch to whom the people now looked for leadership in all temporal and religious affairs. It will not help much towards appreciating the role this autocrat came to play in the social life of the Muslim people, to suppose about

this historical change that, “politically, the *Khalifah* gave place to the Sultan, that is, a religious executive was replaced by and explicitly independent mundane power.”⁹⁶ It must be admitted that the Muslim world, far from thinking in terms of the separation of State and religion, was definitely at a stage of political development in which, as we have seen, it could still easily believe in their ultimate oneness. The Caliph, therefore, was not held to be simply a religious executive; he was a temporal authority as well, and both functions were intricately inter-woven in his office.

The autocratic prince, who came to fill the void left by the Caliph in the Muslim life with the latter’s downfall, was his heir in both capacities. He was a replica of the Caliph, in almost every respect, save that, like the Caliph, he was not an elected functionary, and therefore, unlike him, he was in practice an absolute sovereign with no constitutional limitations on his authority, and under no constitutional obligation even in fulfilling his religious functions. Had he been regarded as simply a mundane power, the Muslims living under his rule would have been left without a leader to organize their religious life, especially after the Caliph had practically been removed as a real force from the scene of their spiritual and political life.

It is this practical necessity that has led Nizam al-Mulk to insist on the essentially religious character of the king’s authority. This special emphasis on the religious character is also important on account of the fact that it tones down the autocratic temper of his monarch. The moral obligations he sets on the absolute authority of the king prevent it from growing into an oppressive despotism. His is basically the idea of a *paternalistic* State in which the king is held responsible for the security and well-being of all subjects. The first and foremost moral obligation of the king towards his subjects is to do justice. He believes it to be a religious duty, for it has been ordained by God.

Justice, as a principle of good government, occupies a pre-dominant place in his concept of kingship, and time and again he lays emphasis on its importance for State and society. But, in spite of all its significance, he does not attempt to formulate any systematic theory of justice, nor does he make any effort to define it exactly. This much, however, can be concluded from his statement that, like almost all his ideas, justice, too, is a practical maxim or a social rule rather than a social philosophy. Everyone should be given what is due to him, or what has been legally recognized as his right in a given social order. To him justice is a moral principle which is also usable as an effective means to preserve a political society and to promote peace and prosperity among the people. “The kings should strive,” he says, “to seek the favour of God, which can be attained through the kindness with which they treat the people and through justice which they administer to them. When the people pray to the welfare of the king, his State grows stable and prospers ever day.”⁹⁷

To stress its significance for the prosperity of the State he quotes the saying that “a State can continue to exist notwithstanding impiety, but it cannot exist with tyranny.”⁹⁸ Therefore, he believes that an auspicious age is one in which a prince comes to rule.⁹⁹ He quotes several anecdotes from history to demonstrate the material advantages of justice, and to show that justice is the outstanding moral virtue

of a king. He lays equal emphasis on its moral and material aspects as inseparably joined together, and stresses the point that as justice brings prosperity and good reputation in this world, it helps a ruler “to attain salvation in the next world.[100](#)

In his notion of justice he is influenced again both by Islam and by Persia. It is under the Islamic influence that he comes to realize the religious and moral significance of justice, and goes to the extent of linking its worldly aspect with the deliverance of the soul and eternity. To illustrate this point he quotes from the Holy Qur'an,[101](#) the Tradition[102](#) of the Prophet, and statements about the practice of the pious Muslim rulers, and says that the worthiest prince is one “whose heart is the seat of justice.”[103](#)

From ancient Persia he learns the methods of the administration of justice and principle of direct responsibility of the king in matters relating to it. He is so impressed by the Persian standard of justice that he believes that “the Sassanian Kings, especially Nushirwan the Just, have surpassed all other monarchs in justice, generosity, and courage.”[104](#) He says that the Persian kings used to strive so honestly to live up to the principle of impartiality in justice that they could even allow themselves to appear as respondents before the Chief Justice who heard complaints against their royal person.[105](#) They held it as their personal duty to see that the others also treated the people with the same impartiality and justice, and, in order to hear the complaints personally, they used to hold public audience twice a year, to which everyone was allowed free access, and whoever prevented anyone from going to the king to obtain redress for grievances was sentenced to death.”[106](#)

Besides justice, which is essential for good government, there are some other moral duties, which, as Nizam al-Mulk says a ruler has to perform for the well-being of his subjects. His idea of benevolent despotism involves the notion that a good monarch must rule, not for his own good, but for the good of the whole country. He is responsible for the welfare of his subjects and is personally accountable to God, not only for his own conduct, but also for the conduct of his officials towards the people.[107](#) It is therefore, an essential part of his duty that he should appoint as government officers only those who are God-fearing, learned, pious, and righteous,[108](#) and should instruct them to treat the people well,[109](#) because as justice brings prosperity, oppression leads to the devastation of a country.

This autocratic but benevolent sovereign, depicted for the first time in the writings of Nizam al-Mulk, is a typical Muslim prince who came into existence with the downfall of the Caliphate and continued to live for centuries in the Muslim polity. Equally typical is his vizier, who stands next to him in rank and power in the political hierarch of the kingdom.[110](#) Like the king, he is also of Persian origin; he is, in fact, the Muslim heir of the pre-Islamic Persian grand vizier, called the *wazurg-farmdhar*, who made his way into the constitutional system of the Caliphate[111](#) “when the ‘Abbasids came to copy the administration of Sassanian Empire.”[112](#) This grand vizier was next to the king, and what he was in his relation to the Persian king, the Muslim vizier was to the Caliph.[113](#)

For Nizam al-Mulk, himself a Persian and Grand Vizier, it is quite natural to aspire to model this institution as closely as possible on the traditional line of the Persian vizierate, which had once worked

so successfully under the Sassanian rule. But he is not the first writer to speak of this institution, for Mawardi and others had already discussed it in some detail. There is, however, a sharp distinction between the theory, for example, of Mawardi and that of Nizam al-Mulk. What Mawardi speaks of is, in fact, the constitutional position of the vizier in his relation to the caliph, and, therefore, it is what may be called the constitutional theory of vizierate.

With this aspect of the vizierate, Nizam al-Mulk is less concerned, and he seldom refers to it. What really interests him more, or rather exclusively, is the political and moral aspect of this institution. There is yet another difference: unlike Mawardi, who is primarily concerned with discussing the question what the vizier's functions are in a constitutional set-up, Nizam al-Mulk attempts to show what he ought to be in order to attain perfection in ministerial ethics. He deals with the vizierate on a plane of thought which is nearer to that of the *Qabas Nameh* of Amir Kaika'us (412/1021 – 475/1082).¹¹⁴ Indeed, his field of study is the art of minister ship, but, compared with Amir Kaiks'us, he treats it on a wider scale and with a touch of personal experience which obviously could not be claimed by the Amir.

To Nizam al-Mulk the vizierate is the most important and the most exalted office, next only to the Sultanate.¹¹⁵ Though this glorification of the ministerial office is not without a tinge of exaggeration, it serves to give an idea of the importance the vizier once had in the Eastern monarchical States, including the Saljuq Empire, in which he played a significant part in politics, and actually shared a good deal of power with the king. In most of the achievements which were attributed to the royal person he had a real hand. Therefore, there is a certain basis of truth in regarding the vizierate as "an institution on which depends the State and the people, the religion and the kingdom."¹¹⁶ This indicates Nizam al-Mulk's belief about the vizierate as an indispensable part in the machinery of a monarchical government. He is also conscious of the historical role it played in bringing so much credit to the kingship in the long course of its career. "All the kings," he says, "who have left their good names on the pages of time, owe it to the felicity of the righteous vizier,"¹¹⁷ and again, "...a good minister brings to the king a good name and leads him to adopt a good conduct. All the princes who had been great, and whose name shall be held in honour until the Day of Judgment, where those who had good ministers."¹¹⁸ Throughout his arguments about the importance of minister ship, he is insistent on the point that the welfare of both the king and the kingdom depends upon the sagacity of the vizier, and that a bad vizier always leads them to destruction.¹¹⁹

What Nizam al-Mulk is attempting here by stressing the importance of the vizierate is not to represent the vizier as a mere intermediary between the king and his subjects, but to show them as the representative of the king and actually responsible to him for the whole administration. That is to say, the vizier, as conceived by him, is in a sense a share in the king's real powers. This was actually the position which Nizam al-Mulk had himself enjoyed in his own life-time as the vizier of the Saljuqs. That in elevating this office to such an exalted position he is mainly encouraged by the Persian tradition, is evident from statement in which he asserts that since the origin of the State up to the days of Yazdigird all administrative affairs had been exclusively in the hands of the viziers. The vizier was the counter-part

and deputy of the king.¹²⁰ He is influenced again by the Persian forerunners, the Barmakids, were the first exponents in Islam. To him it seems most desirable that both the kingship and the vizierate should be hereditary, as was the regular practice in ancient Persia from the days of Ardashir, the son of Babekan, to the reign of Yazdigird.¹²¹ He regrets that “when the kingship came to an end in Persia the vizierate also departed from the house of the viziers.”¹²²

Nizam al-Mulk presents a picture of the typical minister serving at the Court of an Oriental monarch, when he comes to enumerate the dangers with which this important office was fraught, and the noble qualities which were supposed to be the pre-requisites of the vizierate. He gives a detailed account of them, supported by his personal experiences, or by illustrations taken from contemporary history. It gives an idea of the state of politics and administration in the medieval Orient in which a vizier had to discharge his duties with so many powers to conduct the government, and, at the same time, with so many risks of being suddenly overthrown from office for any mistake.

The dangers in accepting his office, as he enumerates are:

- a) The minister may do injustice to the people as he has to issue numerous orders every day,¹²³
- b) may please one man and displease thousands of others, high and low, rich and poor,¹²⁴
- c) he may displease the princes of the royal household by his acts and may consequently incur the displeasure of the king,¹²⁵
- d) he has to always deal with the nobles and grandes of the empire whose hostility and hate might turn the king against him,¹²⁶ and
- e) there is a large number of officials of high and low ranks upon whom he has to depend in discharging his duties, and their displeasure and conspiracy may undermine his reputation and career.¹²⁷

All this renders the office of the vizier a difficult one, requiring a man of sharp intellect and outstanding abilities. Nizam al-Mulk attempts to lay down at length the essential conditions of this office which were regarded in his days as the qualities of an ideal vizier. The duties of the vizier, he says,¹²⁸ are determined by his four-fold relations: First, he is under the obligation of obedience to God, secondly, he owes allegiance to the royal master, thirdly, he has to care for the favourites of the king, and fourthly, he is concerned with the common people.

One cannot fail to note that his whole discussion of the institution of vizierate, like that of the office of kingship, is pervaded again by a religious and moral outlook, arising out of his sincere regard for religion. In the office of vizierate, as he treats it, diplomacy and morality have been blended together, but emphasis is altogether on its moral ends. To acquire merely worldly pomp and power, he says, should not be the ultimate end of the vizier, what really befits this exalted office is to seek real prestige and a good name in religious and worldly matters.¹²⁹ This can be achieved through upholding the right faith

and following the dictates of God faithfully.¹³⁰ It is the duty of the minister that he should strive hard to revive and propagate the faith of Islam and try to attain the excellent moral virtues without which divine favour is impossible. He comes to preach to the vizier a sort of Sufi-like attitude towards political life when he says that he should believe in the divine providence, and should regard his success not as the fruit of his own efforts but as the result of the divine will.¹³¹

Then comes the king who is, according to Nizam al-Mulk, a divinely-appointed authority. He is at pains to make him a point of focus for the loyal sentiments of the whole political society and especially of the official community among whom the vizier has a greater obligation to pay homage to the king than anyone else.¹³² In order to prove himself a truly obedient servant of his master, he says, the vizier must refrain from seeking any sort of worldly pleasure, because the greatest pleasure for a minister really consists, not in satisfying his own desires, but in pleasing his royal master.¹³³ Therefore, he should direct all his efforts towards reforming the affairs of the kingdom¹³⁴ and increasing the wealth of the State,¹³⁵ which is the only way to please the king.

Finally, he advises the minister to have special regard for the companions, courtiers, and other favourites of the king and the nobles and high officials of the kingdom.¹³⁶ They are always influential figures in a feudal society headed by an absolute monarchy, and have an important role in its politics. As their friendliness has great advantages for the vizier, their antagonism may turn all against him;¹³⁷ therefore, he advises the vizier to be careful in handling them. It is, however, remarkable about Nizam al-Mulk that, in spite of dealing with the problems of an office of a diplomatic nature within the framework of feudalism, which is always tainted with conspiracies, he does not induce the vizier to follow cunning methods. Instead, he believes in the moral standards of political conduct and insists that the vizier "should steadily follow the path of truth and righteousness in State affairs," and this would serve to protect him from the enmity of his foes and would ultimately convince them of his integrity.¹³⁸

Nizam al-Mulk's importance as a political thinker must rest, not on the practical suggestions he offered to improve the conditions of a particular State, but on his theories of monarchy and minister ship. He was the first to discover the moral and political principles of kingship and vizierate and wherever the two institutions came into existence in the Muslim world, his ideas served as their theoretical foundations. It is evident from the references to his works in the writings of the succeeding generations, that he was generally studied. Even the contents of *Wasaya'* "were known far and wide,"¹³⁹ long before they came to be compiled in the form of a treatise in the ninth/15th century. The vast literature on political ethics produced in later days, especially the treatises written for the guidance of Muslim princes, contain a good deal of the political principles which are enunciated for the first time by Nizam al-Mulk. This may be considered to be his direct influence on the later development of Muslim political thought.

Bibliography

'Abd al-Razzaq Kanpuri, *Nizam al-Mulk Tusi*, Agra, 1912; Abu Ya'la, Mohammad b. Hussain ibn al-

Farra', *al-Aham al-Sultaniyyah*, ed. Mohammad Hamid al-Faqqi, Cairo, 1357/1938; Qadi Ahmad Mian Akhtar Junagarhi, "Al Mawardi: A Sketch of His life and works," *Islamic Culture*, Hyderabad in Deccan, India, July, 1944; Mohammad Kamil Hussain, "Alam al-Islam Thiqat al-Imam, al-Majalis al-Mustansiriyyah," in *Makhtutat al-Fatimiyyin*, Cairo, n.d.; T. W. Arnold, *The Caliphate*, O. U. P., 1924; Abu al-Hassan 'Ali b. Hassan Bakharzi, *Dumyat al-Qasr*, ed. Mohammad raghib Tabbakh, Aleppo, 1349/1930; W. Barthold, *Turkestan down to the Mongol Invasioni*, tr. H. A. R. Gibb, Oxford University Press, 2nd ed., 1928; H. Bowen, "The Sargudhash-i Sayyidna," *Journal of the Royal Asiatic Society*, London, Part 4, Oct. 1931; Article "Nizam al-Mulk," *Encyclopaedia of Islam*, vol. 3, London/Leiden, 1936;

E. G. Browne, *A Literary History of Persia*, vol. 2, T. Fisher Unwin Ltd., London, second impression, 1915; "Yet More Light on 'Umar-i Kayyan," *JRAS: A volume of Oriental Studies Presented to E.G. Browne*, Cambridge University Press, 1922; 'Imad al-Din Mohammad al-Asbahani Bundari, *Zubat al-Nusrah w-al-Nukhbah al-'Usrah*, ed. M. Th. Houtama, Leiden 1889; A. Christensen, *L'Iran Sous les Sasanian*, tr. Mohammad Iqbal, *Iran ba 'Ahd-i Sasanian*, Anjuman-i Taraqqi-i Urdu, Delhi, 1941; 'Ata Malik Juwaini, *Tarikh-i Jahan-Gusha*, Vol. 2, Gibb Memorial Series, Leiden/London, 1937; Qadi Ahmad b. Mohammad Ghaffari, *Tarikh-i Nigaristan*, Bombay, 1245/1829; H. A. R. Gibb, "Marwadi's Theory of Khalifat, *Islamic Culture*, Hyderabad Deccan, India, July 1937; Hamd Allah Musaifi, *Tarikh-i Guzidah*, vol. 2, G.M.S. Leiden/London, 1910;

Hassan Ibrahim Hassan, *Tarikh al-Islam*, Vol. 2, Maktabat al-Nahdat al-Misriyyah, Cairo, 1945; M. Ruknuddin Hassan, *'Abd-i Salajiqah-i Uzma ke Ba'd Mumtaz Siyasi Mufakkir*, Thesis, 1946, Political Science Dept., Osmania University, Hyderabad Deccan, India, Hindu Shah b. Snajar b. 'Abd Allah *Tajarib al-Salaf*, ed. 'Abbas Iqbal, Teheran, 1313/1934; ibn al-Athir, *al-Kamil fi al-Tarikh*, vols. 9, 10, Bulaq, 1290/1874; 'Abd al-Rahman b. 'Ali b. Mohammad ibn al-Jauzi, *al-Muntazain fi al-Tarikh al-Muluk w-al-Umam*, vol. 9, Dairatul-Maarif, Hyderabad Deccan, India, 1359/1939; 'Ali b. Zaid al-Baihaqi ibn Funduq, *Tarikh-i Baihaqi*, ed. Ahmad Bahman-yar, Chap Khanah-i Qanun, Teheran, 1317/1938; ibn Khallikan, *Wafayat al-A'yan*, vol. 1, Bulaq, 1299/1882; Mohammad Iqbal, "Wasay-i Nizam al-Mulk," *Oriental College Magazine*, Lahore, vol. 4, No. 1, Nov. 1927; Imam al-Haramain Abu al-Ma'ali 'Abd al-Malik b. 'Abd Allah, *Ghiyath al-Umam*, MS. Bankipur Library, and the Law Department of Osmania University, Hyderabad Deccan, India; Kaika'us b. Iskandar b. Qabbus b. Washmgir, *Nasihat Nameh*, known as *Qabus nameh*, ed. Reuben Levy, G.M.S., London, 1951;

Ahmad Hamid al-Din Kirmani, *Rahat al-'Aql*, ed. Kamil Hussain and Mustafa Hilmi, *Makhtutat al-Fatimiyyin*, Cairo, 1952; A.K.S. Lambton, *Landlord and Peasant in Persia*, Royal Institute of International Affairs, Oxford University Press, London, 1953; Niccolo Machiavelli, *The Prince*, tr. L. Ricci, 1903, New American Library, New York 5th ed. 1955; Abu al-Hassan 'Ali b. Mohammad al-Mawardi, *al-Ahkam al-Sultaniyyah*, ed. R. Enger, Bonn, 1853; Nizam al-Mulk, *Siyasat Nameh*, ed. C. Schefer, *De l'école des langues orientales vivantes*, Paris, 1891; *Dastur al-Wuzara* known as *Wasaya*, MS. British Museum, London, Add. 26 – 267; *Nasa'ihi-a Khuwaja Nizam al-Mulk*, Bombay, 1305/1887; De Lacy O'Leary, *A Short History of the Fatimid Calphate*, Kegan Paul, London, 1923; Plato, *The Republic*, tr. Benjamin

Rawandi, *Rahat al-Sudur*, G.M.S., Leiden, 1921; C. Rieu, *Catalogue of Persian Manuscripts in the British Museum*, London, 1879, Vol. 1; E. D. Ross, *A Biographical Introduction to the Ruba‘iyat of Omar Khayyam*, tr. Fitzgerald, Methuen, London, 1900;

Sadr al-Din Abu al-Hassan ‘Ali b. Nasir, *Akhbar al-Daulat al-Salifuqiyyah*, ed. Mohammad Iqbal, Lahore, 1933; Sa‘id Nafiey, *Tarikh-i Tammaddun-i Iran-i Sasani*, Chap-Khanah-i Danish-Gah, Teheran, 1331/1934; ‘Abd al-Karim b. Mohammad Sam‘ani, *Kitab al-Ansab*, G.M.S., Leiden/London, 1912; H. K. Ashraf, Lahore, 2nd ed., 1945; A.H. Siddiqi, *Caliphate and Kingship in Medieval Persia*, Sh. Mohammad Ashraf, Lahore, 1942; W. C. Smith, *Islam in Modern History*, Princeton University Press, Princeton/Oxford University Press, London, 1957 Taj al-Din Abu Nasr ‘Abd al-Wahhab al-Subki, *Tabqaqt al-Shafi‘iyyah*, Vol. 3, ed. Ahmad b. ‘Abd al-Karim, Husainiyyah Press, Cairo, 1324/1906; Sayyid Sulaiman Nadawi, *Khayyam*, Ma‘arif Press, Azamgarh, India, 1933 Mohammad Taqi Khan, *Ganj-i Danish*, Teheran, 1305/1887; J. Wellhausen, *Arab Kingdom and Its Fall*, tr. Khuda Bakhsh, Calcutta, 1927; Ahmad b. Abi Ya‘qub ibn Wadih Ya‘qubi, *Tarikh al-Ya‘gubi*, ed. M. Th. Houtsma, Brill, Leiden, 1883.

1. According to ibn Funduq ‘Ali b. Zaid al-Baihaqi, he was born in 470/1019 – 20; see *Tarikh-i Baihaqi*, ed. Ahmad Bahman-Yar, Chap Khanah-i Qanun, Teheran, 1317/1938, p. 76.
2. Ibn al-Athir, *al-Kamil fi al-Tarikh*, Bulaq, 1290/1874, vol. 10, p. 77.
3. Bundari, *Zubdat al-Nusrah w-al-Nukhbat al-‘Usrah*, ed. M. Th. Houtsma, Leiden, 1889, p. 33.
4. For a detailed description, see T. W. Arnold, *The Caliphate*, O. U. P., Oxford, 1924, Chapters 4, 5; A.H. Siddiqi, *Caliphate and Kingship in Medieval Persia*, Sh. Mohammad Ashraf, Lahore, 1942, Chaps 1 and 2.
5. Shams al-Din Abu al-‘Abbas ibn Khallikan, *Wafayat al-A‘yan*, Bulaq, 1299/1882, vol. one, p. 179.
6. ‘Abd al-Karim b. Mohammad al-Sam‘ani, *Kitab al-Ansab*, Gibb Memorial Seires, Leiden/London, 1912, fol. 242a.
7. Ibn Funduq, op. cit., pp. 78 – 79.
8. Not Fandaruhi as in the *Nasa’ih-i Khuwaja Nizam al-Mulk* (MS. British Muesum, Or. 256, fol. 7a), or Qanduzi as in the *Dastur al-Wuzara*’ (Ms. B. M. Add. 26, 267, fol. 5a), but Funduraji as in Sam‘ani, op. cit., fol. 432a and in Abu al-Hassan ‘Ali b. Hassan al-Bakharzi, *Dumyat al-Qasr*, ed. Mohammad Raghib Tabbakh, Aleppo, 1349/1930, p. 213.
9. *Wasaya-i Khuwaja Nizam al-Mulk*, Bombay, 1305/1887, p. 6.
10. Sayyid Sulaiman Nadawi, *Khayyam*, Ma‘arif Press, Azamgraph, 1933, pp. 1 – 50. For further study, see E.D. Ross, *A Biographical Introduction to the Ruba‘iyat of Omar Khayyam*, tr. Fitzgerald, Methuen, London, 1900, Part 2, pp. 38, 76; E. G. Browne, *A Literary History of Persia*, London, 1915, second ed. vol. 2, pp. 190 – 93; Arnold and Nicholson, Eds., *A Volume of Oriental Studies Presented to E. G. Browne*, Cambridge University Press, 1922, pp. 409 – 12; H. Bowen, “The Sargudhasht-i Sayyidna,” *JRAS*, London, Oct. 1931, Part 5, p. 773 – 76.
11. Ibn Funduq, op. cit., pp. 79 – 82.
12. Ibn al-Athir, op. cit., vol. ten, p. 77.
13. ‘Abd al-Razzaq Kanpuri, *Nizam al-Mulk Tusi*, Agra, 1912, p. 59.
14. Taj al-Din Abu Nasr ‘Abd al-Wahhab al-Subki, *Tabaqat al-Shafi‘iyyah*, ed. Ahmad b. ‘Abd al-Karim, Husainiyyah Press, Cairo, 1324/1906, vol. 3, p. 136.
15. Ibn Khallikan, op. cit., vol 1, p. 179.
16. Taqi Khan, *Ganj-i Danish*, Teheran, 1305/1887, p. 350.
17. Al-Subki, op. cit., p. 136; Sadr al-Din Abu al-Hassan ‘Ali b. Nasir, *Akhbar al-Daulat al-Saljuqiyyah*, ed. Mohammad Iqbal, Lahore, 1933.
18. Sadr al-Din, op. cit., p. 25.
19. Hamd Allah Mustaufi, *Tarikh-i Guzidah*, Gibb Memorial Series, London, 1910, Vol. 1, p. 443; Hindu Shah b. Sanjar b.

- 'Abd Allah, *Tajarib al-salaf*, m ed. 'Abbas Iqbal, Teheran 1313/1934, p. 280.
20. Wasaya, p. 37.
21. Sadr al-Din, op. cit., p. 69; Hindu Shah, op. cit., p. 280.
22. 'Ala al-Din 'Ata Malik al-Juwaini, *Tarikh-i Jahan-Gusha*, Gibb Memorial Series, London, 1937, vol. 2, p. 193.
23. 'Abd al-Razzaq, op. cit., pp. 72 – 73.
24. E. G. Browne, op. cit., London, 1915, Vol. 2, p. 212; Mohammad Iqbal, "Wasaya-i Nizam al-Mulk," *Oriental College Magazine*, Lahore, Nov. 1927, vol. 4, No. 1, pp. 1 – 8; Sulaiman Nadawi, op. cit., pp. 12 – 14; H. Bowen, op. cit., Part 4, pp. 776 – 78.
25. Charles Rieu, Notes on the Wasaya, MSS. British Museum, Or. 256, & Add. 26 – 267; Catalogue of the Persian Manuscripts in the British Museum, 1879, Vol. 1, p 446.
26. Nasd'is, MS., British Museum, OR. 256 fol. 5b.
27. Sulaiman Nadawi, op. cit., p. 12.
28. H. Bowen, op. cit., p. 778.
29. Idem, "Nizam al-Mulk," *Encyclopaedia of Islam*, London, 1936, Vol. 3, p. 934.
30. Siyaset Nameh, ed. Ch. Schefer, *L'École des langues Orientales Vivantes*, Paris, 1891, p. 1.
31. Ibid., pp. 8, 210.
32. Ibid., p. 2.
33. Nayyir-i Rakhshan, Nawwab Dia al-Din Ahmad Khan of Delhi. Notice pre-fixed to the *Nasa'ih* or *Wasaya*, MS. British Museum Or. 256 fol. 2a.
34. 'Ata Malik Juwaini, op. cit., p. 186.
35. H. K. Sherwani, Studies in Muslim Political Thought and Administration, Sh. Mohammad Ashraf, Lahore, 1945, second ed., p. 131.
36. Ibid.
37. Wasaya, p. 52.
38. Abu Al-Hassan 'Ali b. Mohammad al-Mawardi, *al-Akham al-Sultaniyyah*, ed. R. Enger, Bonn, 1835.
39. Mohammad b. Hussain Abu Ya'ala al-Farra', *al-Ahkam al-Sultaniyyah*, ed. Mohammad Hamid al-Faqqi, Cairo, 1357/1938.
40. Wasaya, p. 13.
41. Imam al-Haramain Abu alpMa'ali 'Abd al-Malik b. 'Abd Allah, *Ghiyath al-Umam*, MS. Bankipur Library. There is a copy of this manuscript in the Seminar Library of the law Department, Osmania University, Hyderabad Deccan, India.
42. For a study of their constitutional theories, see M. Ruknuddin Hassan's thesis, "Abd'i Salajiqah-i'Uzma ke Ba'd Mumtaz Siyasi Mufakkir," Seminar Library of Political Science department, Osmania University, Hyderabad Deccan, India.
43. Siyaset Nameh, pp. 7, 65, 88; Wasaya, pp. 43, 44, 46.
44. Qadi Ahmad Mian Akhtar Junagarhi, "Al-Mawardi: A Sketch of His Life and Works," *Islamic Culture*, Hyderabad Deccan, India, July 1944, p. 298; H. A. R. Gibb, "Mawardi's theory of Khalifat" *Islamic Culture*, July 1937, p. 292.
45. Gibb, op. cit.
46. Hamid Allah Mustaufi, op. cit., vol. 1, p. 437; Bundari, op. cit., p. 8.
47. Hamd Allah Mustaufi, op. cit., pp. 439, 449; Mohammad b. 'Ali b. Sulaiman Rawandi, *Rahat alp-Sudur*, Gibb Memorial Series, Leiden, 1921, p. 105.
48. Rawandi, op. cit, p. 111.
49. 'Abd al-Rahman b. 'Ali b. Mohammad ibn al-Jauzi, *alpMuntazasm fi al-Tarikh alpMuluk w-al-Umam*, *Diaratul-Maarif*, Hyderabad Deccan, India, 1359/1939, pp. 61 – 62; Qadi Ahmad b. Mohammad al-Ghaffari, *Tarikh-i Nigaristan*, Bombay, 1245/1829, vol. 9, p. 122.
50. Siyaset, p. 5.
51. Ibid., pp. 5 – 6.
52. Ibid.
53. Ibid., pp. 6 – 7.
54. Ibid., p. 151.

- [55.](#) Ibid., p. 7.
- [56.](#) Ibid., p. 29.
- [57.](#) Wasaya, p. 42.
- [58.](#) Ibid, p. 43.
- [59.](#) Siyasat, p. 6.
- [60.](#) Ibid., p. 9.
- [61.](#) Ibid., pp. 39, 43.
- [62.](#) Al-Mawardi, op. cit., p. 5; Abu Ya'la, op. cit., pp. 3 – 4, 9; Imam Al Haramain, Ghiyath al-Umam, fols. 29 – 31.
- [63.](#) For the Fatimid doctrine, see “Alam al-Islam Thiqat al-Imam, al-Majalis al-Mustansiriyyah,” in Makhtutat al-Fatimiyyin, ed. Kamil Hussein, Cairo, n.d., pp. 113 – 15.
- [64.](#) Siyasat Chapters 43, 46, 47.
- [65.](#) Ibn Kallikan, op. cit., Vol 1, pp. 179 – 80.
- [66.](#) Siyasat, p. 10.
- [67.](#) Ibid., p. 163.
- [68.](#) For the iqta' system under the Saljuqs, see W. Barthold, Turkestan down to the Mongol Invasion, tr. H. A. R. Gibb, Oxford University Press, second ed., 1928, pp. 305 – 09; A. K. S. Lambton, Landlord and Peasant in Persia, Royal Institute of International Affairs, Oxford University Press, London, 1953, Chap. 3.
- [69.](#) Siyasat, p. 28.
- [70.](#) Ibid., p. 37.
- [71.](#) Ibid., p. 28.
- [72.](#) Ibid., p. 163.
- [73.](#) Ibid., p. 29.
- [74.](#) Ibid., p. 91.
- [75.](#) Ibid., p. 68.
- [76.](#) Ibid., p. 119.
- [77.](#) Ibid., p. 28.
- [78.](#) De Lacy O'Leary, A Short History of the Fatimid Caliphate, Kegan Paul, London, 1923, pp. 3 – 4; J. Wellhausen, Arab Kingdom and Its Fall, tr. Khuda Bukhsh, Calcutta, 1927, p. 67.
- [79.](#) Wasaya, p. 43.
- [80.](#) Siyasat, p. 7.
- [81.](#) Ibid.
- [82.](#) Ibid., p. 6.
- [83.](#) Ibid., p. 7.
- [84.](#) Plato, Republic, Bk. 5.
- [85.](#) For the exposition of teacher-Imam, see Ahmad Hamid alpdin Kirmani, Rahat al-'Aql, ed. Kamil Hussain and Mustafa Hilmi, Makhtutat al-Fatimiyyin, Cairo, 1952, pp. 60 – 90.
- [86.](#) Siyasat, p. 54.
- [87.](#) W. Barthold, o. cit., p. 308.
- [88.](#) Siyasat, pp. 54 – 55.
- [89.](#) Ibid., p. 55.
- [90.](#) “It is not, therefore, necessary for a prince to have all the above-mentioned qualities (i.e., the conventional virtues), but is very necessary for him to seem to have them. I would even be bold to say that to possess them and always to observe them is dangerous, but to appear to possess them is useful” Niccolo Machiavelli, The Prince, tr. L. Ricci, 1903, New American Library, New York, 5th ed., 1955, Chap 18, p. 102).
- [91.](#) Siyasat, p. 55.
- [92.](#) Ibid.
- [93.](#) Ibid., p. 126.
- [94.](#) Ibid., pp. 8, 28, 37.

- [95.](#) Ibid., p. 210.
- [96.](#) W. C. Smith, Islam in Modern History, Princeton University Press, Princeton/Oxford University Press, London, 1957, p. 36.
- [97.](#) Siyasat, p. 8
- [98.](#) Ibid.
- [99.](#) Ibid., p. 44.
- [100.](#) Ibid., p. 8.
- [101.](#) Ibid., pp. 44 – 45.
- [102.](#) Ibid.
- [103.](#) Ibid., p. 45.
- [104.](#) Ibid., p. 118.
- [105.](#) Ibid., p. 39.
- [106.](#) Ibid., pp. 38 –39.
- [107.](#) Ibid., pp. 9, 43.
- [108.](#) Ibid., pp. 38 – 41.
- [109.](#) Ibid., p. 18.
- [110.](#) Ahmad b. Abi Ya‘qub, ibn Wadih al-Ya‘qub, Tarihk alpYa‘qub, ed. M. Th. Houtema, Brill, Leiden, 1883, p. 202.
- [111.](#) Hassan Ibrahim Hassan, Tarikh al-Islam, Maktabat al-Hahdat al-Misriyyah, Cairo, 1945, vol. 2, p. 196.
- [112.](#) Sa‘id Naficy, Tarikh-i Tamaddun-i Iran-i Sasami, Chap Khanah-i Danish-Gah, Teheran, 1331/1912, pp. 231 – 32.
- [113.](#) A. Christensen, L’Iran Sous les Sassanides, Urdu tr., Mohammad iqbal, Iran ba ‘Ahd-i Sasanian, Anjuman-i Taraqqi-i Urdu, India, Delhi, 1941, p. 148.
- [114.](#) Kaika’us b. Iskandar b. Qabus b. Washimgir, Nasihat Nameh known as Qabus Nameh, Reuben Levy, G.M.S. London, 1951, Chap. 2.
- [115.](#) Wasaya, p. 11.
- [116.](#) Ibid., p. 11.
- [117.](#) Ibid, p. 48.
- [118.](#) Siyasat, p. 150
- [119.](#) Ibid., pp. 18 – 19.
- [120.](#) Wasaya, p. 63.
- [121.](#) Siyasat, p. 151.
- [122.](#) Ibid.
- [123.](#) Wasaya, p. 11.
- [124.](#) Ibid., p. 13.
- [125.](#) Ibid., p. 16 – 17.
- [126.](#) Ibid., pp. 22 – 23.
- [127.](#) Ibid., pp. 27 – 28.
- [128.](#) Ibid., p. 35.
- [129.](#) Ibid., p. 36.
- [130.](#) Ibid.
- [131.](#) Ibid., p. 39.
- [132.](#) Ibid., p.42.
- [133.](#) Ibid., p. 44.
- [134.](#) Ibid., pp. 45 – 46.
- [135.](#) Ibid., p. 47.
- [136.](#) Ibid., pp. 55, 56, 63, 68
- [137.](#) Ibid., p. 63.
- [138.](#) Ibid., p. 55.
- [139.](#) Ibid., p. 5.

Chapter 39: Al-Ghazali

The structures of political authority in Islam are by no means as simple as it seems at first glance. In the legalistic theory of the caliphate expounded by the Sunni jurists the *Shari‘ah* is quite obviously the source of all authority, including political authority as well. As a body of more or less concrete law, the *Shari‘ah* itself must be authorized from some source, which is presumably qualified to judge right from wrong.

Theoretically, the *Shari‘ah* is changeable from time to time, i.e. from prophet to prophet, but the *Shari‘ah* of a prophet is the best law for the time for which it is laid down. It is claimed that the Islamic law is laid down for all times to come. It is elastic only in the sense that some parts of one of its sources (the Qur‘an) are given in such general terms as are capable of different interpretations at different times, and the validity of some parts of another source (*Hadith*) depends upon historical authenticity. Human beings may not change the laws laid down by the *Shari‘ah* but they may know them or not know them, interpret them or not interpret them, obey them or disobey them. The pre-requisite for the knowledge of the *Shari‘ah* is acknowledgement of the established sources of the *Shari‘ah*, i.e. *usul al-din*. The pre-requisite for obedience is belief.

The ultimate source of authority is God. It is only the good that God commands and only the evil that He forbids. The principal difference between the Sunni and later Shi‘ite persuasions is the Sunni doctrine that the last and definitive revelation is the Qur‘an, and Mohammad is the last human being to be endorsed with revealed knowledge of right and wrong. The successors of Mohammad may only know the *Shari‘ah* by reference to the Qur‘an, to the behaviour of Mohammad, and, wherever these sources are not explicit, to the consensus of Muslims – or indeed by reference to analogical judgment. Thus, the proximate sources of authority are the Qur‘an, the Sunnah, *Ijma‘* and *qiyyas*.

The immediate source of authority is somewhat more difficult to ascertain. Learning, or *ilm*, is necessary for the discovery of what the *Shari‘ah* is, and this qualification is the source of the title ‘ulama’. The Sunni ‘ulama’ are distinguished from others by their acknowledgement of the “canonical” sources of the *Shari‘ah*. However, since there is no priesthood in Islam, the ‘ulama’ form an undefined and unwieldy body. The business of discovering the law is at times very much like legislation, but the non-officialised body of the ‘ulama’ tend to convert their function to that of a huge, unwieldy board of judicial review.

Obviously such action as might be undertaken by such a group must come after the political fact, and because of the nature of the institution the time-lapse between deed and decision might be generations. It would be wrong to deny the ‘ulama’ any authority at all, for the ‘Abbasid dynasty went to great lengths to secure the support of the ‘ulama’ and to display respect for their judgments. The pattern of political behaviour thus was carried on by subsequent Islamic rulers. Nevertheless, it was characteristic of the Caliphs to claim the more remote authority for their government.

In a sense the Muslim community, because of its intimate connection with the principle of *ijma'*, may be reckoned a source of authority. However, since *ijma'* is a source of the *Shari'ah*, and since it is a process rather than an institution, it cannot satisfy the requirement of an immediate source of authority. As a source of the *Shari'ah* it is theoretically anterior to it, and, thus, a more remote source of authority. In any case, it is still subject to "discovery" and interpretation by the '*ulama*'. As a process, its legislative efficacy is similar to that of custom in Roman and Canon Law, so the time-lapse is necessarily great.

The Muslim community is not only the Islamic Church, but it is also the personal sphere of validity of Islamic government. Membership in the community is the result of belief, and belief is the basis of obedience to the *Shari'ah*. The purpose of Islamic government is to see to it that the *Shari'ah* is obeyed. In other words, the part the community plays in political affairs is primarily passive, although Islamic government is clearly established for the benefit of the Muslims.

Regardless of the degree and kind of authority attributed to the '*ulama*' and the community, neither group ever wielded real political power to transform their political function to that of an institution authorizing the day-to-day acts of government. Theoretically, the Muslim system all but disregards the question of power, practically, it is another question. Ibn Khaldun is the most outstanding Islamic theorist of those few who dealt with the problem of power. He asserts that power and authority were joined in the Orthodox Caliphate.¹ Ideally, of course, power should reside with the immediate source of authority in the community.

The relation of the caliphate to the *Shari'ah* is more difficult to define than that of the '*ulama*' or the community. During the whole of the Umayyad and the early part of the 'Abbasid Caliphate, the Caliph is much more the exponent of power than of authority. In the last centuries of the 'Abbasid Caliphate the Caliph could hardly be considered the exponent of power either. Was he then the most immediate representative of authority?

With the exception of the Qur'anic Law, the caliphate and the *Shari'ah* developed *pari passu*. The Sunnah of the Prophet did not become constitutive until treated as such by the successors of the Prophet. *Ijma'* and *qiyas* are certainly later accretions. This historical fact has tended to complicate the relationship of the Caliph and the *Shari'ah*. In the main, the Caliph is the executive of the *Shari'ah*, the commander-in-chief of the Muslim army, and the leader in formal religious observances prescribed by the *Shari'ah*.

Above all, the Caliph is the head of the religious institution in Islam, only of the formalized part of it. Since religion was an all-inclusive concept, he was also the political institution. The sub-ordination of the Caliph to the *Shari'ah* was most clearly expressed as a by-product of early political controversy in the attacks on the piety and personal behaviour of the Umayyad Caliphs.² That the political behaviour of the caliph must be in accordance with the *Shari'ah*, was implicit in 'Abbasid religious policy. The theoretical implications of this policy were limited only to the function of the Caliph once appointed and as a consequence fail to define the authority for the appointment of a particular Caliph, or the authority

for the institution itself.

The circumstantial authority arising out of the contention that the Caliphs were properly executing the function of the Caliphate did not exhaust the ‘Abbasid theory. Their personal claim to the office itself was based both on agnate descent from the Prophet and the action of divine Providence. This theory of constitutive authority was never denied by Sunni theorists, but it was certainly omitted in the heavy casuistical overlay which attempted to camouflage the fact of dynastic succession.

In time the Sunni theory of the constitutional process came to be a composite of the actual circumstances of the historical appointment of various Caliphs. These various circumstances were codified in detail, and with some juridical expansion by al-Mawardi,³ but the *Shari‘ah* nature of the constitutional process had already been established.

Thus, the *Shari‘ah* was recognized as authority for the acts of the caliph and for the manner of appointment of a particular Caliph, but there remains the problem of the authority for the institution itself. Al-Baghdadi’s answer that the Caliphate is required because there are certain explicit *Shar‘i* duties incumbent upon the Caliph merely begs the question.⁴ We must be satisfied then with the conclusion that the authority of the Caliph is primarily circumstantial, i.e. he has authority for what he does rather than for what he is.

What the Caliph is depends rather upon historical events, and this is not surprising since the institution developed along with the *Shari‘ah*. History has a legislative character in Sunni Islam, and the Caliphate is the prime example of the legislative efficacy of history. On the other hand, the effect of historical legislation is primarily retrospective. As a result, we are told what the Caliph *was* and what he *should* not be. Clearly, Sunni theories of the Caliphate are not slavish descriptions of the obtaining conditions, but in so far as they deviate from the merely descriptive, they also concentrate on the function rather than the institution of the Caliphate.

So long as sufficient measure of power was attached to the Caliphate, this question did not agitate Muslim theorists. We might say the institution of the Caliphate was almost taken for granted. However, when the Caliphs lost control of affairs, circumstantial authority had no longer applied to the Caliphate. Al-Mawardi was very much aware of this problem, but his treatment of it was entirely inadequate. He insists on the legitimacy of the Caliph who is constrained by one of his military sides, even though he expressly states that the “obligatory” character of the Caliphate is derived from the Caliph’s duties as executor of the *Shari‘ah*.⁵ Nevertheless, al-Mawardi has not necessarily contradicted himself – he has simply failed to state explicitly the source of Caliphal authority.

It was this omission which permitted theorists of the post-‘Abbasid period to apply the criteria of circumstantial authority to the actual but “unconstitutional” holders of power. The inevitable corollary was the establishment of power as the constitutive authority of the Caliph. Regarding the theory of al-Mawardi, our inference is that he considered the constrained Caliph legitimate because of the validity of

the constitutional process by which he was appointed. The resulting situation is pure anomaly, the authority of the Caliph is his “constitutionality,” while the authority of his constrainer is circumstantial (derived from his ruling in accordance with the *Shari‘ah*), and the sum total is legitimate government.

Al-Ghazālī’s attempt to solve this problem is much more serious than that of the preceding theorists. In many important respects his theory departs from the well-established pattern of Sunni theory. On the other hand, these divergences are carefully couched in terms calculated to maintain the essentials of traditional Sunni theory. While remembering that the classification of authority as functional, constitutional, and institutional is only an analytical construction, which finds no place in Islamic theory, we may find his classification helpful in analyzing al-Ghazālī’s theory.⁶

In referring to Islamic government al-Ghazālī uses the same term as his predecessors. However, it is almost immediately clear that he has something else in mind, and not the traditional Caliphate of even al-Mawardi. He follows the prejudice in favour of a one-man government, but his implication is clearly that of a multi-lateral rather a unitary government. Most important of all is his association of the Caliph with the Sultan. We shall return to this problem, but it is necessary to realize that he assumes the co-operation of the Caliph and the actual holder of power in his discussion of the obligatory character of the Caliphate.

In keeping with the then traditional treatment of the question of the obligatory character of the Caliphate, al-Ghazālī first directs his argument against those who deny the Caliphate, and then against those who deny its obligations altogether.⁷ The first argument is a positive one, and concerns the institutional authority for the Caliphate. The second is a negative argument, and sheds light on the nature of the Caliphate and the duties attached thereto. After dealing with these two arguments we shall discuss his treatment of the constitutive process with special reference to the qualifications of the Caliph and the constituent power.

The Mu’tazilah asserted that the obligatory character of the Caliphate was based on “reason” and not upon the *Shari‘ah*. The Sunni jurists insisted upon the *Shari‘ah* as the basis of the Caliphate. Al-Ghazālī follows the accepted Sunni line, but he develops his argument in a more logical fashion, adding new elements. First, he states that the Caliphate does indeed have utility, but he traces the proof of the *Shar‘i* obligation of appointing an Imam first to *ijma‘* and, second and more importantly, to the deduced will of the Prophet. He contends that the will of the Prophet was the source of the consensus of the community. His argument is that the prophet’s purpose was the formal establishment of the religion of Islam. To secure this end both life and livelihood must be protected. The appointment of an imam is, therefore, obligatory. He also indicates that only through the performance of formal religious observances may the bliss of the hereafter be achieved.

We have found the usual Sunni insistence upon the *Shar‘i* character of the Caliphate inadequate for the definition of the institutional authority of that office. In supporting this view, the Sunni theorists point to no specific provisions of the *Shari‘ah*. Instead, they reason from the prescribed duties, deducing the

executive institution.⁸ The weakness of their argument is manifest, for as we have seen, the Caliphate existed in fact before any of its duties were defined. By the addition of new elements to this argument, al-Ghazālī goes much further towards a definition of the institutional authority of the Caliphate. The most important innovation is his reference to the consensus of the community, which is no less than the historical practice of the community. Evidently, this is historically legislation.

Technically, the consensus by which the community has authorized the institution of the Caliphate has reference to the consent of the Companions of the Prophet to the establishment of the Orthodox Caliphate. The phrase “consensus of the community” is sufficiently vague to include the consensus of other generations as well. However, the consensus of the community is not actually a legislative process, but merely evidence of the fact that what has been approved by the community is actually provided for in the *Shari‘ah*. Despite this legal detail, we must conclude that the authority for the institution of the Caliphate is derived from the community of the Muslims.

By the time al-Ghazālī wrote, the consensus of the community had become a source of the *Shari‘ah* in its own right. The community at large has been endowed by the grace of God with a special character, summed up in the words of the Prophet, “My community will never agree in error.” The important thing to note is the consensus implies unanimity, or very nearly that. The community as a source of authority is then considered collectively. *Ijma‘* is, as has been said, primarily a conservative principle, tending to approve and perpetuate existing phenomena. But it is correlatively a dynamic principle, expressing in a way the historical continuity of the Islamic community. The institution of the Caliphate is intimately bound up with the collective unity of the community, as well as with its historical continuity.

Al-Ghazālī’s logical bent of mind will not allow to be satisfied with the mere evidential fact of *ijma‘*. Clearly, *ijma‘* itself contains no logic, while al-Ghazālī’s intention is to frame the requirements of the *Shari‘ah* in a manner best calculated to convince the protagonists of reason. Therefore, he goes back to the source of the *ijma‘* which is, he says, the intention of the Prophet to organize the establishment of Islam.⁹ Primarily, he is referring to the establishment of external observances of the religion such as prayer, fasting, and pilgrimage, the execution of the *hudud* punishments for such transgressions as drinking and adultery, the maintenance of the *Shari‘ah* Law in such matters as marriage and inheritance, and the administration of Islamic justice by means of the Qadis.

Under these headings come the collection of taxes and the government administration, for these are included either directly or indirectly in the *Shar‘i* requirements concerning them. The Prophet may have desired to accomplish other, less concrete things as well, but here the main point is his purpose of organizing the administration of the (Sunni) religion. Although it is here presented in slightly different terms, this is the same old argument leading to the functional or circumstantial authority of the Caliphate. Al-Ghazālī’s argument goes on to show that the requirements of the *Shari‘ah* imply the requirement of an institution of some sort to execute them. That institution, the form of which has been authorized by the consensus of the community, is the Caliphate.

Though al-Ghazālī rejected the argument of the Mu'tazilah that the obligatory character of the Caliphate is based upon reason, he agrees with them that it does have utility. Utility is a concept with a minimum of religious connotation. We have seen that the *Shari'ah* contains very many material provisions, but none of these could be classified by a Muslim as merely utilitarian. Obviously, al-Ghazālī is referring to governmental functions common to all centralized coercive orders, such as the maintenance of order and the security of life and property. This utility can only exist where power is present.

The subject of utilitarian power comes into al-Ghazālī's argument again when he attempts to prove that the Imamate is necessary for the realization of the Prophet's goal. It enters when he says that material security is a pre-requisite for the carrying out of the *Shari'ah*.¹⁰ The concrete character of so many of the *Shari'ah* provisions necessitates, in the establishment of the *Shari'ah* in the setting of a civic religious institution.

Obviously, this implies the existence of a favourable disposed political power. This is provided by the Sultanate. His conclusion is that the Caliphate (execution of the *Shari'ah* because of its relationship with the Sultanate (coercive power) is required as a result of the objective of the Prophet (the establishment and institutionalization of the *Shari'ah*). In the progress of this argument the Sultanate is brought in without any explanation of the relationship of the bearer of power to the Caliph; we only know that the function of the Sultanate is an essential element of the authorized Caliphate.

In a later argument al-Ghazālī opposes those who deny the obligatory character of the Caliphate altogether. Here we get into some confusion of terms. The contention of al-Ghazālī's opponents is that the Caliphate has lapsed because there is no qualified person to serve in that capacity.¹¹ The implication of their statement is that the Caliphate is not, therefore, a rigid requirement of the *Shari'ah*. At least this is in some measure the way in which al-Ghazālī chooses to understand their argument. In his own approach al-Ghazālī definitely confuses the terms obligatory (moral) and necessary (natural).

The argument is simple: there ought to be a Caliph, therefore, there must be a Caliph, therefore, there is a Caliph. From this we are probably justified in deducing that the opposing argument runs, there is no Caliph, therefore, there need not be a Caliph, and therefore there is no obligation to appoint a Caliph.

Al-Ghazālī's final argument on this question is his asking what would become of all those religious, social, economic, and political phenomena which are regulated by the *Shari'ah* if there were no Caliph.¹² He contends that without the existence of the Caliphate no judgment of a Qadi, no contract, no testament would be valid. In other words, the power of all Qadis and government officials is derived from the Caliph. In theory, Islamic government is perfectly centralized. The authority which any individual Qadi has is completely derived from the Caliph, and not from the task he performs, as is the case of the Caliph's own authority. It is inconsistent, but there is no circumstantial authority for sub-ordinate officials, their authority is only constitutive (derived from the manner in which they were appointed). Thus, the absence of the Caliphate would turn every normal human relationship into sin, and lead to disorder and strife. He does not say what effect such social disintegration might have on the chances of the individual

Muslim for salvation, but from other indications we may conclude that they would be considerably reduced.

We are not much clearer on the nature of the Caliphate in al-Ghazālī's theory: (a) The Caliphate comprehends the necessary power to accomplish the maintenance of order. (b) It represents or symbolizes the collective unity of the Muslim community and its historical continuity. (c) Deriving its functional and institutional authority from the *Shari'ah* in the community as well as the symbol of the divine guidance of the Sunni community by virtue of its obedience to the *Shari'ah*. It is not coincidental that these three aspects of the Caliphate correspond to al-Ghazālī's three sources for the obligatory character of the Caliphate: (a) utility, (b) *ijma'*, and (c) the objective of the Prophet.

So much for the Caliphate, what about the Caliph himself? Al-Ghazālī joins the earlier theorists in giving a long list of qualifications required for the office. Ideally, al-Ghazālī's qualifications are the same as those of al-Mawardi's. The Caliph must be without physical as well as mental defects. He must be honourable, courageous, wise, and so on. It must not be thought that these qualifications are mere words. They do not represent abstract qualities, but rather their concrete equivalents. Thus, he must be able to defend the Muslims against their enemies and maintain internal order. He must be able to make judgments in accordance with the *Shari'ah*. He must be able to administer the affairs of the State. Finally, he must be of Quraishite descent. Al-Ghazālī adds that he must be an 'Abbasid.[13](#)

These requirements are very great, and it is not surprising that they were, in reality, never completely fulfilled. The only stipulation which had been fulfilled was that the Quraishite lineage, and for 300 and more years before al-Ghazālī, the Quraishite Caliph, had been an 'Abbasid. This fact, more than anything else, represented the unity and historical continuity of the Sunni community.

The inconsistency in al-Mawardi's theory stems from the fact that he insisted upon these qualifications in the Caliph, while permitting the Caliph to be inactive. On the Caliph's inactivity he clearly contradicts his own words. At one point, al-Mawardi insists on the personal activity of the Caliph, while at another he validates his being constrained by one of his military sides. The reasons which might have justified al-Mawardi's equivocation were no longer effective in al-Ghazālī's time. We find al-Ghazālī facing the problem of the inactivity of the Caliph, and the related problem of his qualifications.[14](#)

To understand al-Ghazālī's treatment of this problem we must bear in mind his insistence upon the obligatory, even necessary, character of the Imamate. We are not concerned with "an irresistible force" and an "immovable object." Al-Ghazālī tells us frankly that the necessity of having an Imam is so great that it compels the alteration of the qualifications when there is no other way out.[15](#) The licence of duress had, indeed, been applied previously by al-Mawardi to validate the rule of "Amirs by Conquest,"[16](#) but he does not seem to have been able to bring himself to do the same for the constrainer of the Caliph.

At any rate, al-Mawardi did not permit, even in a case of duress, the lowering of the qualifications of the Imamate. Perhaps al-Mustazhir was obviously unqualified, or it might be that al-Ghazālī was more

honest than al-Mawardi; anyway al-Ghazālī is willing to concede many of the qualifications in order to maintain the Caliphate. About the only concrete thing that he insists upon is that the Caliph be of Quraishite lineage. As a result, the personal qualifications of the Caliph are hardly applicable to the nature of the Caliphate. On the other hand, the symbolic character of the Caliph could not be more sharply drawn. In other words, the Caliph himself represents only one of the three major aspects of the Caliphate.

The qualifications of the Caliph are probably the well-developed part of the constitutive process in the hands of Islamic theorists. But they are very vague in their description of the constituent power. Al-Ghazālī says there are three ways in which one of those who is qualified for the Caliphate may be chosen: by designation of the Prophet, by designation of the ruling Caliph or by designation of the holder of actual power. Al-Ghazālī tells us that only the last alternative applies to his time.¹⁷ Designation alone is not sufficient for appointment, for there must be the *bai'ah* as well. The *bai'ah* must be performed by the great man and the people of "loosening and binding" (*ahl al-hall w-al-'aqd*).¹⁸

It is not easy to ascertain who these people are, but we take the great men to be those with some measure of power; and the people of loosening and binding to be the '*ulama'*; in concrete terms, this means that the most powerful Saljuq leader appoints the Caliph, then the appointee is recognized by the less Saljuqs, local princes, and the chiefs of the bureaucracy, and finally the appointment receives the consent of the '*ulama'*. There is probably a fourth stage in which the appointment is announced in the mosques, and the people accept the decision handed down from above. In view of al-Ghazālī's statement to the effect we must look upon the holder of power, or the Sultan, as the constituent power. The whole of the constitutive process beyond the bare fact of appointment by the Sultan is a formality.

Al-Ghazālī's treatment of the constitutive process by no means contravenes the accepted requirements of the *Shari'ah* in this matter. It is true that al-Mawardi sets up special qualifications for those who choose the Caliph, as Mawardi sets up special qualifications for those who choose the Caliph, as well as for the Caliph himself. But, generally speaking, the Sunni theorists are sufficiently vague about the question of selectors to allow al-Ghazālī's theory to meet their standards, particularly since some of them at least insist that their need not be more than one selector.

On the other hand, it is quite possible that he belittles the importance of the *bai'ah* of the '*ulama'* too much. His reason for this is probably that the important question for him was whether or not the Sultan would choose anyone at all. But, of course, the Sultan's primary concern was that his choice should be acceptable to the '*ulama'* and the people. Were he not concerned with the attitude of these groups, and perhaps his own salvation, the Sultan might dispense with choosing a Caliph altogether. Having chosen a Caliph, he has gone so far towards preserving law and order and the "establishment of Islam" that al-Ghazālī cannot conceive the repudiation of his choice by the '*ulama'* or the people.

The constitutive process is, then, loosely speaking, a *Shar'i* process, but the constituent power is the Sultan. The limitations upon the Sultan's choice are real, as is the importance of the general *bai'ih*, but

since these have much greater reference to the functional and institutional authority of the Caliphate, we shall do no more than make a mental note of them here. Our conclusion is that the constituent authority for the appointment of the Caliph is the Sultan.

There is no contradiction between this conclusion and our previous statement that the source of all authority in Islam is the *Shari‘ah*, for the *Shari‘ah* has a tendency to recognize existing power in the constitutive process. Besides, as long as the Caliph had no power to do anything, the most important aspect of *Shari‘ah* authority, i.e., functional authority, does not become operative. As a result, the constituent authority of the Sultan is the critical political factor. One might argue that the Sultan derives this authority from the *Shari‘ah*, but that would not be what al-Ghazālī himself has argued.

From the foregoing, we can see that the Caliph is different from the Caliphate, and that the authority for one differs from the authority for the other. We must now examine the relationship of the Caliph to the Caliphate, and of the Sultan to them both.

If the Caliph does not satisfy all the requirements of the Caliphate in him, it is at least clear that he is its principal personal representative. We have already established that the Caliph has a special connection with the authoritative source of *ijma‘*. On the other hand, we know that he cannot possibly be the personal subject of functional authority, since he has no power. Contrarily, no governmental act, unless performed directly or indirectly by the Caliph, has any validity.

We have already seen the Sultan is, in some measure, the authority for the Caliphate. However, the actual government in the world of Islam is carried out by the Sultan. Circumstantial authority is not considered sufficient to legitimize the government of the Sultan even if it is not a conformity with the *Shari‘ah*.¹⁹ The only way in which the government of the Sultan is valid and authorized is through its recognition of the Caliph. As we have already stated, no government, other than that of the Caliph, is valid under the *Shari‘ah*, and sub-ordinate officials have only delegated authority, not functional. Thus, the validity of the government of the Sultan is established only upon the Sultan’s oath of allegiance to the Caliph, and the Caliph’s appointment of the Sultan. By his exercise of the constitutive authority, the Sultan recognizes the Islamic Sunni community, and in theory, the functional authority which rests with the *Shari‘ah* proper.

The fact that al-Ghazālī accepts this compromise sheds some light on the political objectives of Sunni theorists. The total achievement of this arrangement is the recognition by the holder of power that the *Shari‘ah* is the organizing principle of the Sunni community, and, in more concrete fashion, the establishment of Sunni Islam. The element of compromise enters when al-Ghazālī argues for the legitimacy of this arrangement, even though the Sultan actually ignores many provisions of the *Shari‘ah*. Recognition of the *Shari‘ah* by the Sultan with obedience to its provisions is form without content. This leads us to the second objective of the Sunni theorists, that is, the establishment of order and maintenance of discipline.

The governmental scope of the Sultanate included very few of the interests which concern modern governments. By the establishment of order and the maintenance of discipline the Sultanate merely provided a favourable field for the activity of the established Islamic institution. Al-Ghazālī, therefore, felt justified in validating the government of such a Sultan. He was willing to make concessions regarding a limited number of *Shari'ah* regulations in order to preserve the religious life of the community.

Just as the Caliphate comprehends the function of the Sultan, so does it also comprehend the religious and legal duties imposed by the *Shari'ah*. As we have said, the Caliphate is a religious as well as a political institution of Islam. We have also seen that al-Ghazālī does not insist upon the qualifications which the Caliph must have in order to carry out his religious duties. If necessary, the Caliph may enlist the aid of the most outstanding learned people of the day.²⁰ The principal political function of the '*ulama'* is the interpretation of the *Shari'ah* in terms of the problems facing the community. In short, by their approval of the Sultan's choices of the Caliph (*bai'ah*) and by their *fatwas*, the '*ulama'* express the functional authority of the *Shari'ah*.

The term caliphate stands for the whole of Islamic government. Although al-Ghazālī seems to follow the traditional prejudices in favour of autocracy, it is obvious that his is a multi-lateral conception of the caliphate. In it there are three main elements: the Caliph, the Sultan ad the '*ulama'*, each corresponding in some aspect of the authority behind Islamic government and each performing a function required by the authority. The greatest virtue of al-Ghazālī's theory is its political realism, and yet he has maintained the essentials of the traditional theory. Each of the parts of the Caliphate represents not only an aspect of authority and a function of Islamic government, but also one of the major elements of political power in the Sunni community.

Was al-Ghazālī's theory an accurate description of the government of his time? Such a development of the caliphate was the result of many diverse and fortuitous events. Nevertheless, the roots of this development may be traced back to the calculated policy of the early 'Abbasids. The early 'Abbasids based their government upon the power of troops imported from Khurasan, and not upon local Iraqi levies. They asserted their own legitimacy upon the circumstantial fact, that they were ruling in accordance with the *Shari'ah*. They went out of their way to honour the '*ulama'* and give them a place at Court.

Ultimately, the success of the system depended upon the maintenance of delicate balance of power, and upon the continued co-operation of those forces. The fact of the matter was that when the relative power of each element of the government changed it was not supported by the others. Al-Ghazālī argued for the independence of the '*ulama'* and he urged them to resist the blandishments of the Sultan. When the Sultan was powerful he interfered with the succession to the Caliphate in a manner calculated to lower the influence and prestige of that office. When the Sultan grew somewhat weaker, the Caliph was eager to exercise local power himself. Al-Ghazālī's theory notwithstanding, the existence of the Caliph alongside the Caliphate was an ever-present temptation to re-establish the old order.

The multi-lateral conception of the Caliphate was not opposed to al-Mawardi's ideal construction. Al-Ghazālī did not reject the traditional Sunni theory. In fact, al-Ghazālī sought only to explain the political conditions of his own time in terms acceptable to traditional Sunni thought. If he ground any axe at all, it was for the Sunni 'ulama', who were certainly a most conservative body. Nevertheless, once the Caliphate could be resolved into its component parts, it became possible for the rest of the parts to hobble along without the Caliph himself. In this sense al-Ghazālī paved the way for the post-'Abbasid development of the Sunni political theory.

The original inspiration for al-Ghazālī's theory of the Caliphate seems to have come from his interest in Hellenistic thought. We find an interesting statement of the same principle in no less an exponent of the opposing "philosopher-king" theory than Nasir al-Din al-Tusi. Al-Tusi says that the second possible variation of the supreme government of the Virtuous City arises when all the qualities required of a philosopher-king do not exist in one man, but are produced in several men collectively.²¹

More significant than the parallel passage in *Akhlaq-i Nasiri* is the reflection of al-Ghazālī's theory in the writings of ibn Taimiyyah. If anything, ibn Taimiyyah was more enamoured of the past than al-Mawardi, but by the time he wrote the 'Abbasid Caliphate was no more. Ibn Taimiyyah argued that legitimate Islamic government in his days was composed of the Amirs and the 'uluma' acting in co-operation with one another. Ibn Taimiyyah's principle of "co-operation" leads him to repeat al-Ghazālī's theory of divided authority in accordance with the qualifications of various persons in opposition to the theory which accorded complete authority to the ruling war-lord.²²

The origin and development of this principle present many difficulties, but Laoust tells that ibn Taimiyyah was influenced rather by the Arab Neo-Platonists, such as the Ikhwan al-Safa, than by al-Ghazālī.²³ It is unlikely that the idea itself originated with al-Ghazālī who was himself deeply influenced in his youth by the Hellenistic movement in Islam. Nevertheless, his application of it to the Sunni caliphate was certainly an innovation, and all the more noteworthy for its reappearance two centuries later in the works of ibn Taimiyyah. It need hardly be added that the 'ulama' did in fact assume a special position of political authority as well as a part of the "original" Caliphal functions in the ottoman State, and to a lesser extent, perhaps, in the Mughul Empire in India.

Bibliography

Al-Ghazālī, *al-Iqtisad fi al-l'tiqad*, Cairo, n.d.; *Ihya' 'Ulam al-Din*; al-Mawardi, *al-Akhum al-Sultaniyyah*; 'Abd al-Qahir ibn Tahir al-Baghdadi, *Usul al-Din*, Istanbul, 1928; al-Baqillani, *al-Tamhid*, Cairo, 1947; ibn Khaldun, *Muqaddimah*, Beirut, 1900, Nasir al-Din Tusi, *Akhlaq-i Nasiri*; Goldziher, *Muhammedanische Studien*, vol. 2; *Streitschrift des Ghazālī gegen die Batinijia-Sekte*, Leiden, 1916; Henry Laust, *essai sur les doctrines sociales et politiques d'Ibn Taimiya*, Cairo, 1939.

1. Ibn Khaldun, *Muqaddimah*, Beirut, 1900, pp. 2-3ff.

2. Goldziher has set forth the arguments of the early political factions in Volume 2 of his *Muhammedanische Studien*.

- [3.](#) Al-Mawardi, *al-Ahkam al-Sultaniyyah*, Cairo, 1909, Chapter 1.
- [4.](#) ‘Abd al-Qahir ibn Tahir al-Baghdadi, *Usul al-Din*, Istanbul, 1928, p. 272.
- [5.](#) Al-Mawardi, op. cit., p. 16
- [6.](#) Functional authority is that which authorizes each separate act of the Caliph, without regard to the manner of his appointment. Institutional authority is that which provides that there shall be such an institution as the Caliphate. Logically, institutional authority must precede functional authority, though the office and its duties are conceptually joined. Constitutional authority provides for the manner in which a Caliph should be appointed. It will usually be found that the question of legitimacy in Islamic political theory relates to the constitutive process, while functional lapses are regarded as disqualifying and not illegitimizing.
- [7.](#) Al-Ghazālī, *Iqtizad fi al-I'tiqad*, Cairo, n.d., pp. 104 – 09.
- [8.](#) Al-Baghdadi, loc. cit.; al-Mawardi, op. cit., p. 3; see also al-Baqillani, *al-Tamhid*, Cairo, 1947, pp. 185 – 86 “Concerning the Purpose for which the Imamate is Established.”
- [9.](#) Al-Ghazālī, op., cit., p. 105.
- [10.](#) Ibid.
- [11.](#) Ibid., p. 107.
- [12.](#) Ibid.
- [13.](#) Al-Ghazālī, *Ihya’ ‘Ulum al-Din*, Vol. 2; *al-Haram w-al-Halal*, p. 124.
- [14.](#) See Goldziher, *Streitechrift des Gazali gegen die Batinijja-Sekte*, Leiden, 1916, pp. 80ff., for analysis and pp. 58ff. text for al-Ghazālī’s early, detailed views, referred to in both *Iqtisad* and the much later *Ihya’*.
- [15.](#) *Iqtisad*, p. 107; *Ihya’*, loc. cit.
- [16.](#) Al-Mawardi, op. cit., Chapter 3, pp. 27 – 28.
- [17.](#) *Ihya’*, loc.cit.
- [18.](#) *Iqtisad*, p. 107. The bai‘ah is important, even essential, but not constitutive. Thus, according to al-Ghazālī, it a qualified Quraishite is an actual holder of power, he may be appointed himself as Imam. (This denied by al-Baqillani, *al-Tamhid*, p. 180, and so may not be taken as a generally accepted Sunni theory). Nevertheless, the bai‘h remains necessary, having only a declarative effect.
- [19.](#) *Ihya’*, loc. cit.
- [20.](#) *Iqtipad*, p. 107.
- [21.](#) Nasir al-Din al-Tusi, *Akhlaq-i Nasiri*, treatise 3, Chapter 3, p. 309.
- [22.](#) Henri Laoust, *Esai sur les doctrines sociales et politiques d’Ibn Taimiya*, Cairo, 1939, pp., 282, 294, 307, 315, 317.
- [23.](#) Ibid., p. 100, note 1.

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