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

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

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


². Literally "the greatest judge" but paradoxically enough the office was subordinate to that of the Qadi-al-Qudat, the Chief Justice (Yaqut, 5: 407).
Further, it is necessary to point out that the declining power of the Buwayhids, in the beginning of the fifth century, because of internal conflict 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-Qalm, aspire to regain the lost glory of their forefathers. The first step in this direction was the legal definition and exposition of the powers and prerogatives of the Caliph which had well-nigh been forgotten and fallen into oblivion.

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

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

(1) The institution of the Imamate is necessary as a requirement of the Shari'ah and not as a requirement of reason. The appointment of an Imam by the concensus of the Muslim community is obligatory.¹ There is a similar passage in al-Baghdadi,² who remarks that this is al-Ash'ari's opinion and is opposed to the Mu'tazilite view.

(2) The Imamate is instituted by means of election. The electoral college shall consist of persons with special qualifications.³ Also the candidates for the Imamate must fulfil certain

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¹ Al-Mawardi, p. 3.
² Üsul al-din, p. 272.
³ These qualifications are three: justice with all the conditions pertaining to it; knowledge of religion and of the interests and polity of the nation; and wisdom, Al-Mawardi, p. 4.
This election principle of the Imamate is obviously opposed to the Shi'ite claim of bequeathal or divine nomination. Al-Mawardi, however, omits the case when a licentious person is elected as Imam. Al-Baghdadi says that the election will be void, even if it has taken place through a properly constituted electoral college. Al-Mawardi's omission is deliberate, being a concession to the Buwayhids who appointed the Caliphs to suit their selfish ends.

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

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1. These conditions are: justice, learning, integrity of physical senses, integrity of physical organs, wisdom, bravery and Qarayshite descent (al-Mawardi, p. 5).

2. Al-Mawardi, p. 5.
that is, the Qurayshite 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-Qurayshites from the Caliphate such an objection would not be considered, because it was this Qurayshite descent that was presented by Abu Bakr as an argument for preference in the election of Saqifat Bani Sa'idah.1 This unnecessary emphasis on the Qurayshite descent is a secret hit on the claims of the Fatimids. Although now it has been conclusively proved that the Fatimids were really not Fatimids, the Abbasids took great pains to prove and propagate this idea, because once it was established that it was so, the Fatimids' claim to the Caliphate could easily be challenged and the masses provoked against them. Al-Mawardi has tried to give legal authority to Abbasid propagands.

(3) The Imam is appointed in one of the two ways:2

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

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

In the first case some scholars say the Imam must be elected by all the members of the Electoral College in all the cities. Others oppose this view and say that Abu Bakr was elected

1. Ibid., p. 5.
2. Ibid., p. 5.
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.¹ He cites the tradition of 'Abbas in evidence. 'Abbas said to 'Ali, "Stretch your hand, I will swear my allegiance to you, and when people come to know that the Prophet's uncle had sworn his allegiance to his nephew nobody would object to your Imamate". This opinion has also been corroborated by al-Ash'ari.²

(6) The above extreme opinion has been advocated by al-Mawardi to advance another important opinion in the next chapter, 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.³

(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.⁴ It was this principle under which most of the rotten and worthless Caliphs took refuge. It was also directed against the Shi'ah, who believe that an

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1. Ibid., p. 7.
inferior person cannot have precedence over a superior one. They coined this theory to assert that since 'Ali and his descendants in the Fatimid line were superior to the rest of mankind anyone who assumed the caliphal power was a mere usurper. The refutation of this dogma was essential to establish the Abbasid claim. Hence al-Mawardi's anxiety to enunciate the above doctrine. But he is not alone in this respect, for this is the agreed opinion of Sunnite jurists and theologians.

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

(9) The existence of two Imams contemporaneously is illegal.² 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.

1. Ibid., pp. 10-11.
2. Al-Mawardi, p. 11.
SUCCESSION:

(1) The ruling Imam can nominate his successor. There is complete consensus on this point in the Muslim community.\(^1\) The Muslim accepted Umar as the next caliph not on the suggestion of Abu Bakr, but in obedience to his order as Caliph.\(^2\) 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.

(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 wal aqd is not necessary.\(^3\) In case he nominates his father no concurrence is required, but if he nominates his son the concurrence must be obtained.\(^4\) Also, he can nominate any other relation without requiring the concurrence.

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

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1. Ibid., p. 13.
5. Ibid., p. 15.
6. Ibid., p. 15.
Muslim peoples. Thus apparently the structure of the Caliphate was maintained by the Umayyads, the Abbasids, the Fatimids, and the Turks but the spirit of Islamic democracy was buried in the coffin of Ali, the last of the Pious Caliphs.

Al-Mawardi’s contention that Abu Bakr’s nomination of Umar could not be challenged by the Companions, for it was the valid enactment of a valid Imam, is nothing but historical fiction having no basis in historical fact. One of the earliest and most reliable authorities on this period, i.e. Ibn Qutaybah, reports in his Al-Imamah wal-siyasah that when symptoms of death approached Abu Bakr he became very anxious as to who should succeed him to the caliphal authority. After much deliberation he decided to nominate Umar to succeed him. He called Uthman to his bedside and dictated to him the deed of succession. When the news spread people flocked to him from every quarter and began to question his choice. Thereupon he said, "If God asked me about this matter, I would tell Him that I appointed over them one whom I considered as the best of them." After this he ordered a general assembly of the people; and when they gathered together, he addressed them and said that he had chosen for them a person with such and such qualities and then said, "If you so desire you may sit together and elect a person whom you like; but if you wish that I should use my discretion in the matter, on your
behalf, then I assure you by One other than Whom there is no God, I will spare no pains in doing you the best service." He then stopped and wept and the people wept with him and said, "you are the best and most informed amongst us, so you chose 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 ear and obedience to it." This testimony of Ibn Qutaybah is most unequivocal and decisive. It completely abrogates al-Mawardi's theory of nomination. It is quite obvious that Abu Bakr did not deprive the people of their democratic right to elect the head of the state freely. He simply gave his personal opinion and only at the instance of the people. The people could accept this opinion as well as reject it. There was no political bar in their way, no caliphal decree to prevent the exercise of their right of franchise.


2. In one of his pilgrimages to Mecca once Umar heard a report that a person was saying, "By God! if Umar died I would declare my allegiance to so and so, and by God, Abu Bakar's election was certainly defective but it was made effective later on." Umar got enraged at this report. He returned to Medinah and ordered all the judges, governors and chiefs of the army to proceed to the capital. When all had come a public assembly was held where the Caliph delivered one of the most important addresses of his life. After saying many important things on this occasion, he said: Let not anyone be deceived to say that the election of Abu Bakar was defective and later on it became effective, for indeed it was so, but God saved us from the evil consequences of it. And among you there is none like Abu Bakar towards whom the people may look with love and reverence, therefore, if any one of you swears allegiance to a person without consulting the general body of Muslims, such person shall not be deemed as elected. and the likelihood is that both these persons may be slain." Ibn Hisham. Al-Sirat al-Nabawaivah. Vol. IV. pp.
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 is nothing but a deliberate effort to interpret ancient practice to justify later historical phenomena. Of course, Umar did nominate the limited council at the suggestion of Aysha, to prevent civil strife after his death. He knew full well that the probable candidates for the Caliphate were the very persons whom he nominated for it. Not only that he was perfectly sure that either Uthman would be elected or Ali. Therefore to facilitate the new election he fixed a procedure that was least pregnant with evil and the best guarantee against civil discord. The stern warnings which he gave to the dissentient members of the electoral college, and the strict directions which he issued about the conduct of the election were but the last symbols of his great overriding authority over the hearts and minds of people, by means of which he so wonderfully ruled half the world for twelve years. But he did not lay down a permanent principle of Islamic polity, for this he could not do, since there was no warrant for it in the

2. Ibn Qutaybah, p. 23.
3. Ibid., p. 25.
Quran 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. He said, "I should have asked: who would succeed him in political power after him? If he nominated anyone nobody could challenge his nominee on this issue. And I should have asked him whether the Ansars were entitled to any share in the political power."¹

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,² although Abu Bakr was doubtful on this issue, and although many of the later jurists did not accept Umar's ruling on this point. The truth is that Umar took this extraordinary step for the defence of the state and not for the defence of a principle, for there was no clear principle before him. Hence the construction of a political theory out of his ruling can neither be justified nor appreciated as an achievement in political thought.

But al-Mawardi was not very much concerned about theory. He was a leading Sunnite legal doctor of the Shafi'ite school,

¹. Ibn Qutaybah, p. 19
². Ibid., p. 24.
and was intimately associated with the Abbasids; hence his chief interest lay in emancipating the Sunnite caliphate from the Shi'ite tyranny of the Buwayhids. This explains why he gave the stamp of validity to the monarchical system of the Abbasids. He had already before him the precedent of the Ummayyads. Moreover the jurists had, by the force of circumstances, reconciled themselves to the imperialistic order of the day, and given it the form and sanction of religious authority. Al-Mawardi, therefore, found no difficulty in taking his cue from his predecessors and from the prevailing ideas of his time. His main contribution to Islamic political thought lies in the transformation of these ideas into a system, directly related to historical practice. He was not a visionary and idealist like the jurists or the scholastics and like them did not sit to speculate in vacuum. He was a man of the world and so tried to solve its problems as best as he could.

3. The nomination of a person as heir-apparent becomes effective only when he declares his consent to it. The Imam cannot withdraw the nomination until there 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.\(^1\) Now these are only logical deductions from the

1. al-Mawardi, p. 16.
fundamentals of the Shari'ah for there are no historical precedents to vouchsafe them.

4. The Imam can appoint the Electoral College as well as the persons who may contest for the Imamate.¹ This opinion is based on the election of Uthman by means of a limited Shura appointed by Umar. Whatever might have been the political consideration before Umar, the derivation of a general principle out of it is certainly most dangerous to sound polity and to the stability of a state. The piety, honesty, intelligence and statesmanship of Umar could very well be relied upon. The same cannot be said of another personality after him in Islamic history. Notwithstanding this, historians have criticised that Umar was mistaken in taking this step.² 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.³ But apart from this historical fact, if the right of nominating the electorate as well as the candidates is conceded to the Imam it is bound to make him absolute and despotic. In truth it was this theory that developed into divine right with the Alids and the Abbasids. And it was this theory that throttled the growth of democracy in Islamic polity.

2. Ibid., p. 21
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 Zayd bin Harithah as the Commander of the Islamic forces and said that if he fell in fighting he was to be succeeded in command by ja'far bin Abi-Talib who was to be succeeded by Abd Allah bin Rawahah. If Ibn Rawahah also fell then the Muslims could choose any one from among themselves as their commander. Apparently the citation of this incident in support of a fundamental issue like that of the Caliphate is but a fake reasoning.¹

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

¹ al-Mawardi, p. 22.
DESIGNATION AND PRIVILEGES

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

2. The Imam may be addressed as the Khalifat Allah, but the majority of jurists say that this title is forbidden, for no human being can represent God on earth, since man is mortal and imperfect. Hence the Imam may either be called a mere Khalifah or Khalifa Rasul-Allah.² Once when Abu Bakr was addressed as Khalifat-Allah he exclaimed, "Do not address me as Khalifat Allah but as the Khalifa Rasul-Allah".

1. Ibid., p. 27
2. Ibid., pp. 27-28
DUTIES AND FUNCTION OF THE IMAM

The Imam has the following ten principal duties to perform:

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

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

and later the Safwid dynasty in Persia, they wiped out their political opponents with unthinkable cruelty and butchery. In fact, every now and then the Muslim world is sorely disturbed by new champions of Islam. Even today there can be evinced a great effervescence for religious revival in all the Muslim lands, but everywhere the undertone is political and not religious. The great Sinusi movement, which stood for puritan Islam, and which culminated in the installation of Idris al-Sinusi as the hereditary King of Libya in 1951, should serve as an eye-opener to uninformed enthusiasts.

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

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

3. The maintenance of law and order in the country to make it possible for the people to lead a peaceful life, and proceed in their economic activities freely, and travel in the land without fear.
4. The enforcement of the criminal code of the Quran to ensure that the people do not outrage the prohibitions of God, and that the fundamental rights of men are not violated.

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

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

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 or pressure.

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

9. The appointment of honest and sincere men to the principal offices of state and to the treasury to secure sound and effective administration and to safeguard the finances of the state.
10. The Imam should personally look into and apprise himself of the affairs of his dominions so that he may himself direct the national policy and protect the interests of the people. He should not entrust this responsibility to others and engross himself in luxury or religious devotion.

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

This enumeration of the tenfold functions of the Imam is arbitrary. Ten has been particularly chosen, for it is an ominous and mystical number. The notable fact here is, however, that while his predecessors and successors lay great emphasis on the first two points, viz., the safeguard of religious principles and the dispensation of justice, as the principal duties of the Imam, al-Mawardi lays the main stress on the administrative responsibility of the caliph. In his opinion the Caliphate is not merely a religious institution for the carrying out of justice, but also the greatest social organisation to help promote the corporate life of man on this earth. In other words, the management of the state machinery is of basic importance to him. This explains why he devotes only one-tenth of his book to the exposition of the theory of the Caliphate, and uses the rest of his work to elaborate the detailed apparatus of government which hinges on the
central authority of the Caliph. The nebulous nature of the dispersion of state power had led to the dreadful tussle between the Buwayhids and the Abbasids— The Buwayhids, who had no legal claim to sovereignty, and who had not clarified their position, had long been intriguing to overthrow the Caliphate outright. Al-Mawardi's attempt, therefore, at defining in detail the responsibility and scope of caliphal power in relation to normal administration, was most plausible and a direct hit at the Buwayhids. Further, he made his treatise an inviolable document by reinforcing it with the argument of earlier historical practice, dating back to the time of the Prophet, and by basing it on the opinions of the leading jurists of Islam. It is significant to note that al-Mawardi hardly anywhere quotes any of these jurists, but since he was the Greatest Judge of Baghdad, this declaration in the preface was taken as sufficient guarantee of his veracity. There is no ground to question his bona fides yet it would have been more commendable if he had given the actual authorities.
THE DEPOSITION OF THE IMAM

Al-Mawardi has given a detailed consideration to this subject. In the first place, arguing on the basis of legal deduction from the fundamentals of the Shari'ah, he says that once a person is elected as Imam he cannot be removed from that office until there has occurred some definite change in him. 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 his body; that is, if he becomes a slave to his inordinate desires and is given over to his sensual passions and flouts openly the prohibitions of the Shari'ah. In such an event a person can neither be elected as Imam nor can continue as such. Abu Ya'la rejects this opinion and holds the opposite view.

   (b) The one connected with his faith. That is, if a person holds opinions contrary to the established principles.

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1. al-Marwadi, p. 16.
2. al-Mawardi, p. 31.
3. Abu Ya'la, p. 4.
of religion, or holds such twisted opinions as amount to an abrogation of the accepted principles, he can neither be initiated as Imam nor can continue to hold that office. In this there is a clear denunciation of the stand of the Buwayhids and the Shi'ite and Fatimid claims to the caliphate.

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

(a) Among the defects which occur in the physical senses, the two most important ones which preclude a person from election to the Imamate or make him unfit to continue in office, are the loss of the mental faculty and the loss of eye sight. The first case is obvious and needs no comment. But the second has had a profound bearing on the course of Islamic history. The practice of putting out the eyes with hot iron to prevent a person from wearing the imperial purple, was undoubtedly borrowed from the Byzantine Empire; the opinion of the Muslim jurists on the issue, however gave it an added importance as an instrument of tyranny in the oriental lands. The

1. Ibid., p. 32.
dreadful effect of this foul practice can be gauged from the fact that about two dozen Abbasid Caliphs were thus blinded to dethrone them from the caliphal seat. The juridical opinion referred to above is that a blind person is unqualified to give witness or sit as a judge in a court of law; he is therefore much more unqualified to serve as the head of the state.¹

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

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

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

1. al-Mawardi, p. 33.
2. Ibid., p. 35.
(a) The loss of personal ability to supervise and direct is of two kinds:

(i) If the Imam is overpowered by one of his counsellors and assistants, who appropriates all authority to himself, but does not openly defy the Imam, the Imam will continue in his office, provided the usurper rules in accordance with the injunctions of the Shari'ah and in deference to the accepted norms of justice. This is to ensure that the functions of the Imamate should continue to be performed, and that the people do not fall a prey to the ways of evil on account of the non-enforcement of the laws of the Shari'ah. 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.

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

1. Ibid., p. 37.
2. al-Mawardi, p. 38.
3. Ibid., pp. 67-70.
preceding the death of al-Mawardi. The Buwayhid usurpation in Baghdad and the falling of the caliphal power into insignificance necessitated the evolution of a formula which suited the exigencies of the times and recognised the de facto relation that existed between the Buwayhids and the Abbasids. This was a clear departure from the principle 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 bil-Isir'la) declares his allegiance to the Caliph and promises to maintain the unity of the Caliphate enforce the laws of the Shari'ah, and cooperate with the Imam against the foes of Islam, the Caliph shall recognise his absolutism by conferring on him the deed of investiture formally and publicly. Though this arrangement is opposed to established tradition it shall be demand perfectly legal, because it envisages the safeguard of the injunctions of the Shari'ah which cannot be let go by default, and because of the unavoidable condition created by the act of usurpation. In this theory there is on the one hand an overt recognition of the situation prevailing in Baghdad and on the other an unconcealed warning to the Buwayhids that if they transgressed their limit they could be

1. Ibid., p. 68.
brought to book with the help of the Ghaznawid power which was an open ally of the Abbasid Caliphate. In the passage where al-Mawardi says that in case the usurper shows an uncompromising and rebellious attitude the Caliph can call in the help of one who can relieve him of the straits, the person referred to is none but Mahmud of Ghaznah.

There is little doubt that al-Mawardi was influenced by the circumstances of his environment in the enunciation of this theory, but this deviation from the original principle completely nullified the true conception of the Immate as demonstrated in the days of Umar the Great. Nay, it contributed directly to a political theory which encouraged adventures and ambitious men to impose themselves on the will of the people with brute force and sheer might. Further, if it served as one of the main incentives for the dismemberment of the Abbasid empire, it also very greatly influenced the suppression of democratic thought and practice in the Muslim World. Al-Mawardi may have been good intentioned but the legacy he left completely changed the concept of Muslim polity in the centuries that followed. And the change that occurred was simply un-Islamic, undemocratic, and vicious.
(ii) If the Imam falls a prisoner into the hands of an enemy it will be the duty of the entire Muslim people to endeavour to emancipate him, and as long as there is any hope of his deliverance he will continue as Imam, and another person may be elected to officiate in his absence. But if all hope is lost he will be deemed to have relinquished his office, and a new election shall take place.

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

Al-Mawardi's working in this passage is full of meaning. He means to say that a victorious rebel leader does not automatically become the Imam. The reference is clearly to the Fatimids who threatened Baghdad in those days. The Abbasids had, through a propaganda of centuries, ingrained in the minds

1. al-Mawardi, p. 38.
2. al-Mawardi, p. 40.
of people that only they were the rightful claimants of the Caliphate. Moreover, they had given wide publicity to the idea that the Fatimids were not the true descendants of Fatimah, and were therefore disqualified for the Imamate, and were rebels and imposters. This clearly explains al-Mawardi's dictum.
THEORY OF REBELLION

Even in the ancient and medieval tribal and monarchical systems it was recognised that if the patriarch or the monarch ruled with tyranny and inequity the people had a right to overthrow him and choose a new leader or sovereign in his place. The act of rebellion in such an eventuality was, therefore, not regarded as a crime but as a vindication of the natural rights of people. The idea of rights and democracy were necessarily dim, nevertheless they were there.

When Islam came upon the scene of the world it shone like a radiant sun and cleared the dimmes that had so long benumbed the spirit of man. It brought out a complete revolution in human thought and in the conception of human destiny. It welded politics with religion in a remarkable way that was at once susceptible to reason and most conducive to human good. It defined the proper dignity and status of man in this universe, his relation and obligations to God, and His privileges as the lord of creation. It taught for the first time the ideas of universal brotherhood and complete equality of man. In short, it made worldwide democracy a reality and a fact. The great republic of Madinah was built on the highest and purest ideals of democracy. It was not
embellished with the accoutrements and paraphernalia of modern republican states, yet in its spirit and in its working it was more modern and humane than any modern state. The only sad thing about it was that it was too short-lived, and that it could not get time for proper growth and consolidation and to work in full flourish. It was nipped in the bud. The consequences of the premature extinction of the Republic of Madinah were dire and far-reaching. The fast-developing ideals of Islamic democracy were blasted and superseded by the imperialistic systems of the Ummayyds, the Abbasids, the Fatimids and others. A struggle ensued between the state and society. The society strove to reflect the principles of Islamic life and polity, while the state tried to emulate the traditions and ways of Byzantine and Sasanid empires. For one hundred years of Ummayyad rule the struggle between these two forces continued. But the coming into power of the Abbasids signalled the victory of the state over religious ideology. The emperor or the caliph became the spiritual and temporal head of the state, his wishes and whims became laws, and he was responsible to none. The people had no right except to obey and endure.
When the new order came to stay, the Muslim jurists, political thinkers, statesmen and diplomats tried to adjust themselves to the new conditions. They invented a political theory which effected a superficial and sophisticated compromise between the two forces. The compromise was given religious sanction and justification, so it became permanent and unchallengeable. It was supported by twisting the texts of the Quran and fabricating numerous traditions along with ingeniously prepared chain of transmitters. Some of these traditions quoted by Abu Yusuf in his Kitab al-Kharaj have already been cited in the introductory portion of this article.

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

(i) In the very first chapter of his book he quotes the following tradition from Abu Hurayrah: the Prophet said, "After me there will be appointed rulers over you; their good
as well as bad deeds will go by them; but you must obey every order from them that is based on righteousness; for if they rule with fairness the good of it will accrue to them and to you both, (and) if they rule with inequity you will get the benefit of it and they, the evil consequences thereof.\(^1\) In al-Mawardi's opinion, obedience is due only when the order of the ruler is in keeping with truth. The same tradition has been narrated by Abu Yusuf in another way wherein he omits the words "that is based on righteousness", The omission of these words by Abu Yusuf seems to be deliberate in the same way as their citation by al-Mawardi is intentional, for from other texts it is clear that the authors represent different viewpoints on this issue. Al-Mawardi is very cautious not to bring forth any comment on the above passage, although there is only a veiled-reference in it to the right of revolt.

(2) He clearly advocates revolt when the Imam either falls an open prey to sensual passions or becomes sceptic of the basic creed of Islam.\(^2\) But it is not clear how a tyrant or heretical Imam can be deposed. No machinery has been

\(^{1}\) al-Mawardi, p. 4.

\(^{2}\) Ibid., pp. 31-32.
proposed by means of which the will of the people may be ascertained or the Imam may be voted out of power. There is no precedent in Islamic history when an Imam may have been removed from office by legal or peaceful means. And since the Imam is the supreme authority, not responsible to any tribunal, it is obvious that he cannot sit to impeach himself or allow others to interdict him. On the contrary, there are numerous examples in history when tyrant Imams persecuted pious and innocent people and even sent them to the gallows. Al-Mansur got Malik bin Ans beaten in public and Abu Hanifah poisoned in jail. Al-Rashid wiped out the entire house of Barmak without any explicit reason. Yahya bin Yahya, the greatest jurist of Spain, had to go underground to save his skin against the tyranny of Hakam bin Hisham. Al-Mutawakkil got the tongue of Ibn Sikkit, the famous grammarian, pulled out of his throat for a little act of displeasure. And Ibn Taymiyah had to wear out his last days in a dungeon. The provision of this rule is, therefore, only a literary conceit, having no practical value.

The only thing that is clear from al-Mawardi's writings is that he is opposed to the claim of undisputed obedience to the Caliph. He, however, does not elaborate a detailed theory of rebellion, or discuss the fundamental rights of
man. He is very careful in choosing only those traditions which suit his purpose. He could have very easily established from the traditions of the Prophet as well as from the practice of the Pious Caliphs that Islam has given an open charter of rights to humanity, and that it has unambiguously defined the limits of state power and freedom of the individual.

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

1. Al-Quran, 4:58.
2. Ibid., 4:57.
affairs are decided by mutual counsel amongst themselves,\textsuperscript{1} and not by the arbitrary will of a ruler. Still on another occasion God orders the Prophet, "...and take their counsel in the affairs of the state."\textsuperscript{2} Numerous other verses can be quoted to prove that the Quran bestows the right of revolt on the people if the rulers become arbitrary and despotic. Similarly, the traditions of the Prophet are replete with instances exhorting the people to oppose and overthrow a tyrant. A few examples will suffice.

Abu Bakr reports that the Prophet said, "Surely the most loved and nearest person to me on the Day of Judgement shall be the just Imam, and the most hated and damnable person to me on the Day of Judgement shall be the tyrant Imam."

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

Besides these theoretical considerations the practice of the Prophet and the Caliphs most vividly reflects the meaning of the Islamic democracy and the concept of human

\begin{itemize}
\item[1.] Ibid., 42:38.
\item[2.] Ibid., 2:159.
\end{itemize}
rights. The Prophet who was directly guided by God consulted his people on every important occasion. Some of the poorest and lowliest of men like Bilal, Suhayb, Abu Dhar, Salman, Ammar, and Abu Huravrakh were among the best of his companions. A poor blind man, Ibn Umm Maktum, was his Mua'zzin and favourite. In the battle of Mutab he gave the command of the Islamic army to Zavd bin Harithah, a freed slave. And just before his death he appointed Uthman bin Zavd as the supreme commander of the expeditionary force that was being sent to the Syrian frontier to avenge the death of Zavd. After the battle of Hunavn, when he distributed the spoils of war among the new converts of Makkah, the Ansars felt disgruntled against it and were not satisfied until the Prophet cleared his position. During his last illness he addressed the congregation and said that he was soon going to depart to his Master, so if any one had any due against him he might take it back. Thereupon an ordinary person rose and said that the Prophet had once hit him inadvertently with his whip, so now he wanted to take him revenge. The Prophet at once uncovered his back and asked the Beduin to beat him in retaliation. Such cases can be multiplied ad infinitum.
When Abu Bakr was elected Caliph he said in his policy speech, "Obey me as long as I obey God, but when I disobey Him you are no longer bound to obey me." In the same speech he continues, "and I am just like one of you, so when you find me on the right path, follow me, but if you see me deviating, set me right." 1

The democratic practice of Umar is too famous to need comment. Even an old poor woman could challenge his authority when he made an innovation by fixing the amount of matrimonial money chargeable on the husband. An unknown medicore could threaten him with disobedience until he had explained how he got his shirt made out of the small Yemenite sheet he had received as his share of booty of war. It is a well-known fact that he never decided any matter of moment without consulting the general body of the citizens of Madinah.

In this early period of Islamic history there was a general and strong feeling among the Muslims that there existed a solemn covenant between the state and the people, that the state was conducted by the elected representatives of the people, and that it existed only to protect and promote their interest. So when the rulers broke this covenant, and violated the principle of representation and threw overboard

1. Ibn Qutaybah, p. 15.
the interest of the people, the people thought it as their inherent right to crack down such rulers and snatch political power from them. It was the infringement of this covenant that eventually led to the assassinations of Uthman and Ali and to the sudden collapse of the powerful Ummayyads. The Abbasid rise to power killed these ideas altogether and the concept of the convenant was completely forgotten.

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