THE POLITICAL THOUGHT OF

ABŪ AL-HASAN AL-MAWARDĪ

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This thesis is concerned with the political thought of Abū al-Hasan al-Māwardī, a prominent scholar of the 5th Hijrī century in Baghdad, and his intellectual contribution to Islamic political thought in general.

The thesis is divided into a long introduction, three main chapters, and a conclusion.

The introduction is concerned with three aspects. The first aspect concerns al-Māwardī's Political Writings in the context of earlier works on the subject, and attempts to show the character of al-Māwardī as a political thinker in general. The second aspect is concerned with the historical background to al-Māwardī's thought. The discussion will concentrate on a general presentation of the socio-economic climate, and the religio-political situation under which al-Māwardī lived during the Būyid rule in Baghdad, in order to see the outside influences which may have affected him. The third aspect deals with the life and times of al-Māwardī. The purpose of the discussion is to shed light on al-Māwardī's role in Baghdad as a political mediator between the Abbāsid caliph and other independent rulers.
The first chapter is concerned with the early treatises of al-Māwardī in which he expressed his early political views concerning kingship, governmental administration, and other political concepts like justice and the cyclical movement of the state. The discussion will also show al-Māwardī's amalgamation of Islamic traditions with Pre-Islamic and non-Muslim cultures.

The second chapter deals with al-Māwardī's views of man and society as it appeared in his work Adab al-Danyā Wa’l-Dīn with some reference to other works.

The last chapter deals with al-Māwardī's theory of the Imamate and other Islamic institutions connected with it, i.e. the vizierate and the emirate, in Kitāb al Ahkām al-Sultāniyya. The study will discuss the issue of the Imamate and other institutions and their relation to the circumstances of the time and the manner which al-Māwardī used to deal with the problems.

The conclusion will sum up the general political thought of al-Māwardī and his contribution to Islamic political thought.
ABBREVIATIONS

Adab al-Mawardi, **Adab al-Dunyā wa’l-Dīn**

al-Ahkām al-Mawardi, **al-Ahkām al-Sultāniyya**

A'Clām al-Mawardi, **A'Clām al-Nubuwwa**

AJSL The American Journal of Semitic Languages and Literatures

Bidāya Ibn Kathīr, **al-Bidāya wa’l-Nihāya**

Buwayhid Kabīr, The Buwayhid Dynasty of Baghdad

Dhayl Abū Shujiā C, **Dhayl Kitāb Tajārib al-‘Umam**

E.I. 1 The Encyclopedia of Islam, Old edition

E.I. 2 The Encyclopedia of Islam, New edition

I.C. Islamic Culture

I.Q. Islamic Quarterly

Irshād Yāqūt, Irshad al-Arib ilā MaCrifat al-Adīb

I.S. Islamic Studies

JRAS Journal of the Royal Asiatic Society

Kāmil Ibn al-Athīr, al-Kāmil fī ‘l-Tārīkh

Milal al-Shahristānī, **al-Milal wa’l-Nihal**

Muntazam Ibn al-Jawzi, al-Muntazam fī Akhbār al-Mulūk wa’l-‘Umam

M.W. The Moslem World

Nāsīha al-Mawardi, **Nāsīhat al-Mulūk**

Nusūs Ibish, **Nusūs al-Fikr al-Siyāsī al-Islāmī**
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<td>Tarīkh</td>
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INTRODUCTION
INTRODUCTION

I. AL-MAWARDĪ'S POLITICAL WRITINGS IN THE CONTEXT OF EARLIER WORKS ON THE SUBJECT

One of the main characteristics of Islam is that there is no distinction between temporal and the spiritual affairs. All matters, social, economic, and political must be regulated according to the rules of the revealed law (šarāʿ), or at least be compatible with the essence of Islamic principles. Nonetheless, the theory of the Imamate or Caliphate, which was the centre of Islamic political thought during the Middle Ages, was one of the controversial issues in Islam because of lack of clear Qur'ānic verses about it. The fact that the Prophet Muhammad does not seem to have left an established system of appointment after his death has made the issue even more complicated.

The simple nature of the political system during period of the rightly-guided caliphs made it possible for their reigns to pass without too much conflict concerning the theory of the Imamate.

The early period of the Umayyad Caliphate witnessed the division of the political system of Islam into two levels. These were the political ideals demanded
by the revealed religion, and the political realities established by the circumstances of the time. The whole system of government became a matter of family succession. This system was the predominant kind of government throughout the Middle Ages of Islamic history.

In spite of the actual early developments in the political structure of Islam, none of the early Muslim jurists tried to study or at least expose the political theory of the Imamate from a purely Islamic point of view, neither as it should be nor as it was in practice.

Early adaptation of Persian traditions of court and state administration by Muslim rulers paved the way for the Persian culture to have a great impact on the writings of Muslim thinkers in the field of politics under the category of "Mirrors for Princes". This kind of literature was introduced into Arabic by Ibn al-Muqaffa in the eighth century A.D., through translation of Sassanian literature concerning the conduct of the ruler and the art of government. The "Mirrors enjoyed a considerable popularity in Medieval Islam". Kitāb al-Sultān which was compiled by Ibn Qutayba (d.276/889) in his work Uyūn al-Akhbār, and also Kitāb Sulūk al-Mālik fī Tadbīr al-Mamālik by Ibn Abī al-Rabī during the reign of al Mu'tasim (218-226/833-841) represent good examples of "Mirrors for Princes".

1. E.J. Rosenthal, Islamic political thought in Medieval Islam, p.68.
In spite of the fact that such Muslim writings about al-sultan were full of political ideas concerning the government in Islam, yet, they did not provide a theory of government in an Islamic religious sense. They, rather, discuss the art of government and reflect the ethics of the rulers and other official classes necessary for state affairs. The existence of the Islamic element in these writings was due to the Islamic background of those thinkers. It was impossible for them to deal with the art of government without at least referring to Islamic principles.

Although al-Mawardi's work of Nasihat al-Muluk and Tashil al-Nazar wa Tajil al-Zafar adopted a similar format to the "Mirrors for Princes", he successfully imbues his ideas and concepts with aspects of Islamic traditions and places them within an administrative context. Throughout these treatises al-Mawardi stresses the great value of Islamic concepts, and he adds many examples from Arabic history taken from poets and historians. The Islamic element was derived from Hadiths, the sunna of the four rightly-guided caliphs, and these were used to support his views on the subject. Al-Mawardi also stated clearly in Kitab Nasihat al-Muluk that he derived his arguments from several sources, one of them being the conduct of ancient kings (siyar al-muluk
al-awwalīn). In these treatises he places great emphasis on Sassanian traditions which were popular at that time. Al-Māwardī in fact, compiled these treatises under unusual political circumstances, at a time when the Buʾyid dynasty had control over the Abbāsid caliphate and believed in their Persian origin. This explains the use of the term of "king" instead of Imam or caliph.

These two works by al-Māwardī do not provide us with a theory of government. It is through the discussion of moral principles, the administration of subjects and affairs of state, that al-Māwardī's notion of the art of the government is conveyed. All of these concepts are based upon the Islamic code and on the model of ancient civilizations.

The other field of thought which al-Māwardī had touched upon in his writings was the subject of the wizāra. Certainly al-Māwardī was not unique in discussing this subject, but his writings were different from others in the style of discussion and in his additions of new points to the subject.

The conflict concerning the origin of the vizierate in Islamic history has not been decided yet,

1. al-Māwardī, Nasīḥat al-Mulūk, fol.2b.
2. Useful details concerning this issue can be found in S.D. Goitein, "The origin of the vizierate and its true character", I.C., 1942; and M. Sprengling, "From Persian into Arabic", AJSLL, 1939.
and the discussion of this point is beyond the scope of this thesis as al-Mawardī's concern was for the institution not its early development. However, Muslim authors dealt with the subject of the wizāra a long time ago before al-Mawardī and from different points of views. They sometimes devoted the whole text to the subject of the wizāra and in the other works they discussed it as a part of a historical study. Unfortunately from the bulk of writings on the Wizāra only four treatises have survived. The first was Kitāb al-Wuzarā' wa' l-Kuttāb by Ibn Ābdūs al-Jahshiyārī (d. 331/942). The book deals with the history of the art of al-inshā' since the time of the Prophet, and the history of the wazīrs and the wizāra till the end of the third Hijrī century. The second book was Tuhfat al-Wuzarā' by Abū Mansūr al-Tha'ālibī (d. 429/1037). In it the author tried to discuss the system of the wizāra and gave a historical account of the wazīrs during his time. The third work was Kitāb al-Wuzara' or Tuhfet al-Umarā' fi Tārīkh al-Wuzara' by Abū al-Hasan al-Sābī (d. 448/1056). This book was also concerned with the life of the wazīrs and their history in the wizāra. The last one was Kitāb al-Wizāra by al-Mawardī.

From among those authors it seems possible that al-Mawardi borrowed many ideas from al-Tha‘alibī’s work *Tuhfat al-Wuzara* especially what concerns the types of the *wizāra*, the differences and the necessary qualifications required by the appointees. This, however, does not alter the fact that al-Mawardi himself added some interesting points to the subject.

Al-Mawardi dealt with the subject on two levels. The first when he discussed the subject as a course of literature and the office of the *wizāra* as a social function. This element is obvious in his work *Kitāb al-Wizāra* or *Adab al-Wazīr*. The book was written in the same manner of "Mirrors for Princes", the style of writing which characterised al-Mawardi's early works of *Naṣīhat al-Mulūk* and *Tashīl al-Nazar*. Al-Mawardi relied heavily on non-Arab cultures and many maxims and anecdotes concerning governmental administration to support his views but he also uses Islamic traditions. The subject of the *wizāra* was also restricted to the specific knowledge required for a specific office, i.e. that of the *wizāra* and its relation to the ruler and the people. The second level was when al-Mawardi dealt with the *wizāra* as a part of *fīqh*, embodied within a juristic text devoted entirely to the theory of the Islamic government. The treatment
of the \textit{wizāra} in this manner comes in his final work on government and political theory, \textit{Kitāb al-Ahkām al-Sultāniyya}. The \textit{wizāra} was no more a social function, it was rather a legal power issued by the Imam, and accordingly it should be treated according to Islamic principles. In addition, new principles concerning the \textit{wizāra} were to be found in \textit{Kitāb al-Ahkām al-Sultāniyya} which were not to be found in \textit{Kitāb al-Wizāra}.

\textit{Al-Māwardī} first touches on some of the underlying principles of the Imamate and government in his work \textit{Adab al-Dunya wa'l-Dīn}. Parts of this work seem to indicate an early movement towards the caliphate and the political elements foreshadow the much more comprehensive \textit{al-Ahkām al-Sultāniyya}.

In the field of Islamic political theory it could be said that one of the first Muslim scholars to write in this field was the chief Qādī Abū Yūsūf (d.182/799), who compiled his famous work \textit{Kitāb al-Kharāj} at the request of the Abbāsid caliph Hārūn al-Rashīd. The book was mainly concerned with land-tax and certain other matters of Islamic public administration. Abū Yusūf's work was new in its character because the jurist-

-consult,

"were always more interested in the duties of the cult, in private law, in penal law, than in public organisation and functioning of the administration and the character of its head." \textsuperscript{1}

1. C. Cahen, "The body politics", \textit{Unity and variety in Muslim Civilization}, p.139.
The work was also the basis upon which other Muslim thinkers depend in their writings in the field of taxation in Islam. Certainly, it provided al-Māwardī with some essential points for his work Kitāb al-Ahkām al-Sultāniyya.

It was among sectarians particularly the Shi'a that writings on the Imamate began first to emerge. Their treatment of this topic was from a theological point of view as the doctrine of the Imamate was of major importance in their conception of Islam. Such Shi'a works on the theology of the Imamate, naturally aroused a retort from their opponents, thus a section on the Imamate was included in all major theological works. The attack on Shi'a views led to the stating of a more orthodox position with regard to the theory of the Imamate. It also led to different speculations on the subject by scholars who adopted different attitudes in response to Shi'a claims.

What came to be the orthodox position on the Imamate was first propounded by the founder of Ash'arism, Abū al-Hasal al-Ash'arī (260-324/873-935). He wrote two books al-Ibāna fī Usūl al-Dīyāna, and Kitāb al-Luma fī 'l-Radd alā ahl al-Zaigh wa'l-Bid in which he formulated the first stages of the theory of the Imamate. In these he based the necessity of the Imamate on revealed law rather than reason, though many theologians, before
and after him, based the Imamate on reason. Certainly, al-Ash'ari's theory was part of his attack on the Mu'tazilite thought the advocates of reasons. However, his arguments were adopted by later jurists theologians. This theory was afterward developed and systematized by later jurists who discussed the theory of the Imamate and other problems related to it. From among them are Malikite Abū Bakr al-Baqillānī (d. 403/1013) in Kitāb al-Tamhīd fī 'l-Radd ʿalā al-Malahida, the Shafiite and Mu'tazilite chief Qādī Abū al-Ḥasan ʿAbd al-Jabbar (325-415/935-1025) in Kitāb al-Mughnī, especially the section of the Imamate, the Shafiite ʿAbd al-Qāhir al-Baghdādi (d. 429/1038) in Kitāb Uṣūl al-Dīn and al-Faqīh bīn al-Firāq, and the Hanbalite Abū Ya'la ibn al-Farrā (d. 458/1066) in Kitāb al-Mu'tamad fī Uṣūl al-Dīn.

These writings and others like them were written as suggested earlier as a response to the sectarian claims. In particular, they base the Imamate on revelation, though this was by no means a unanimous view among theologians. Also they, and their kind, made no attempt to connect the theory of the Imamate with the actual organization and function of government. In

this al-Mawardi’s work Kitāb al-Ahkām al-Sultāniyya is different from theirs. He takes up no position with regard to the Imamate being based on reason or revelation, he does not write a polemic against sectarian views and he makes a real attempt to discuss the Imamate in the context of the actual process of government.

In spite of the fact that the work al-Mughnī by C. Abd al-Jabbar is a work on theology not politics, the section on the Imamate provides us with valuable and detailed information concerning the theoretical context of the theory of the Imamate. C. Abd al-Jabbar discussed many different points in detail unlike al-Bāqillānī, al-Ashārī, and Abū Ya‘lā who discussed these points or some of them rather briefly. From among these points C. Abd al-Jabbar gives a detailed treatment of the Imamate of the dissolute (al-fāsiq), the necessary qualifications of the Imam, the numbers of Imams in certain time, the contractual nature of the Imamate and other important theoretical matters. If we bear in mind that C. Abd al-Jabbar was an older contemporary of al-Mawardi, the possibility that the latter was influenced by the former, could be taken into consideration in some points concerning the theory of the Imamate in Kitāb al-Ahkām al-Sultāniyya. However, al-Mawardi’s work has its own

character as we shall discuss later. Abd al-Jabbār's exposition of the theory of the Imamate does not seem to deal with the practical problems of the Imamate under independent rulers at the time, especially under the Būyids.

In the field of Islamic political theory, al-Māwardī certainly was not the first to write. But, indeed he was, "the first Muslim scholar to bother to collect all the ordinances relating to public law and arrange them in one volume, al-Ahkām al-Sultāniyya". The importance of al-Ahkām stems from the fact that almost all later Muslim thinkers who wrote on political theory have continued to accept al-Māwardī as an authority even up to the present time, not only in the theory of the Imamate but also all political matters concerned with public law. It is also noteworthy to mention that al-Māwardī's work seems to be the first in which there is presented a theory of the Imamate within the political circumstances which surrounded the Imamate.

During the Abbāsid Caliphate, new political circumstances existed and a new outlook toward the position of the Imamate was necessary in order to create a new framework of legitimization. The power of the

caliph declined and actual authority passed into the hands of the military leaders or men supported by the power of the army. With the advent of the Būyids in Baghdād in 334/945, they become the de facto rulers of ґIrāq and other provinces. The situation had no precedents in Islamic history in the sense that the Sunnite caliphate was dominated by a ShīCites. The Būyids were clever enough not to disturb the caliphal structure. They governed the majority of the Sunnites of ґIrāq in the name of the Sunnite caliph and kept him as a symbol of religious and political unity. The result of this process was the existence of two heads (one nominal, the other actual), within the structure of Islamic government.

The problem was acute and up to the time of al-Māwardī, it was left without discussion and Muslim jurists accepted the situation by a "silent consensus" but, as Gibb pointed out, "the difficulty remained of giving the problem legal form of validity". Al-Māwardī, being an active participant in the political affairs, was aware of the problem. The Būyids were the actual rulers, but at the same time, it was difficult to ignore the person who occupied the seat of the most important

institution in Islam, i.e. the caliph. It was necessary then to elaborate a theory of the Imamate, although based upon earlier writings, yet with a new dimension, in order to connect the theory with the emirate by seizure in order to justify - legally - the political reality, by clothing it with Islamic principles.

Although there is a problem of originality with regard to al-Mawardi's *al-Ahkām al-Sultāniyya*, because of the existence of a book by Abū Ya'la with the same title, *al-Ahkām al-Sultāniyya*, this matter is not central to the actual political thought of al-Mawardi. Therefore, it has been dealt with in an appendix.

Thus, al-Mawardi can be seen to be a scholar who had given much thought to the intellectual problems of political theory in Islam. He ranged through all the genres of literature on political thought before him. As such, he seems to be the first Islamic writer to show such a comprehensive interest and knowledge in the subject. His writings on political theory are a valuable contribution to the development of Islamic political theory.
II. HISTORICAL BACKGROUND TO AL-MAWARDI'S THOUGHT

The break-down of the authority of the Abbāsid Caliphate over the Islamic empire was clearly apparent in the early ninth century. It had in fact started much earlier in the eighth century when the Abbāsids failed to assert their authority in different states of their empire. Many independent dynasties were established themselves in Spain, Morocco, Egypt, Syria and Persia. By the tenth century the authority of the Abbāsid Caliph hardly extended beyond Baghdad, and even there the caliph himself was powerless to manage his own affairs.¹

Thus, since the reign of al-Mustakfi (333-334/944-945), the Caliphate was entirely subordinated to the powerful and independent dynasties which were able to keep almost all state affairs under their control.² The first of these dynasties was that of the Būyids who captured Baghdad in 334/945. From that time a new era opened in Islamic history, when almost all of the temporal authority of the Caliphs moved into the hands of a Shi'I dynasty,³ which was to

³ In fact the caliph still had some temporal authority such as the appointment of the Qādis and imāms of mosques. See A.H. Siddiqī, "Caliphate and Kingship in Medieval Persia". I.C., 1936, pp.118-121.
control Baghdad for more than a century. An outline of the general historical phenomena vitally illustrates their impact on al-Māwardī's thought.

In spite of the fact that the financial administration under the Būyids was still working within the Islamic system of revenues, that is to say, Zakāt (al-Sadaqāt), Kharāj (land tax), Jizya (poll tax), and Ćushūr (tithes), yet the financial system under the Būyids was characterised by the establishment of the uncanonical taxes in order to keep themselves strong in the face of different troubles which were dominant during their reign.

Since it was vital to have an obedient army, the Amīrs were under financial pressure to collect as much money as they could in order to maintain the position of the military generals and their troops. Thus they became powerful enough to depose any ruler if their needs or demands had not been satisfied. New uncanonical taxes were devised and were imposed illegally by force. These unlawful taxes, ironically enough, were the most fruitful sources of state income after land tax.²

A few examples illustrate this situation.

The first Būyid ruler of Cīrāq imposed a tax on internal

1. For details concerning these points, see Abū Yusūf, Kitāb al-Kharāj, Abū ʿUbaīd, Kitāb al-Amwāl, and Ibn Rajab, Kitāb al-Istikhrāj fī Abkām al-Kharāj.
and external goods called custom duties. Every boat carrying such goods must pay this tax, and in order to prevent them from escaping payment, Muṣṭūz's wāzīr, al-Muḥallabī, ordered the authorities of Baghdad to close the mouth of the river with a chain (al-mīṣaṣār). The next ruler, Adud al-Daula imposed a new tax on pasturage and grazing fields in addition to the zakāt. This tax was later abolished by Baha’ al-Daula. The historian al-Maqdisī expatiates about the complaints of the people of Basra regarding taxes called customs, dues levied on the conveyance of commodities from one district to another. In Baghdad also all the shepherds were charged four dirhams on each sheep and pilgrims were charged on their loads and Arabian camels.

In 389/998 Baha’ al-Daula tried to impose a tithe (ṣushr) on silk and cotton goods woven in Baghdad, which caused many public riots in the capital. During the reign of Jalāl al-Daula, the wāzīr, Ibn Mākūlā, introduced a tax called al-sumarrīyat paid by boat-owners using waterways in ʿIrāq. It became a regular feature to encounter food taxes such as the salt tax which was

imposed by first Bakhtīyār and then Jalāl al-Daula.¹ Private labour was also taxed during the reign of Jalāl al-Daula, e.g. the work of the porters who carry dates and other merchandise into boats.² In addition to these uncanonical taxes, there were death duties which really amounted to confiscation. On the death of rich persons and authorities could lay claim to their property whether an heir was left or not, as in the case of the Buyid prince Bahā' al-Daula who confiscated the property of an Alid called Ālī b. al-Hussain.³ Under Jalāl al-Daul such matters became common. Besides these there were many other illegal sources of revenue such as arbitrary fines, confiscations from common citizens and government agents, police fines and law-court fines.⁴

Generally speaking, it could be said that the major portion of the revenues were derived from various irregular and uncanonical sources. Unfortunately most of these revenues were not devoted to social and welfare ends, but rather expended on the private pleasures of Caliphs, Amīrs and wazīrs, for building huge and luxurious palaces, weddings and various private parties. The governors of Baghdad never tried to draw

1. Ibn al-Jawzī, Muntaẓam, v.8, pp.78-79.
a line between their private income and state income (kharāj) which they used as theirs. Much of the state revenue was spent on the maintenance of the army, e.g. salaries, and the costs of the military expeditions.

The luxurious life of the Amīrs and their wazīrs was unreasonably extravagant. Thus the Buṭyid prince Muḥizz al-Daula paid for the construction of his palace in the Shammasiya about thirteen million dirhams.\(^1\) Al-Adud al-Daula paid five million dirhams for his palace at Shīrāz and for irrigating its gardens and levelling the ground.\(^2\) Al-Muhallabī, wazīr of Muḥizz al-Daula, was very neat and elegant in his clothes and food. It is reported that he used more than thirty golden table-spoons at each meal. He was very fond of flowers; the judge al-Tanūkhī states that al-Muhallabī ordered him to buy flowers for a sum of one thousand dinārs in only three days.\(^3\)

It is noteworthy that the later period of Buṭyid rule witnessed little comparable extravagance. The reason might be sought in the frequent wars between different parties, natural catastrophes like famine or floods, and local riots between different religious

\(^1\) Kabīr, Buwayhid, p.148 as quoted from Ibn Miskawayh, Tajārib, v.2, pp.184-185.
\(^3\) Amīn, Zuhr al-Islām, v.1, p.107.
sects. Yet, occasionally unbelievable expenditure was incurred on wedding parties such as the wedding of Musharrif al-Daula who paid fifty thousand dīnārs as a dower. A sum of one hundred thousand dīnārs was paid by the Caliph al-Qā'im for his bride, the daughter of the Seljukid Tughril Beg in 448/1056. Al-Māwardī was one of the Shuhūd at this ceremony.

The study of the socio-religious situation in Baghdad shows that the Baghdad community under the reign of the Buyyids was divided into three social classes: (a) the top class which consisted of the Caliphs, Amīrs, wazīrs, and the prominent wealthy families; (b) the middle class of small bourgeois and landlords; and (c) the common people of small craftsmen and peasants.

The social gap between these different classes was too large to be bridged. While most of the people were fighting against hunger and poverty and trying to keep themselves alive, the members of the top class were enjoying an outrageously high standard of living. For instance, the historian Ibn Kathīr reports

1. Ibn al-Jawzī, op.cit., v.8, p.16.
2. Ibid., pp.170-171.
4. Ibid., loc.cit.
that in 373/983 many people died of hunger due to lack of food — food which was priced beyond their income. He states that, "food became very expensive and the roads filled with the corpses of those who had died of hunger". 1 Meanwhile, seven hundred thousand dīnārs had been paid for the wedding of the Būyid Prince Mu'īyad al-Daula. 2 According to Ibn al-Jawzī, in 382/992 the cost of living rose steeply and a pound of bread was sold for forty dirhams. 3 Some poems describe this miserable existence.

"The people found themselves amidst high prices,
And they went around in distress,
Whoever stays home dies of hunger,
Or he is eaten by people if he goes out."

Another poet wrote:

"Do not go out of your home for something
You need or something you don't,
You should close the door, fastening the Gateway, so as not to be hunted by starving people who are ready to make you into soup."

The intelligentsia were living in miserable poverty and they were often unable to obtain food despite their contacts with Amīrs and wazīrs. Abū Ḥayyān al-Tawhīdī states:

"I was forced many times to eat the grass of the desert and to practise shameful beggary in private and in public, and to do many things which were dishonourable to a free man." 4

1. Ibn Kathīr, Bidāya, v.11, p.302.
4. al-Imtā' wa' l-Mū'ānasa, p.viii, of the introduction.
The great historian Ibn Miskawayh was "a poor man among rich people". Abū Sulaymān al-Mantiqī, the famous philosopher in Baghdad and the teacher of Abū Ḥayyān, was incapable of paying the rent of his house or even of procuring a meal for himself. If this was the situation of people with close relations with the top class, what could be said about other citizens, who were forced under circumstances of hunger and poverty, to eat the corpses of animals, and who preferred to kill their children rather than watch them die of hunger? The impact of economic oppression on society resulted in the dissolution of ethical standards, alienation, and immorality.

The people of Baghdad adopted various drastic measures to stay alive in this chaos. Some homes opened to prostitution which was public in Baghdad at the time of the Caliph al-Qādir, who was powerless to prohibit it. It was reported that "the Sharif Abū Ja'far had with Abū Ishaq al-Shirazī demanded that the Diwān put a stop to prostitution in Baghdad, which was a concession held by the Sultān's resident agent." Some chose to beg as the simplest way to stay alive. Yet other groups turned to robbery, becoming a force

3. Ibid., v.8, p.67 and passim.
powerful enough to challenge the government from 416/1025 onward, and earning the title "al-\textit{c}ayyārūn" which means the professional criminals.\footnote{Ibn al-Jawzī, \textit{Muntazam}, v.8, pp.21ff.}

The \textit{c}ayyārūn plundered the markets, insulted people, terrorised citizens, paraded along the highways and demanded illegal tributes from shopkeepers.\footnote{\textit{Ibid.}, passim.} In 416/1025 they were powerful enough to plunder Baghdad in daylight and without fear of the authorities, to the degree that the shurta escaped to save their lives, from a city without leader or governor after the death of Musharrif al-Daula.\footnote{\textit{Ibid.}, p.21.} During Būyid rule in Baghdad most of the people could not journey to the hajj, the way to Mecca no longer being safe due to the \textit{'}ayyārūn who were very active in plundering caravans.\footnote{Ibn Kathīr, \textit{Bidāya}, v.12, \textit{passim}.}

The major problem amidst this social unrest was the absence of an effective and strong government. Public safety was at the minimum. Production dwindled since the people had no guarantee for their lives or property, being at the mercy of confiscation or illegal taxes. The system of irrigation and dams declined and much of the land returned to swamp, becoming useless so that most of the farmers deserted them for other

\begin{itemize}
\item 1. Ibn al-Jawzī, \textit{Muntazam}, v.8, pp.21ff.
\item 2. \textit{Ibid.}, passim.
\item 3. \textit{Ibid.}, p.21.
\item 4. Ibn Kathīr, \textit{Bidāya}, v.12, \textit{passim}.
\end{itemize}
districts. From 365/975 till 449/1057, the people of Baghdad were subjected to high prices and chronic famine.

Another crucial factor, the state of fitna (religious dissension) added to the problem. Sectarian riots between the Sunnites and Shi'ites were a constant phenomenon which infected the whole Buyid period. A brief outline of the religious background of the Buyids may clarify the background of the religious situation in Baghdad.

The Banū Būya were descended from the people of Dašlam, who had previously lived in ignorance of any established religion. They had practised primitive religious concepts, worshipping idols and in some cases performing the role of "magicians". In 301/913-914, Islam was introduced in Tabaristān through al-Hasan b. Ḍalī al-Zaydī who was known by al-Utrush who called the people of Tabaristān and Dašlam to embrace the Zaydite form of Shi'ism. When Baghdad was captured by the Buyids in 334/945, the spirit of Shi'ism was strong enough to encourage them to support the Shi'ite minority of Baghdad against a Sunnite majority.

"Ever since the arrival of the Buyids there had been frequent frictions between the Sunnites and the Shi'ites. The Buyids actively championed the cause of Shi'ism without any regard to the sentiments of the Sunnite majority."¹

The story started in 351/962 when the Shi'a of Baghdad - Ahl al-Karkh - began the cursing of the Companions when they wrote on the wall of the mosque of Baghdad:

"The curse of Allah by upon Mūawiya and those who denied Fātima's right of the garden of Fadak, who excluded Ibn Ābābas from the council of al-Shūrā, who exiled Abū Dharr al-Ghifārī to the desert, and who prevented al-Ḥasan from being buried by the side of his grandfather."²

Mu'izz al-Daula, the actual governor of Baghdad, did nothing about this, but rather gave the Shi'a his approval.³

The Ābbāsid Caliph was powerless to prevent this innovation. During the reign of Mu'izz al-Daula (334/945-356/966) two official ceremonies were introduced. The first was the Day of Āshūra on the tenth of Muharram in commemoration of the martyrdom of al-Ḥusayn, the second was Ḥīd al-Ghadrī in memory of the alleged appointment of Ālī b. Abī Ṭalib by the Prophet Muḥammad as his successor. In 353/367 Mu'izz al-Daula gave the order to close all shops and markets on the first occasion, and called for public mourning. At the second

¹. Kabīr, Buwayhid, p.203.
³. Ibid., p.8.
ceremony he again ordered the people to observe it and the city to be decorated.¹ In opposition to these celebrations the Sunnites reacted by setting up two rival ceremonies: the first was the visit to the tomb of Musa b. al-Zubayr on 18th Muharram, and the second was the anniversary of the cave or Ya'um al-Ghār on 26th Dhu'l-Hijja. One commemorated the victory of Musa over al-Mukhtar's revolt, the other is a famous incident recorded in the Prophet's biography describing his escape with Abū Bakr during their hijra from Mecca to Medina.²

These celebrations had led the capital of the Caliphate to live in a state of fitna. Numerous disturbances shook Baghdad, not only amongst the common people, but also between theologians and scholars, and violent confrontations³ occurred between the years 338/949 and 450/1058.⁴ It is noteworthy that throughout more than a century, the fighting between the Sunnites and their opponents ceased only three times. The first was in 367/977 when Ādud al-Daula ordered the faqihs of Baghdad not to discuss any matter concerning the

¹. Ibid., v. 7, pp. 15-16.
³. Ibid.
⁴. Ibn al-Jawzī, Muntazam, v. 7 and v. 8, passim.
Companions, and not to answer any questions about it.\textsuperscript{1} Then in 382/992 the \textit{wazîr} Abû al-Hasan al-Kawkabî ordered the Shī‘a to cease their celebrations.\textsuperscript{2} Finally in 393/1002 the \textit{camīd al-juyūsh} ordered both the Sunnites and the Shī‘ites to desist from celebrating their religious ceremonies; a situation which lasted for six years.\textsuperscript{3}

The Būyids found it necessary to intervene sometimes to stop this chaos. An instance was the intervention of the \textit{camīd al-juyūsh} in 398/1007 when serious tensions had developed between the jurists and the ordinary people of the two parties. He ordered the jurist of the Shī‘a, Ibn al-Mu‘alîm, to leave the country and punished everyone who had played a role in heightening this tension, and both parties were forbidden to hold their meetings in public.\textsuperscript{4} After a short period of calm, disorder returned with violence in the streets. Many people were injured on both sides and property was looted.

Under these circumstances the people of Baghdad were forced to go along with the \textit{de facto} situation and accept a compromise in their religious beliefs; or to

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\item \textsuperscript{1} Ibn Kathîr, \textit{Bidâya}, v.11, p.289.
\item \textsuperscript{2} Ibn al-Jawzî, \textit{op.cit.}, v.7, pp.167-68.
\item \textsuperscript{3} \textit{Ibid.}, p.222.
\item \textsuperscript{4} \textit{Ibid.}, p.238.
\end{itemize}
depend on themselves to get their way by force; or be passive and follow the path of Sufism.

The political situation during the fourth and fifth centuries was very difficult in that there were two distinct parties. One was headed by the Caliph, and the other by the Būyid Amīrs. It was clear at the beginning of Būyid rule that the second party, being Shi'ī, were not ready to recognise the supreme authority of the Sunnite Ābāsid Caliph as the head of the state. Furthermore, they sought to depose the Ābāsid Caliph and pay homage (bayāna) to an Alīd. It was under Muḥammad ibn ʿAlī that this became imminent, but one of Muḥammad's close friends advised him not to take such a step because, since the Sunnite Caliph was not considered as a legitimate sovereign, then it was easy for him to be killed or deposed; but if the Caliph became an Alīd, then he would be considered a Caliph by right, it would not be easy to depose him, and he might destroy the Būyid power.1

It is quite clear that Muḥammad's friend was aware of the unusual political situation in Baghdad. The Būyid power would be active and firm so long as a

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Sunnite Caliph remained on the throne, not recognised by the soldiers as a legitimate ruler, and they would obey the Būyid ruler. The situation might be turned upside down if an Ālid held the throne. He would be a true Caliph and the soldiers would submit to his will and it might be possible for him to destroy the Būyids when he found them dangerous to his throne. Therefore it was better to keep the situation as it was for the benefit of the Būyids themselves.

In fact it was not easy to transfer the Caliphate to a Shi'ī ruler whilst the Būyids were governing a population of a Sunnite majority, who regarded the Ābbāsid Sunnī Caliph as an Imām and head of their faith. The Būyid had to deal with the Caliph at two levels; the Caliph as a ḥākīm who shared the Būyids state administration, and as the commander of the faithful. At the first level, the Būyids were strong enough to appoint or depose any Caliph as they felt fit. In other words, the Caliphs were powerless to take any real part in the actual management of state affairs. As the commander of the faithful he was still theoretically the head of the Muslim state, and his theoretical approval was necessary to legalise all the actions of the Būyids, to give a semblance of legitimacy to their rule.
Since their arrival in Baghdad, the Būyids had no respect for the Caliphs, who they ill-treated and humiliated for about a century. The relationship of the Būyids with the Abbasid Caliphs can be divided into two periods: the first includes the reigns of al-Mustakfī (334/945), al-Muṭīf (334/945-363/973) and al-Taʿīf (363/973-381/991). The second period includes the reigns of al-Qādir (381/991-422/1030), and his son al-Qā'im who survived till the advent of the Saljuqs.

During the first period the Caliph's power was reduced to nothing and he became a mere puppet in the hands of his Būyid masters. The Caliphs were unable to intervene in any of the state affairs; they were not able even to manage their own affairs. They were at the mercy of their military generals and Persian masters, who treated them with disrespect and caused them humiliation. Nevertheless, their prestige as the religious heads of the Sunni Muslim did give them some advantages. The Caliphate was recognised as a religious institution by various provincial rulers, who mentioned the Caliph's name in the Friday ceremony, and other ceremonial occasions. The practice was regarded as a symbol of the Caliph's political supremacy. During the Būyids an innovation appeared; that of having the name of the Amīr joined with that of the Caliph in the
khutba. 1 For political expediency, the Būyids bestowed on the Caliph the authority to issue the decrees of investiture both on the change of a Caliph and of an Amīr, where the Caliph's permission - theoretically - was given to the Amīr to take charge of the subjects, and the administration of all their concerns. 2

As regards the coinage, despite the fact that the title of Amīr al-Mu'mīnīn was omitted, the Caliph's name was kept on the reverse side. "A study of the coinage shows that the pendulum of sovereignty swung from the Amīr to the Caliph and vice versa." During the reign of powerful Amīrs, the name of the Caliph appears generally on the reverse, whereas during the weak Būyids it appears on the obverse. 3 Other prerogatives, such as bestowing honours and titles for certain Amīrs, and the Caliph's signature on all important correspondence with the provincial governors, and contracts made with different officials, were still held. 4 The appointments of qādīs remained a privilege of the Caliphs despite their weakness. It was impossible for any qādī to hold his office unless he was directly appointed by the Caliph; the same applied for the

1. Ibn Miskawayh, Tajārib, v.2, p.396. The first person to introduce this innovation was ʻAḍud al-Daula, and henceforward it became the usual practice for the subsequent Būyid Amīrs. "Politically, the exclusion of the name of a certain Amīr from the Khutba at Baghdad meant ipso facto the termination of his sovereignty at Baghdad." See Siddiqī, op.cit., p.112.
2. Ibn Miskawah, op.cit., v.3, pp.84,141,240.
imams of mosques. Nevertheless, everything actually depended on the reigning Amir, without whose consent the Caliph could do nothing, not even to the extent of conducting his own personal business.

The accession of al-Qādir (381-422/991-1030) can be considered as a turning point in the relationship between the Caliph and the Amīrs. It did not mean the Caliph regained all his temporal powers, but the reign of al-Qādir draws a dividing line between a subservient Caliph and an assertive one, since both al-Qādir and his son al-Qā'īm played an important and effective role in State affairs.

Although the Caliph al-Qādir ascended to the throne in 381/991 he only began to reassert his political authority from the year 389/998 onwards. In other words, the process of reassertion of Caliphal authority began with the gradual decline of the Buyids in Baghdad. The caliphs were assisted in so doing by two factors. The first was the emergence of a new orthodox power under the Sunnite Mahmūd of Ghazna, who occupied Khurasān and put an end to the Sāmanid rule in 389/998. He also ended the Būyid domination in al-Rayy in 420/1028. During these years Mahmūd showed a high degree of loyalty and expressed his allegiance to the Caliph every year in his letters to

1. Ibid., p.189.
2. Kabīr, p.189.
Caliph al-Qādīr. As an indication of his loyalty, Mahmūd ordered the imams of mosques to read the khutba in the name of al-Qādir, a practice which was stopped during the rule of the Samanids to Khurasān.

The second factor which assisted the Caliph's reassertion of authority was that the Buṭid Amīrs were frequently absent from Baghdad; for instance, Bahā' al-Daula, who left the city in 384/994, and Jalāl al-Daula who was obliged to flee for his life several times due to social disturbances and lack of security in Baghdad. During the absence of those Amīrs, the Abbāsid Caliph was relatively free to practise a certain degree of political authority.

It is obvious that the whole question of caliphal power depended heavily on the first factor, for the emergence of Ghasnavid power in Khurasan raised new hopes for the Caliph to reassert some of his political authority, and also to revive his religious authority as a commander of the faithful.

Various incidents that occurred are relevant in assessing these developments. In 391/1000 the Caliph al-Qādīr held an assembly and announced that he had appointed his son Abū al-Fadl as his heir, and that he had given him the title Al-Ghālib bi-llah. This

son, however, died during his father's lifetime. So in 421/1030 al-Qādir declared his other son al-Qā'im as his successor. In 394/1003 the Caliph al-Qādir was bold enough to oppose Bahā' al-Daula's appointment of the Alid Abū Ahmad al-Mūsawi as chief judge and president of the court of appeal (mazālim) as well as nagīb of the Alids. The Buyid Amīr had to submit to the Caliphal request, and al-Mūsawi was dismissed from the post.

In 401/1010 the ruler of al-Mawsil, Qirwāsh b. Muqallad, ordered the khutba to be read in the name of al-Hākim instead of al-Qādir. At this, al-Qādir sent Abū Bakr al-Bāqillānī as his personal representative, and also an army with Bahā' al-Daula, to remonstrate with Qirwāsh; he apologised and re-established the khutba in the name of al-Qādir.

In 402/1011 a document was written demonstrating that the lineage of the Fatimids was spurious and that they had no link with Alī's family, for the purpose of denouncing their claim of Caliphate.

1. Ibid., v. 8, pp. 47-48. It is interesting to note that even the Caliphal titles have taken different shape. Instead of al-Muṭīʿ and Taʾiʿ, al-Ghālib and al-Qādir are used.
3. Ibid., v. 8, pp. 248-251.
The year 408/1017 could be considered as the starting point of the Sunnite restoration: the Caliph al-Qādir demanded that several religious scholars who were Shi'ite or Mu'tazilite should recant their creed in public. The Caliph also sent an embassy to Mahmūd of Ghazna to put into practice his policy of defending Sunna. Mahmūd replied to this order that, respectful as he was of all demands which the Caliph might ask, he would curse publicly from the minbar (Laʿn) innovators of every kind, and that he had already executed a certain number of Ismā'īlīs, Rafidites, ... and all ahl al-Bīda.¹

In 409/1018 the Caliph al-Qādir declared the Qādirīya Creed, in which the official dogma of the state was revived.² The creed was continued by al-Qā'īm who succeeded in reasserting his political authority, even more than his father. From the beginning al-Qā'īm's reign was supported by the chief of the Ghuzz in Persia, the Sunnite Tughril Beg, who emerged after the decline of the Ghaznavids in 422/1030 and pursued the same policy as Mahmūd of championing the Abbāsid Caliph against the Būyids.

The Caliph al-Qā'īm witnessed the last phase of Būyid rule in Baghdad under the reign of Jalāl al

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Daula and his successors. Lawlessness and social disturbances emboldened al-Qā'īm to assert his authority still more. A few historical examples illustrate this clearly.

Firstly, the Caliph al-Qā'īm was bold enough to prevent Jalāl al-Daula from arresting the qādī al-quḍāt and prohibiting all commercial transactions in Maghribī dinars.¹

Secondly, in 434/1042 the Caliph objected to the seizure by Jalāl al-Daula of al-Jawalī (which was the Caliph's private share of the Jizya - the poll-tax), for his own use. After an exchange of letters between them, the Caliph threatened to leave Baghdād. The Amir Jalāl al-Daula apologised and agreed that the tax should again be collected by the Caliph's personal agent.²

The influence of the Caliph increased in two other respects during the period of Buyid decline. In 444/1052 he again issued a manifesto disproving the Fātimid lineage.³ Then he ventured to bestow on one of his secretaries, Ibn Maslamah, the title of Jamālu al-Warā Sharaf al-Wuzuarā', implying that he was not a mere secretary but a wazīr, and he thus regained the long-vanished prerogative of having a wazīr.⁴

². Ibid., pp.112-114.
In spite of the Caliph's success in recovering some of his lost authority in these areas, he was still unable to fulfil two of his religious obligations - to wage the holy war ḥijād, and to perform the pilgrimage Ḥajj. These had been avoided on the grounds that none of the provinces were any longer under his control.\(^1\) It should also be borne in mind that there were also occasional attempts by the Caliph to regain authority. The overall control of Baghdad continued to remain in the hands of the Būyids.

III LIFE OF AL-MAWARDĪ

Al-Mawardi spent all his life during the troubled times described in the previous section. Unfortunately very little information is available on al-Mawardi's life. He was born in Basra in 364/974\(^2\) to an Arab family who either traded in rose-water (mā' al-ward) or manufactured it.\(^3\) He was given the name CAli b. Muhammad b. Habīb and the Kunya, Abū al-Hasan. However, he is known by his family surname, 

\(^1\) Kabir, op.cit., p.199 as quoted from Jawzī, v.7, pp.113-114.
\(^3\) Ibn al-Athīr, Al-lubāb fī Tahdīb al-Ansāb, v.3, 1369 A.H. 1 p.90.
al-Māwardī, in all historical sources. Other people came to use this surname, for instance Abū Ghālib Muhammad b. ʿAli al-Māwardī, but they did not achieve the fame of this author. Al-Māwardī died at the age of eighty-six in 450/1058. He died in Baghdād, where he had spent most of his life, and was buried in the cemetery at the Gate of War (Bāb Ḥarb). His funeral prayer was led by his pupil, al-Khatīb al-Baghdādī, at the Friday mosque of Madīnat al-Mansūr.

During his youth, al-Māwardī began his studies in Basra, his native country. He learned the science of Ḥadīth and fiqh (jurisprudence) under the supervision of his countryman Abū al-Qāsim al-Saīmārī (d. 386/996). For some undetermined reason al-Māwardī left for Baghdād to pursue his studies on jurisprudence.

Al-Māwardī was probably around twenty-two when he first came to Baghdad. This opinion is based on the fact that al-Māwardī, who was born in 364/974 at Basra, studied jurisprudence there under the Shāfīite jurist Abū al-Qāsim al-Saīmārī who died in 386/996. On this man's death it would have been

3. al-Baghdādī, op.cit., v.12, pp.102-103.
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section of the province of Khurasān. Unfortunately, none of the historical sources provide any details of other appointments as regards either the names of towns or the dates of his holding the post of judge.

During the long reign of al-Qādir (389/991-422/1030) al-Māwardī is apparently only mentioned once in the sources: this was when he wrote his book al-Iqnāā, a summary of Shāfi‘ite fiqh, at the request of the Caliph, who wanted to possess a manual stating concisely the doctrine of the four Sunnite Schools of Fiqh.

On the death of al-Qādir in 422/1030 al-Māwardī moved more openly and directly into the service of the Caliph al-Qā‘im, who entrusted him with several missions of a diplomatic nature to the Būyids and Saljuqs.

In 423/1031, the next year after al-Qā‘im's succession to the Caliphate of Baghdad, al-Māwardī was sent to Abū Kālījār to receive his oath of allegiance and to arrange for the recitation of the Caliph's name in khutba in his territory. The prince promised to give his allegiance, if the Caliph granted him the title

3. C. Brockelmann, "al-Māwardī", E.I. Brockelman claims that al-Māwardī was an envoy for the Caliph al-Qādir. According to all the principal historical sources this is not correct. See Hasan, Tārikh, v.3, pp.79-80.
"al-Sultan al-Muazzam Malik al-Umam" (The great Sultan and Lord of Nations). Al-Mawardi refused on the grounds that the title only befitted the Caliph.  

Abū Kalijār then proposed the title, "King of the State" (Malik al-Daula) to which al-Mawardi agreed. The envoys returned bearing with them two thousand dinars, thirty thousand dirhams, and many gifts, such as aloes wood, camphor, amber ... etc.

In 428/1036 Mawardi was sent by the Caliph with Abū Abdullāh al-Mardustī, as a mediator to make peace between Prince Jalāl al-Daula and his nephew Abū Kalijār. Al-Mawardi succeeded in his mission and both princes came to an agreement and received valuable presents from the Caliph.

It was in 429/1037, when al-Mawardi faced his greatest challenge from the Buyid prince Jalāl al-Daula. In that year the prince asked the Caliph to grant him the title of Malik al-Mulūk (King of Kings). The Caliph gave orders that this title should be recited in the Friday khutba only with the prince's name. But

1. Ironically, the Caliph at that time lacked the power not only to manage his country but also his personal affairs.
when it was recited, the congregation showed their aversion by throwing bricks at the imams of mosques in protest. Therefore, the Caliph asked the fuqahā‘ to pronounce their legal opinion in the matter. Qādī al-Qudāt Abū al-Tayyib al-Tabarī, Qādī al-Ṣa‘īmarī and Qādī al-Baidāwī held it to be permissible because in the case of such titles only the intention was to be considered. It was reported that al-Mawahdi agreed with them, but Ibn al-Jawzī and Shaikh Abu Mansūr b. Salāh in Adab al-Mufti reported that al-Mawahdi refused to recognize the title, and regarded it as unlawful on the grounds that no man had the right to designate himself as King of Kings which is a title only suitable for Almighty God. After giving his opinion al-Mawahdi refrained from attending the court of Jalāl al-Daula, and did not stir out of his house for more than two months. Thereafter, the Buyīd prince called him to his palace and assured him that he in no way resented his conduct, because he knew his view to be an honest one as his sincerity was undoubted and it merely increased his regard for him.

It may have been as a result of his opposition to Jalāl al-Daula’s title that he was appointed in the

same year as *Aqda al-Qudāt*. The appointment brought opposition from some jurists such as *Qādi* Abū al-Tayyib al-Tabarī (d.450/1058) and al-Saimarī, who both claimed that the title was illegal. Al-Māwardī did not pay much attention to their views and enjoyed the title until his death.¹ This title, *Aqda al-Qudāt*, according to Yāqūt, continued to be conferred on judges as late as the beginning of the seventh century of the Hijra.

There was a condition attached to the title, which was that it should be regarded as inferior to *Qādi al-Qudāt*, though in the course of time it became a mere matter of form rather than one of real significance.²

Literally, the title *Aqda al-Qudāt* must be superior to *Qādi al-Qudāt*; but the former title was an honour, rather than an official and professional post. It may have been bestowed on al-Māwardī for his legal opinion against the Buyid prince Jalāl al-Daula when he asked the Caliph to entitle him King of Kings. It seems that Caliph al-Qādir was satisfied with al-Māwardī's opinion and probably granted him the title of *Aqda al-Qudāt* as a sign of satisfaction.

Four years later, the Caliph sent him to the Saljūq Ṭughril Beg who was in ʿIrāq. The object

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² Ibid.
of the mission was to stop the reciting of Tughril's name in the *khutba* and to substitute for it that of the Caliph al-Qā'īm.\(^1\)

In 434/1042 there were serious tensions between Jalāl al-Daula and the ʿAbbāsid Caliph al-Qā'īm when the former confiscated the Caliph's financial share in poll-tax (*jawālī*) because of lack of money. It was customary for the Muslim princes not to interfere with the revenue set apart for the Caliph's private expenditure. The Caliph sent an envoy to Jalāl al-Daula to release the *jawālī*, but on his refusing to do so, the Caliph decided to leave Baghdad. Al-Māwardī was then sent to the Buyid prince to secure the Caliph's rights. Al-Māwardī succeeded in persuading Jalāl al-Daula not to repeat this action in the future. From the next year the Buyid prince no longer did so and let the Caliph's agent collect the tax.\(^2\)

The final mission was in 435/1043. Al-Māwardī was sent to make peace between the Saljuq Tughril Beg and the Buyid Jalāl al-Daula and Abū Kalījār, when the two parties were engaged in war. Al-Māwardī, being the Caliph's envoy, was treated with honour by Tughril Beg.\(^3\) Because of Jalāl's death in

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3. Ibid., p.116.
the same year, al-Māwardī was forced to stay about six months for negotiation, and then he returned to Baghdad in the beginning of 436/1044 where he reported to the Caliph about his mission.¹

From 437/1045 onwards the name of al-Māwardī no longer appeared as that of a diplomatic mediator. But it seems that he devoted his activities to defending the Sunnite Caliphate and became well known as the author of the most famous book on the theory of the Imamate and State administration, namely al-Ahkām al-Sultāniyya.

As regards al-Māwardī's position as a judge nothing is known either before 429/1037 or after. What is certain is that after resigning from his official position as a judge, he settled permanently in Baghdād in Darb al-Za'farāni (Saffron Street).²

The street is located in the Shi'ite quarter of al-Karkh.

"It was one of most populous, the finest and best built in the city. The majority of its householders were merchants, jurisconsults, and other wealthy people."³

"Al-Māwardī's place of residence testifies to the solid financial position which he must have achieved by this time in his life. It would certainly have been possible for him to accumulate riches as a result of the remunerations from his various judgeships as well as the perquisites from his diplomatic missions to the Buyids and Saljūqs."⁴

During his long life-span, al-Māwardī gained a reputation among historians as "a man of imposing rank, held in high regard by the ruler (Sultan)". Having gained the respect and trust of the Abbāsid Caliphs as well as that of the Būyid Amīrs, he was sent several times to act as a mediator between them in order to sort out their disputes and disagreements.

In the final years of his life al-Māwardī lived in semi-retirement, especially after his last mission to Tughril Beg in 435/1043. Accordingly, from the year 437/1045 "the name of al-Māwardī no longer appeared in the vanguard ... of actions undertaken for the defence of the Caliphate and Sunnism". But al-Māwardī did not exclude himself entirely from public celebrations. It is reported that he signed the marriage contract of the Caliph al-Qā'im in 448/1056 to the niece of Tughril Beg.

As regards his personal conduct, al-Māwardī was described in most historical biographies as one of the most virtuous jurists in Islamic history. Al-Subkī, in Tabaqāt, quoting from Ibn Khairūn - one of al-Māwardī's students - said that al-Māwardī was "a man who commanded

great respect". 1 According to Ibn Kathîr, "he was gentle, dignified, and a man of letters. He was so polite that his arm has never been seen by any of his friends". 2 Yâqût said to Abd al-Malik al-Hamadânî—also a student of al-Mâwardî:

"I have never seen any person more serious than him; I have never heard him laughing at any time, and I could never perceive his forearm bare from the time when I first kept company with him until his death." 3

If we accept all these opinions, then al-Mâwardî would be an angel, not a human being: it is unrealistic to accept such a view. These descriptions come from his students and must therefore be assessed critically. Gentleness, dignity, respect, modesty and qualities like these do not make anyone special, because they are the principal virtues in Islam and every Muslim is obliged to practise them as much as possible. Thus jurists must be especially aware of the importance of acquiring these virtues, especially when they are with their students, and therefore there is nothing special in stressing that al-Mâwardî demonstrated such qualities with his students.

Al-Mâwardî's character and conduct can be better discerned from studying his writings and his

2. Bidâya, v.12, p.80.
3. Irshād, v.4, p.408. It is interesting to note that hiding the limbs was, at that time, a sign of respect.
attitudes towards the different issues with which he was involved.

Without doubt, al-Mawardî's legal opinion against Jalāl al-Daula in 429/1037 is an indication of his courage, for it was not easy for a jurist to stand up to the ruler of the city and the other jurists. His position could be justified on religious grounds according to the Prophetic Hadīth, "the most base name to Allah on the Day of Judgment is a man who calls himself King of Kings". It was related to Abū Huraira that the Prophet had said, "Allah's anger is hard upon he who kills himself, and on a man who calls himself King of Kings. Allah almighty is the only King". 1

It could be said that al-Mawardî was modest; this appears from an incident which is mentioned by al-Mawardî himself in Kitab Adab al-Dunyā Wa'l-Dīn, when he said:

"I am telling you about myself; that once I composed a book on legal transactions (biyūc) in which I gathered all I could of the works of other people. Once the work was finished, I felt myself the greatest authority on the subject. One day, two Bedouins came to my circle and asked me about a contract they had made in the desert on certain conditions involving four issues, none of which I could solve. They then went to someone who had less knowledge but who succeeded in solving their problem. I spent time thinking about my inability to solve such problems, while considering myself to be an authority. The case was an inner warning and a challenge to my self-conceit to leave pride and follow modesty." 2

1. al-Subkī, Tabaqāt, v.5, p.271.
2. al-Mawardī, Adab, pp.81-82.
Al-Māwardī also had a sense of tolerance towards others, even when they did wrong. It was reported that in 323/934 the Hanbalites were very active against abominations in Baghdad such as prostitution, singing and drinking wine. They were asking everyone, both men or women, about the people with whom they associated, even if the people concerned were boys. If an adequate answer was not given, they would be beaten and taken to the Sāhib al-Shurṭa.¹

Al-Māwardī had a different view. He wrote:

"If the Muḥtasib sees a man with a woman in public with no suspicion, he has no right to be rough and to ask needless questions. But, if they are in a deserted place, the Muḥtasib must hesitate and be sure that the woman is not a wife or a relative. Then he should advise them to fear Allah and not to commit adultery and to remind them of Allah's punishment in the Hereafter."²

Al-Māwardī also believed that man should not swim against the current: in other words, if the problem could not be solved, then one should submit to it. Al-Māwardī based his view on logical and religious grounds, since if man is unable to stand against destiny (qadar) he should have faith in it. Politically, man should not oppose the circumstances, but tackle them carefully and submit to them if necessary.³

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3. al-Māwardī, al-Wizāra, p.49.
Al-Māwardī’s view towards the manual tasks such as carrying stones and cutting wood is rather non-religious. He described it as a bestial job (Camal bahīmī), and he states that this kind of job is specified for base spirits. This intellectual deviation is strange from a religious leader like al-Māwardī, who wrote numerous treatises speaking about justice and equity among the people.

His behaviour in settling in a Shīʿī quarter gives us an impression of self-interest, since he accepts living with the Shīʿites who held an antagonistic attitude against the Sunnites of Baghdād and had numerous disputes during the Būyid rule. It seems that al-Māwardī’s capability to live among the Shīʿites despite their hatred of the Sunnites at that period depended on his close relationship with the Būyid prince Jalāl al-Daula.

The charge of being a Muʿtazilite has been made against al-Māwardī. The earliest accusation against him in this respect was made by Ibn Salāh, the Shāfiʿite traditionalist who said,

"This al-Māwardī, may Allah forgive him, is being charged with Muʿtazilism. I had not investigated it, and I even tried to explain his interpretations of certain Qurʿānic..."

1. al-Māwardī, Adab, p.212.
verses about which there are differences of opinion among the Sunnites and Mu'tazilites, until I observed that he had adopted some Mu'tazilite views of interpretation concerning these verses. But he is not entirely a Mu'tazilite, as he does not subscribe to their principles (usūl) such as the creation of the Qur'an. Still, however, he agreed with them on the doctrine of predestination, the affliction which overcame the people of Baṣra a long time ago.\footnote{1}

The same charge was also made by Yaqūt who speaks of al-Māwardī as a Shāfi'ite in furu' (branches) of fiqh and a Mu'tazilite in usūl (principles).\footnote{2}

In fact, none of these scholars can support his allegations with solid evidence. Therefore, it is important to determine whether al-Māwardī was really a Mu'tazilite or whether he simply had some Mu'tazilite inclinations. To say, as Ibn Ṣalāh does, that al-Māwardī's interpretations of certain Qur'ānic verses are similar to the Mu'tazilites', and at the same time to admit that he refutes one of their main principles, i.e. the creation of the Qur'an, is clearly contradictory; whoever refuses one of the usūl of the Mu'tazilites would not be considered as a Mu'tazilite.\footnote{3}

In addition, al-Māwardī's name was never mentioned in Tabaqāt al-Mu'tazila of Ahmad al-Murtada.

\footnotesize{\begin{enumerate}
  \item Sarhān, Adab al-Qādī, v.1, pp.33-34.
  \item Z. Jārr Allah, al-Mu'tazila, p.51.
\end{enumerate}}
The core of the accusation stems from the importance which al-Mawardi accords to reason (caql). This is what has caused some scholars to assume that he had Mu'tazilite tendencies. In fact, al-Mawardi's belief in reason as the main source of authority in some of his works made him vulnerable to the criticisms of Sunnī scholars in general. His emphasis on reason even pushed him to justify prophecy by reason and he accorded a full chapter in the book Aclam al-Nubuwwa to the point where he considered caql as the mother of science, umm al-Ilm.

In Adab al-Dunyā wa'l-Dīn, more than fifty pages are allotted to a discussion of the importance of reason, the basis of all virtues. The concept of reason and its importance as an Imperial virtue is clear from his treatises Nasihat al-Mulūk and Tashīl al-Nazar.

These examples of his opinions are not sufficient to charge al-Mawardi with Mu'tazilism. Al-Mawardi's interpretations of certain Qur'ānic verses must be understood as the opinions of a Mujtahid who has an extreme belief in reason as the main authority

1. Donaldson, Studies in Islamic Ethics, p.84.
3. pp.20ff.
even in legal matters. Al-Māwardī always described himself as a Mujtahid not a Muqalid (imitator).¹

Considering himself a Mujtahid or an independent thinker led him to refute even some legal matters in the Shāfiʻite Madhhab, i.e. the Shāfiʻite view on the inheritance of the relatives on the maternal side.² Al-Māwardī also allows the Qādī to follow any Madhhab in his judgement, regardless of his personal Madhhab.³ Nevertheless, al-Māwardī's attitude towards reason needs a logical justification.

Al-Maqrīzī reported that Muṣṭazilism revived under the Būyids in ʻIrāq, Khurāsān and Transoxaniā. Even in North Africa there were many Shiʻites who adopted the Muṣṭazilite usūl, and most of the Shiʻa were Muṣṭazilites. The Būyid prince ʻAdud al-Daula adopted some of their views. The Muṣṭazilite doctrine flourished under the Būyids and reached its apogee under the wizāra of al-Šāhib b. ʻAbbād (326–385/937–995) who held the office for eighteen years (367–385/977–995). Not only was al-Šāhib a Muṣṭazilite, but he devoted his authority and wealth to reviving their principles, especially among scholars.⁴

¹. Yāqūt, Irshād, v.5, pp.408-09.
². Yāqūt, op.cit., loc.cit.
³. Adab al-Qādī, v.1, p.79.
The reign of the Caliph al-Qādir was a turning point. Supported by the increasing influence of Mahmūd of Ghazna and political instability in Baghdad, al-Qādir declared his creed, which was known as the Qādirīya Creed, in which he attacked the Mu'tazilites and ordered the people to change their views. In 420/1029 the Caliph himself wrote a book on the merits of Abū Bakr and ʿUmar I, denied the doctrine of the creation of the Qur'ān and made the order that all Mu'tazilite books should be burned.¹

It was inevitable that the impact of the Mu'tazilites should affect al-Māwardī, who frequented the court of Jalāl al-Daula, and it is not surprising that he should be influenced by some of their inclinations. But al-Māwardī neither adopted any of the usūl (principles) nor was he ever classified - by scholars who wrote about the Mu'tazilites - as one of their number. It is doubtful that al-Māwardī was a Mu'tazilite. More probably, his intellectual attitudes may be seen as the result of intellectual independence and a freedom of interpretation even in Sharī'a.

From the little historical evidence of his life that can be discovered together with his writings, al-Māwardī emerges as a complex personality. He was

a reasonably successful jurist who enjoyed good relations with the two principal disputing factions in Baghdad, the Amīr and the Caliph. As such he could be described as an astute man. However, what really makes him an outstanding figure is the great ability he showed in his political writings. Yet even these may indicate some opportunism.
CHAPTER I

AL-MAWARDI’S EARLY

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AL-MAWARDI'S EARLY POLITICAL TREATISES

INTRODUCTION

It is necessary to study the earlier political writings of al-Mawardi if a full understanding of his book al-Ahkām al-Sultāniyya is to be made possible. This book marks the culmination of his political thought. Several treatises produced earlier are works which put forward political thought and therefore also merit consideration. They are as follows:

1. Nasīhat al-Mulūk (Advice for Kings)
2. Tashīl al-Nāzar wa Ta'kīl al-Zafar (facilitating the judgement and hastening victory)
3. K. al-Wizāra (Book of the vizierate)
4. Adab al-Dunyā wa'l-Dīn (Ethics of this world and religion)

It is difficult to date these books with any accuracy. Enger cites a manuscript of Kitāb Adab al-Dunyā wa'l-Dīn which says that that book was read in public in the mosque in Wāsit by al-Mawardi in 421-1030.¹

¹ M. Enger, Mawerdī: Constitutiones Politicae, MDCCLIII, p.iv.
If it was not for this reference, it would have been preferable to regard this work as one of the later books of al-Māwardī being just a little earlier than K. al-Ahkām al-Sultāniyya, for it shows very similar doctrines about the Imamate to the latter and seems to emphasise the role of the Imam at the expense of the Būyids. If the date given by Enger is correct, it would then appear that al-Māwardī's views on the Imamate remained constant throughout his life but were only publicly expressed at times when the Caliph was able to exert some political influence against the Būyid princes. This would mean that Kitāb Adab al-Dunyā wa'l-Dīn was written towards the end of the reign of al-Qādir (381-422/991-1030) while al-Ahkām al-Sultāniyya was written in the later period of the reign of al-Qā'im (d. 467-1074) since at both these periods the Caliphs were able to break away to some extent from the influence of the Būyids.

In order to try to discover the period of these works, it will be necessary to take some account of al-Māwardī's career. This is only occasionally hinted at by these sources. We know that he was asked by al-Qādir to present a summary of the teachings of the Shāfi'i Madhhab. This resulted in al-Māwardī's book al-Iqna' which the Caliph admired.
very much and for which he praised him in public.¹ By then al-Māwardī was probably already the chief qadi of the Shāfīite madhhab in Baghdad. This indicates that al-Māwardī was already developing a fairly close relationship with the Caliph, a relationship which would have been further strengthened by his doctrines concerning the Imamate in Adab al-Dunyā wa'1-Dīn, if Enger's reference to the date of its writing is indeed correct.

If it was not for the date cited by Enger, which has already been mentioned, it would have seemed reasonable to divide al-Māwardī's political writings into two periods. The first period would contain the works Nasīhat al-Mulūk and Tashīl al-Nazar wa-Ta'ājīl al-Zafar. These are works of the kind generally referred to as "Mirrors of Princes". K. al-Wizāra may also be regarded as belonging to this group.² In the second period would come the two works Adab al-Dunyā wa'1-Dīn and al-Ahkām al-Sultāniyya, works which emphasise the role of the Imam. It must be noted here that Adab al-Dunyā is only partly political, its principal concerns are ethical and literary.

In the work of Adab al-Dunyā, al-Māwardī, while discussing the various kinds of human occupations

¹. Yāqūt, Irshād, v.4, p.408.
². Supra, pp.81-82.
refers to the group of individuals who occupy themselves with government of people and administration of the state affairs. He passed over this type of occupation on the ground that he had devoted a separate book to the subject of government (siyāṣa). Unfortunately, al-Mawardi did not state which book he meant - Nasīhat al-Mulūk or Tashīl al-Nazar. It would seem that he was referring to the first for the following reasons. Firstly, al-Mawardi states clearly that he devoted a book and not a section, to the subject of government (siyāṣa). The only book completely devoted to this subject is Nasīhat al-Mulūk. Whereas the discussion of siyāṣat al-Mulk occupies only the second half of the Tashīl al-Nazar. Secondly, three out of the ten chapters of Nasīhat al-Mulūk, directly concerned with government and kingship, were entitled siyāṣa. They are called for example, siyāṣat al-nafs, Siyāṣat al-Khāssa wa’l-Jund and siyāṣat al-ʿAmmā. These are the options which al-Mawardi mentioned in K. Adab al-Dunyā wa’l-Dīn.

J. Mikhail takes up al-Mawardi's reference to a book on siyāṣa and suggests that Siyāṣat al-Mulk should be the correct title of what is now called Nasīhat al-Mulūk. He points out that such a work has

1. Adab, p.212.
been ascribed to al-Māwardī and that there is no historical reference to work by him entitled *Nasīḥat al-Mulūk*, a title which he suggests arises from a sentence at the end of the text which has been taken up by the copyist. In addition, the content of *Nasīḥat al-Mulūk* conforms to the title *Siyāsat al-Mulk*.¹

This suggestion fits well with al-Māwardī's reference in *Adab al-Dunyā* and it seems appropriate to adopt the view that *Nasīḥat al-Mulūk* was indeed the work which al-Māwardī was referring to there. However, for the sake of convenience, the title *Nasīḥat al-Mulūk* will be used in this thesis as it is now better known.

In *Tashīl al-Nazar wa-Taṣīl al-Zafar*, there is internal evidence to date the book after 428-1036 for al-Māwardī mentions his mediation between two kings. This must be a reference to the diplomatic mission al-Māwardī undertook in 428-1036 between Abū Kālījār and Jalāl al-Daula.

Thus, the chronological order of the works would appear to be: (1) *Nasīḥat al-Mulūk* written before *Adab al-Dunyā wa'īl-Dīn*; (2) *Adab al-Dunyā wa'īl-Dīn*, written before 421-1030; (3) *Tashīl al-Nazar wa-Taṣīl al-Zafar*, written after 428-1036; (4) *Kitāb al-Wizara*; and (5) *Kitāb al-Ahkām al-Sultāniyya*. The last work

belongs to the later period of the reign of al-Qā'īm when the latter made a resolute attempt to assert his authority against that of the Būyids.

Despite this suggested chronology, the books have a more logical division. The two books Nasīḥat al-Mulūk and Tashīl al-Nazar together are, as already pointed out, of the kind that are termed "Mirrors of Princes", while Adab al-Dunyā and al-Ahkām al-Sultāniyya are concerned more with the Imamate per se and thus with Islamic political theory from a more ideal perspective. It is proposed therefore to deal with these works from the point of view of their logical division rather than apparent chronological order.

"The Mirrors of Princes" literature to which the works Nasīḥat al-Mulūk, Tashīl al-Nazar, and Kitāb al-Wizāra belong, was a Persian genre of literature. These works were written to educate rulers, princes and the official class in the necessary ethics of the art of government. However, under Islam this kind of literature introduced Islamic elements alongside allusions to the model conduct of the Sassanian kings.

NASĪḤAT AL-MULŪK

Only four sections out of ten in the whole text of Nasīḥat al-Mulūk (advice for kings) are concerned
with politics. The four sections are, the factors which may lead the kingdom to decay, on the management of soldiers, on the management of populace, and on the management of enemies, traitors and criminals.

As already mentioned, *Nasīḥat al-Mulūk* was addressed to the Buyid prince, Jalāl al-Daula. Despite the fact that he was a Shāfiʿite religious leader, al-Mawardi was addressing a work of advice on government to a Shiʿite leader who was governing the community despite the presence of the Caliph. In effect, al-Mawardi was accepting, relating and acting in a practical way by giving the *de facto* ruler good advice on how to govern. This is, however, an element of sycophancy in this kind of "Mirrors of Princes" literature and al-Mawardi's work is not free from it. The title itself makes it clear to whom the work was addressed. The Buyids had long claimed the title of malik, which was regarded as the Arabic equivalent of the Persian Shāh.

Al-Mawardi himself claims that the motive for compiling the treatise resulted from his religious feeling that it was necessary for him to advise the king and provide him with a proper knowledge of the way in which to govern the state and his subjects with justice as this would guide them to straight paths and
to happiness. Al-Māwardī does not ask for any temporal benefit from the king but only seeks Allah's reward. This feeling stems from his obligation as a religious scholar whose duty is to exhibit his religious knowledge to those in authority (ʿūlūʾʾl-Amr). The scholars who conceal knowledge, he claims are insincere and contradict the Islamic principles.

He records a tradition on the authority of Abū Ruqayya al-Dārī that the Prophet said, "Religion is good advice. We said: To whom? He said: To Allah and His Messenger and to the leaders of the Muslims and their common folk". Accordingly, it is the duty of every Muslim to give the ruler good advice because the ruler's goodness and righteousness could lead the whole community to happiness and vice versa.¹

However, al-Māwardī in giving this advice is guilty of manipulating Qur'ānic texts in order to please the Buyids. Using a theory which occurs throughout his works, he says that God honours man over animals, as He honours the latter over inanimate bodies (jawāmid) as it is mentioned in the Qur'ān (XVII, 70) "God made whatsoever is in the skies and earth in the service of mankind during his life on earth" (XXXI, 20). From this al-Māwardī goes on to say that He favours kings

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¹. Al-Māwardī, Nasīḥa, fol.4a.

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over people in the same degree that He favours the
people over animals and inanimate bodies. This is
because the king is honoured through using the same
word which was used to describe God. Further, the
same word was used to describe the ancient Prophets
(Qur'ān II, 25, V, 20 and IV, 54).\(^1\)

It is quite obvious that the previous
Qur'ānic verses were deliberately selected to satisfy
the Buyids and, at the same time, to render their
titles with a shadow of legality. Otherwise, there
would be no reason for al-Mawardi to ignore, for example,
the Qur'ānic verse, "Kings when they enter a township,
ruin it and make the honour of its people shame. Thus
will they do" (XXVII, 34), or the verse which describes
the kings as usurpers (XVII, 80).

Nonetheless al-Mawardi continues his
argument in this vein. He maintains that God, for
divine reasons, created the people in ranks and raised
some groups over others.

"We have apportioned among them their livelihood
in the life of the world, and raised some among
them above others in ranks that some of them
may serve others." (XLIII, 32).

The king, says al-Mawardi, occupies the highest rank
in the state. The people's duty is to serve him
because he is God's shadow on earth.\(^2\) In other words,

\(^1\) Al-Mawardi, Nāsiḥa, fol. 9a.
\(^2\) Ibid., fol. 9a.
absolute monarchy is the best system of government for managing people's affairs. The relation between the king and his subjects is linked to the relation between the shepherd and his animals. The king is the shepherd and the people are the animals. Without the former the people cannot manage their temporal business. Al-Māwardī inclines to philosophy when he characterizes this relation as the "head" and "organs". The ruler is the head and the people are the organs. The body which is society cannot survive without this "head" and, in order to keep the "head" alive, all "organs" must serve it.\(^1\)

Al-Māwardī provides no solution to the problem of the unjust ruler. He seems to maintain that it is best for the people not to dispute with the king. In other words, they are not to revolt against him, since he obeys God, and practises religious duties and legal penalties.\(^2\)

Al-Māwardī is, perhaps, one of the first writers to discuss the idea of state corruption (fasād al-daula).\(^3\) He attempted a limitation of the factors which might lead the state to decay, and he also provided guide lines to prevent this from happening. His awareness of the struggle for power between the members of the Būyid dynasty made him consider this

1. Naṣīḥa, fol.9a.
2. Ibid., fols.10-11.
3. Ibid.
factor as the first step in political disintegration. Naturally, it would place al-Māwardī in a most difficult situation were he to present this fact to the Būyids. Consequently, he hinted at it through references to earlier history. He says that the contention over rulership after the Prophet's death was the matter which broke up Islamic unity.\(^1\)

Al-Māwardī turned next to the element of corruption; hereditary rulership, "the ruler's desire to transfer kingship to their sons and relatives without being sure of their reliability".\(^2\) Al-Māwardī ignored the fact that most of the Abbasid caliphs during the Būyid rule were chosen by the latter's consent and did not attack this point! The statement seems to imply that al-Māwardī stands against the Sunni consensus which had accepted the concept of hereditary rulership through all the proceeding centuries. It was in fact legalized so as to maintain the unity of Islamic society.

Al-Māwardī asserted that fanaticism and sectarian struggle had a great share in a state decay. It is quite obvious that al-Māwardī meant the frequent fighting between the Sunnites and the Shi'ites in Baghdad. Another element which could lead to decay was the wicked entourage of viziers and scribes whose

\(^1\) Nasīha, fol.15a.

\(^2\) Al-Māwardī, Nasīha, fol.15a, and this point is also taken up in al-Ahkām, cf. al-Ahkām, p.10.
only care was to satisfy the king's desires whether they were legal or illegal and to keep him away from men of religion. This sphere of immorality and irreligiosity led the rulers to neglect God's commandments and commit forbidden acts and work only for their temporal world.¹

The consequential results of this corruption would be as follows, the spoiling of religion (fasād al-dīn), enemies, covetousness, the undermining of the principles of rulership and finally despotism.² Unfortunately, there is no full discussion of these results, but one might perhaps comment that all of these results had for a Sunni occurred during the Buyid reign in Baghdad. The pilgrimage had been stopped for several years because of professional criminals. Religious innovations were adopted by the Shīʻa with the consent of the Buyids. Religious disputes between the Sunnites and Shīʻites were frequent and the city lived in a state of fitna, public safety was lost and prostitution was common.

The restoration of order could only be brought about by the king by certain means.³ First of all, the king must give great attention to the Sunna of rightly-guided caliphs who followed the true Islamic

1. Naṣīḥa, fols.15-16.
3. Ibid., fols.17-18.
principles during their Caliphate and also they should follow the practice of the virtuous ancient kings. Ironically, al-Mawardi was directing his book to a Shi'i king who was far from attentive to the Sunna, and also the practices of the first three Caliphs. The other advice of al-Mawardi referring as it did to the Persian kings, the predecessors of the Buyids, might have impressed them more favourably though it was hardly Islamic advice. Secondly, the elimination of sectarian disputes between different religious groups would be achieved through the prevention of public discussions which could lead to such disturbances. It also involved ordering the people to social solidarity and the punishment of innovators. If the king failed to achieve progress, he should then spread out his spies among the people to provide him with fresh news about local events. Finally, justice was to dominate all the king's decisions and actions.\(^1\)

Restoration could not be achieved if it was not based on religion. Sovereignty without religion was vain and would not stay long because kingship and religion are inseparable. Therefore, the ruler's duty was to protect the religion against heresy and innovators. The ruler himself should be the rightly guided leader to his people. Only through this

\(^1\) Al-Mawardi, *op.cit.*, fol.18.
circumstance could a healthy society be established.¹

Al-Māwardī was also aware of the army's vital position as a military institution in state affairs, which caused him to lay stress on their treatment as a special unit. The goal was to give military support and thereby keep the king in office for as long as possible. The king needed to have sincere and obedient soldiers so that complete military support could be guaranteed and would ensure his existence.² There were several methods whereby military support could be achieved. One of these was the regular payment of a salary. Otherwise, the soldiers would find their own way to obtain money from the sources. An additional factor was that they should each be accorded respect, for their devotion and sincerity in creating amongst themselves self competition in the service of the ruler. Further, they should be strictly supervised and detrimental behaviour restricted. The king should spread his spies among their camps to provide him with fresh news frequently. Further, participation in their common and private festivities was to be encouraged. In other words, the King should build a firm relationship with his soldiers. This was to carry

2. Ibid., fol.45.
on after their deaths, through the support of their families. Other soldiers then would take this into consideration and devote themselves with more sincerity to the king and the kingdom.\(^1\)

It seems that al-Māwardī was trying to provide a logical or at least reasonable justification for the soldiers' revolts during the reign of Jalāl al-Daula, and gives him advice on how to restore equanimity to the situation.\(^2\) His solution to the problem was rather secular. Political expediency was the principle which has been used by al-Māwardī several times to achieve his purpose of clothing his solution with legal justifications. This solution though begs another question. If the king were unable to pay his soldiers, do they then have the right to revolt against the ruler and to replace him with someone else? Such a conclusion is probably acceptable on the ground that the aim of the military is to preserve the unity of the society and not the king himself; consequently, if the king fails to do so, there is no longer any need for him to stay in office.\(^3\)

Al-Māwardī seems at first to contradict his earlier argument about the relationship between the

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king and society when he discussed the management of the populace (siyāsat al-Cāmma);\(^1\) justice is the core of the issue for religious and temporal reasons. Religiously, both the Qur'ān and the Sunna demanded justice as a basic principle of rulership (V.8 and IV.58). From a temporal standpoint societies only survived in a just sphere. Therefore, justice must dominate all aspects of life, especially the life of the subjects (al-riCiya). It was discussed elsewhere that tyranny would always lead to the state's destruction, and if the king were to base his rule on despotism, the result would be that he governed ruins as opposed to a community. However, earlier al-Mawardi has maintained the necessity that the king survive the society. The king is the "head" which the body cannot function without, and all the body's organs (people) must be in the service of the head if they want to survive. Yet, it seems that al-Mawardi believed in mutual interdependence, although perhaps unconsciously, between the ruler and the subjects where there is no chance for any party surviving without the other.

Justice as a main principle of the king's management of the populace, could not be achieved in a vacuum. Certain circumstances must first be achieved.

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1. Al-Mawardi, Nasīha, fols.57ff.
2. Ibid.
thereby allowing the ruler to administer the community justly. These circumstances were the duties of each party. Unfortunately, al-Māwardī did not provide many details about people's duties, but rather, he summarized them in four essential concepts; complete obedience, not to revolt against their kings, sincere support, and respect for their king. The first two duties are the most important for, without them, the society would be in chaos. The king's duties are much more complicated and connected with many channels. He must safeguard and defend religion against innovators and must also bring to a halt all manner of wrongdoings such as the drinking of wine and gambling. He must keep the state in a climate of safety and secure the prosperity and lives of the people so that they would be able to proceed in their economic activities without fear. Further, he must judge all cases in a just fashion based on the revealed law. It is rather curious to find that al-Māwardī insists on justice and at the same time, advises the ruler to treat each person according to his social rank. In other words, equality has no place here. It seems that al-Māwardī held this view from the beginning, for he devoted different

2. Ibid., fols. 60-69.
sections of his work to the management of the top class (al-khāssa).\textsuperscript{1} The ruler should have spies in the city to support him with news and information of what happens daily. In addition, a public meeting with his subjects should be held to strengthen the relationship between the two sectors.

Finally, the king must wage the holy war. The war which is demanded by the Qur'ān and Hadīth, against unbelievers. To do this, the king must have a strong, well-armed army. Once again we return to the starting point. It seems that al-Māwardī was much concerned about social unrest, the lack of public security, military abuse, and the weakness of the Būyids in Baghdad. For al-Māwardī, everything rested on the point that security and justice could not be achieved in such circumstances. On the other hand, security could not be attained unless the government had an effective army, able to control public riots and other civil disturbances. Unfortunately, the army was one of the main causes of the unrest and it seems that al-Māwardī was refusing to accept this fact.

\textbf{TASHĪL AL-NAZAR}

\textit{Kitāb Tashīl al-Nazar} provides us with an

\textsuperscript{1} Nasīḥa, fols.45ff.
insight into al-Māwardī as a philosopher. About half of the treatise describes the ethics of kingship, i.e. types of ethics, their origins, how they would be acquired and the like, while the second half is devoted to state craft (siyāsat al-Mulk). The section opens with a pessimistic view. Al-Māwardī asserts that it is impossible to construct a healthy society. This is because of human differences of habits, manners, and fiscal and mental abilities, which are the main cause of establishing authority. Accordingly, there should be masters and subjects. The people then must entrust their business collectively to their Sultān and subjugate their wills to his power.¹ Such a step is necessary, says al-Māwardī, to force the people to co-operate with each other, since reason (caql) is not enough to unite them to achieve justice in the society.²

The office of rulership is God-given. God entrusts the king with administration of His creatures (ibādīh) according to the Qur'ānic verse,

"O David. Lo! We have set thee as a viceroy in the earth; therefore judge aright between mankind and follow not desire that it beguile thee from the way of Allah." (XXXVIII, 27)

1. Al-Māwardī, Tashīl, fols. 2-3.
2. Ibid., fol. 31a.
Accordingly it is only God who has the right to question the ruler. The people have no right to object to any of the ruler's acts. They must refrain from arguing against his opinions concerning different matters, maintain absolute obedience, support his authority, and manage their business according to what he permits and forbids.

This view of the ruler seems to follow traditional teachings. However, they say that the ruler should not be obeyed if he were to commit a sin. The whole authoritarian approval of al-Māwardī at this point may also be influenced by ideas of Persian kingship.

It seems that al-Māwardī was the first scholar to discuss the concept of state disintegration and elaborate on theories of state disintegration previously alluded to in Kitāb Nasīḥat al-Mulūk. He believed that the state had a beginning and an end, and in each of the stages certain circumstances occurred. It is noteworthy that the factors which may lead to state disintegration are the same as those for establishing the state. States might disintegrate through weakness of religion, weakness of power, or excessive wealth.

1. Al-Māwardī, Tashīl, fol.30b.
2. Ibid.
4. Al-Māwardī, Tashīl, fols.31-32.
Weakness of religion resulted from neglect of the commandments, the obstruction of legal penalties, the distortion of its principles by innovation and the like. Therefore, the people would refuse to support the king's orders if they were against their creed, and would support anyone who was to rise against their king. This way religion could be saved and the state re-established according to revealed law. In other words, religion and kingship are inseparable. Without the former, the latter has no chance of prolonged survival, and should be overthrown and the system reshaped.¹

Weakness of power happened either through neglect of the military power and failure to build a strong army; or through tyranny and despotism. In both cases, the king would be unable to defend his position against others who would take the opportunity to revolt and gain control over the state. If the rebels ruled the state with pure force, it would be a government of coercion, but if they ruled the subjects justly and kept the Imam in his seat, this would be power or authority by delegation.² This idea of "authority by delegation" is probably the early stages

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1. Al-Mawardi, Tashīl, fols.31-32.
2. Ibid., fol.32b.
of al-Māwardī's theory of the "emirate by seizure" which was developed later in Kitāb al-Ahkām al-Sultāniyya. The idea is important as it shows us al-Māwardī cognisant of the real reasons for the disintegration of the Abbāsid Caliphate. At the same time, his efforts to legalize the situation are obvious. This, of course, was a situation set aside by other scholars who did not dare to discuss the dilemma from a religious point of view. It seems, however, that the legalisation was not on behalf of the Caliph as it appeared in Kitāb al-Ahkām, but rather on behalf of the Būyids as the book of Tashīl al-Nazar was dedicated to a king, not a Caliph.

Excessive wealth in the hands of the king's entourage is not a good situation as it might encourage the entourage to revolt against the king for the sake of his wealth. The king, therefore, should not appoint unreliable people for state administration. Al-Māwardī refrains from taking this as a general principle when he states that this only happens when the king becomes weak and his followers are corrupted by temporal pleasures.¹

Of all these factors, the second is the most important. This is where al-Māwardī stresses the importance of force or power as a main factor in

¹. Al-Māwardī, Tashīl, fol.33a.
establishing the state and achieving social order and peace. He states that the state starts with roughness and violence so that peoples hurry to give their obedience. Then and after establishing it on firm foundations and stable government, tenderness and righteousness are required for managing state affairs. Finally, the state ends with a diffusion of injustice and weakness.

This destiny, however, could be avoided were the king to manage his kingdom and subjects properly and to seek out the factors which could destroy his government and deal with them wisely. The management of state affairs needs to be based on four principles. They are, (a) the construction of cities which are conducive to living and the provision of a system of irrigation to allow for developing agriculture in the kingdom. This includes the construction of dams, bridges, etc. The other principles are, (b) management of the subjects justly; (c) management of soldiers; and (d) management of finance.

What concerns us here is the second principle, i.e. the king's relation with his subjects. Just management is the basis of government. Although al-Māwardī characterizes the relation between the king

1. Al-Māwardī, Tashīl, fol.33.
2. Ibid., fols.33-39.
and his subjects in a religious sense, when he pictured the king as a guardian (waliga) the terms which implies a trust to be achieved on behalf of the subjects' interest, he nonetheless considered it as a guardianship over orphans, and consequently the king should accomplish ten duties while the subjects must do nothing else but be absolutely obedient. This is happiness itself. The duties which should be fulfilled are as follows:

1. To enable the people to settle in their homes safely.

2. To preserve the public security of roads and ways of transport.

3. To defend them against aggressors.

4. To govern them with justice.

5. To judge justly in different disputes.

6. To see that they follow the commandments of revealed law in their worship and daily business.

7. To inflict revealed legal penalties (hudud) against wrongdoers.

8. To preserve safety and security of public routes.

9. To look after the public affairs of irrigation and bridges.

10. To treat each of them according to their different ranks about religion, business and type of work.

1. Al-Mawardī, Tashīl, fol.36a.
2. Ibid.
Again it seems that these ideas of justice and security reflect al-Māwardī's anxiety about the social unrest which dominated Baghdad during the Bu'yid rule.

Kingship could decay because of two factors. These are by time (al-zamān) and the dissolution of the support of followers. The first case could be traced either to divine reasons, without discussing these reasons, or to human acts.  

Nothing could be done about the divine reasons, and the king should not oppose God's destiny, but rather accept it with patience. If these causes are human, then it is possible to confront them as corruption could only happen because of injustice and the lack of successful administration. The people, according to al-Māwardī, do not usually perpetrate sins and evil acts if their king is virtuous and just, as there would be no reason for them to change their attitudes.

In the second case, the king might lose the support of his followers because of injustice. Therefore, it is his duty to establish the cause and deal with it immediately. The followers are the army and constitute the most important unit in the system of government. Without them there is no way that good social order is possible. The king must build good

1. Tashīl, fol.47b.
2. Ibid., fol.48a.
relations with the soldiers and look after them socially and financially. However, should they be evil by nature the situation is seriously difficult to treat because there is nothing which can treat souls and conscience. Above all though, the king should create a healthy sphere in all aspects of life. He must possess power, and an effective army which is able to preserve order and stability. He should administer state affairs with justice and reason instead of tyranny and passion. He also should be cautious with his enemies so as not to face any unexpected situation. Finally, he should devote himself completely to justice and make himself a virtuous model for his followers and subjects.¹

KITĀB AL-WIZĀRA²

As far as this book is concerned, it seems likely that it was written before K. al-Ahkām al-Sultāniyya for several reasons. First of all, the book K. al-Wizāra was written in the same style of that

¹. Al-Mawrdī, Tashīl, fols.48-49.

². The book was published three times. The first was in 1929, the second was in 1976, edited by M.S. Dāwūd and F.R. Ahmad. This edition is considered as the most important edition and is the one which was used in the thesis. The third was published in 1979 by Radwān al-Saiyid, and also was considered as an important edition.
of Persian literature in the mirrors for princes, the style which characterised al-Mawardi's early writings in the K. Nasihat al-Muluk and K. Tashil al-Nazar. Al-Mawardi relied heavily on non-Arab cultures and borrowed many maxims, metaphors and anecdotes concerning governmental administration from Greek, Persian and Indian civilizations better to support his views. Secondly, the subject was restricted to the specific knowledge required for a specific office, i.e. that of the wizara, and its social function without stress on its religious basis. Thirdly, new principles are to be found in K. al-Ahkam al-Sultaniyya which were not discussed in K. al-Wizara.

It was suggested by H. Laoust that K. al-Wizara of al-Mawardi was dedicated to Abu al-Qasim Cali Abu Maslama who was the wazir of Caliph al-Qaim.1 Abu Maslama occupied the office of wizara during the last phase of the Buayid reign in Baghdad between 438-450/1046-1058.2 The editors of K. al-Wizara (the edition of 1976) suggest that the book was dedicated to Ibn Makkula,3 the wazir of the Buayid Amir Jalal

3. In fact, Jalal al-Daula had appointed, during his reign, two wazirs called Ibn Makkula which is the surname of the famous family Ibn Makkula (see J.C. Vadet, art. Ibn Makkula, E.I.2). Both occupied the office of wizara several times in different periods between 417-430/1026-1038. Therefore, it is rather difficult to determine for which the book of al-Wizara was dedicated. See Jawzi, op.cit., pp. 25, 61, 72, 103.
al-Daula who had a close relationship with al-Māwardī. In actual fact, the content of K. al-Wizāra supports the latter suggestion. Al-Māwardī's introductory statements in the work described the nature of the office of the wazīr as being under the supervision of the king and not the caliph. "And you", al-Māwardī says, "the wazīr, may Allah support you with His success, in a position of different directions. You manage the people and you are managed by kings." In addition, neither the word caliph nor Imam was mentioned in the whole text of K. al-Wizāra. Al-Māwardī, in fact, gave a clear indication of whom the book was written for when he used the term "king". It seems certain that al-Māwardī had relations with only one king, that is Jalāl al-Daula. Al-Māwardī gave further evidence for this when he advised the wazīr to consult the king, and not the caliph in the affairs of state. It was also stated clearly, by al-Māwardī, that the vizier of delegation or wazīr al-tafwīd, was appointed by the king not the caliph, and also the vizier of execution or wazīr al-tanfidh where the duty of both is to carry out the administrative orders of the king. It is

1. From the introduction of K. al-Wizāra, p.10.
2. Ibid., p.47.
3. Ibid., pp.67-68.
4. Ibid., p.136.
noteworthy that al-Māwardī’s activity in political life ceased after 435/1043. This followed his last mission which was to attempt to bring peace between Tughril Beg the Saljūq and the Būyid Prince Jalāl al-Daula.¹

Despite the fact that K. al-Wizāra is a book of literature concerning the wazīr in the same manner as the "Mirrors for Princes", the book contained some political ideas concerning the nature of the office of the wazīr, types of the wizāra, and the relation between the wazīr and his king on the one hand, and the relation between him and the people on the other.

Since the office of the wizāra involves different aspects, the wazīr has to deal with different parties in the state, and therefore varied policies should be followed with each party.² The most important principle which must be followed is to deal with each problem according to its circumstances.³

With regard to the wizāra itself, it should be established on five principles, i.e. religion, justice, the ability to appoint reliable deputies, the fulfilment of promises and threats, and in a manner of seriousness, righteousness and truthfulness.⁴

3. Ibid., p.49.
4. Ibid., pp.49-63.
"Religion", says al-Mawardi, "is the basis of kingship."¹ This is the old idea which al-Mawardi largely discussed in his works, Nasihat al-Muluk and Tashil al-Nazar, and which was derived from the ancient Persian heritage. However, al-Mawardi gives no details in this point except that the wazīr should follow Allah's path in his administration.²

The second principle, which is the most important one, was that of justice, which al-Mawardi divided into three types: Justice with regard to money which should be collected and distributed justly, that is to say, according to the revealed law. Justice in speech, where the wazīr should speak with the people each according to its rank, and also not talk nonsense.³ Justice in actions and deeds implies that the wazīr should not practice his authority according to his whims. He should not punish anyone unless wrongs had been committed, and nor forgive anyone unless they show penitence. Also he should deal with each person according to the latter's attitude and personal behaviour.⁴

The wizāra is of two types, they are, the vizierate of delegation or wizarat al-tafwīd and the

¹. Al-Mawardi, al-Wizara, p.49.
². Ibid., p.50.
³. Ibid., pp.52-53.
⁴. Ibid., p.54.
vizierate of execution or **wizārat al-tanfidh**.¹ The first type, **wizārat al-tafwid**, must include the efficiency of pen and sword, and the wazīr has the authority to conduct all kinds of state affairs, such as appointing of deputies, to discharging them, and carrying out different affairs according to his personal judgement.² What is important here is al-Māwardī's description of this **wizāra**, when he said, "and this **wizāra** is 'the seizure of management' (al-istiylā' *cāla al-tadbīr)*,"³ This matter puts the vizierate of delegation in the same rank as the emirate by seizure, which al-Māwardī had discussed later in his work **K. al-Ahkām al-Sultanīyya**. As regards the vizierate of execution, the vizier has only a limited authority. He is, in actual fact, a mediator between the king and other different parties in the state such as military leaders, Amīrs of provinces, soldiers, and his subjects.⁴

The differences between the two types of the vizierate are six. First of all, that the vizier

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¹ Al-Māwardī's distinction of the two types of the vizierate was not his own invention. Al-Tha'labī (d.429/1037), one of al-Māwardī's contemporaries, divided the vizierate into two types: the unlimited vizierate (muṭlaqa), and limited vizierate (muqayyada). He described the first type as wizārat al-tafwid, and the other as wizārat al-tanfidh in different places of his work **Tuhfat al-Wuzarā'**, Baghdad, 1977.

² Al-Māwardī, **al-Wizāra**, pp.65,66.

³ Ibid., p.65.

⁴ Ibid., pp.126-127.
of delegation had been appointed by the king to manage the affairs of the king and the subjects, while the vizier of execution manages only the king's affairs. Secondly, that the vizierate of delegation needs to come to office through a contract (ʿaqd), while the other type does not need such a contract because the vizier of execution only executes the orders of the king. Thirdly, the vizier of delegation was fully responsible for his decisions, while the other was not. Fourthly, that the vizier of delegation could only be dismissed by a clear declaration, while the other could be discharged by being ignored. Fifth, that the vizier of delegation has no right to discharge himself from the office without permission from the king, while the vizier of execution can discharge himself without such permission. Sixth, that the vizierate of delegation needs the efficiency of sword (force) and pen, while the second type does not need such efficiency.¹

As regards the vizier's relation to the king, there is nothing new in al-Māwardī's thought except one thing. After advising the vizier to build good relations with the king through consultation and deliberation in different administrative matters concerning state affairs,² al-Māwardī advised the vizier to be cautious towards the king, not to have

2. Ibid., pp.101-102, 105, 139-142.
full trust in him because the king is always of tyrannical behaviour, inclines to passion in making judgements, and suspects people without proof. Therefore, the vizier should follow three principles in dealing with the king. First of all, he should not trust him because trustfulness always leads to regret. Secondly, he should not oppose him in any matter and should satisfy him as long as the matter is not against religion or honour. Thirdly, he should defend him and his kingdom by whatever possible means, otherwise he (the king) will not forgive the vizier.¹

Al-Mawardi's advice, in fact, reflects the suspicious atmosphere which dominated the relations between the viziers and the Buyids.² That advice was not vain if we remember that the office of the vizâra, during the reign of Jalâl al-Daula, was occupied by nine wazîrs, and where Abû al-Qâsim Ibn Mâkûlā occupied the office of the vizâra three times in different periods between 423-430/1031-1038.³

The other advice which shows al-Mawardi's secularism concerning state administration was his advice to the vizier to use force in dealing with the king's enemies. By force, al-Mawardi meant something

¹. Al-Mawardi, al-Wizâra, pp. 96-100.
³. Ibn al-Jawzî, Muntazam, passim.
irreligious, that was assassination rather than fighting. What is even stranger, was al-Māwardī's usage of the Prophetic Hadīth, "War is cheating". The reason for such advice from a religious jurist like al-Māwardī is not known, but it seems that the sphere of political unrest during the reign of Jalāl al-Daula might be the main reason since the role of the wazīr was so influential especially in the case of war where it was common for the wazīr to lead the army.

Al-Māwardī also discussed the wazīr's relations with the subjects in a traditional manner when he advised the vizier to treat them justly, to protect them and to defend the country in face of their enemies, to preserve public safety, to maintain peace and order on public roads, and to provide them with the means necessary for agriculture, trade, as well as instructions in building.

CONCLUSION

The study of al-Māwardī's early political treatises shows us the following points.

First of all that the impact of non-Arab cultures, especially the Sassanian, was great. Al-Māwardī's writings show up this influence alongside Islamic traditions.

1. Al-Māwardī, al-Wizāra, p.89.
2. Ibid.
Secondly, the view which al-Mawardi adopted towards the relations between the king and his subjects was that he regarded the people as animals and the king as the shepherd, or the king as the "head" while the people are the "organs" which must serve the head. This attack is obviously un-Islamic and was influenced by the ancient Persian culture.

Thirdly, kingship is a God-given gift, and the people have no right to it. Accordingly their obedience is required by religion.

Fourthly, the best kind of government was absolute monarchy based on religion and justice and ruled by power and wealth. In his subsequent work, the authority of the ruler was restricted by virtue of the ruler's contributions towards religion and society. Should he not fulfil the necessary minimum requirements, he should be blamed and punished but he does not mention how or by what means. In spite of that the point on which al-Mawardi lays stress throughout his works Nasihat al-Muluk and Tashil al-Nazar was that the people were unable to live in peace and organise themselves in a community because of the struggle for self-interest and also because reason ('aql) was not efficient to deter these desires for struggle. Therefore, the only and the best way to
preserve peace and build a healthy society, al-Māwardī argues, was that people must submit their wills to a king to whom they owe complete obedience without having the right to question him in any matter concerning their lives as members of society. The king was God's shadow on earth and only responsible before God who entrusts him with His authority in governing His creatures. Consequently, God was the only one who had the right to question the king. In other words, the contract or the covenant between the people and the king only binds the people, who have to accept, by entering this covenant, to submit their wills to the authority of the king.

Six centuries after al-Māwardī's death, a similar theory was put forward in the West by the English philosopher Thomas Hobbes. It was more advanced and organized in Hobbes' the "Leviathan". In this work, Hobbes worked out his theory on the same basis as al-Māwardī. Hobbes asserted that in order to establish society, the people must submit their wills to the will of one whom he called "the sovereign" or "the mortal God". Hobbes expressed that idea as follows:

"I authorize and give up my right of governing myself, to this man, or to this assembly of men, on this condition, that thou give up the right to him, and authorize all his
actions in like manner ... This is the generation of that great Leviathan, or rather (to speak more reverently) of that Mortal God, to which we owe under the Immortal God, our peace and defence."1

Certainly, Hobbes was not influenced by al-Mawardi, but the matter gives us some indications of al-Mawardi's contribution to political theory. This was a theory which al-Mawardi endeavoured to reconcile with Islamic principles. However, it seems likely that he was very influenced to put it forward by the unusual political circumstances under which he lived.

Fifthly, a long time before Ibn Khaldūn, al-Mawardi stated the theory of "the cyclical movement of states".2 Al-Mawardi stated that that movement passes through three stages: (a) the stage of foundation which is dominated by egotism and under which the ruler can only govern by pure force and intimidation; (b) the stage of calmness and peace in which the state is governed by justice and tendernes; (c) the stage of tyranny under which the state decays and reaches its end only to start again with another ruler or dynasty.3

3. Al-Mawardi, Tashīl, fols.31-33a.
In comparing Ibn Khaldūn's theory of "the life span of Dynasties"\(^1\) with that of al-Māwardī's, one can see similar characteristics. While al-Māwardī divided the life of the state into three stages, Ibn Khaldūn also stated that "the duration of life of a dynasty does not as a rule extend beyond three generations".\(^2\) Certainly Ibn Khaldūn studied the cyclical movement of states as a historian supporting his argument from long historical events of Islamic dynasties, whereas al-Māwardī was observing only one dynasty, i.e. the Būyids in Baghdad and other provinces. He watched the rise and fall of Būyid Amīrs in short periods. Thus Ibn Khaldūn's discussion of this issue is more systematic. Yet, both worked in almost the same general context. Both scholars stressed the necessity of force and power in government since the main concept of their theories in the first stages is the struggle for rulership.\(^3\) In the second stage, both al-Māwardī and Ibn Khaldūn described it as a stage of ease and quiet.\(^4\) The third stage to al-Māwardī is the stage of destruction in which tyranny and despotism became dominant. To Ibn Khaldūn, it is a phase of "extravagance and waste", and where the ruler works only for his pleasure.\(^5\)

3. Al-Māwardī's first stage of roughness and force is equivalent to Ibn Khaldūn's phase of Badāwa.
This shows us al-Mawardi's deep insight into political theory, and the development of Islamic history. The shortcoming of his theory is the lack of satisfactory details from a historical point of view. However, this is understandable for a man who spent most of his life in only one place and connected himself with only one dynasty, i.e. the Buyids. A situation which gave him no chance to generalize his ideas as Ibn Khaldün did.

Sixthly, it seems that al-Mawardi was the first Muslim scholar to adopt a pragmatic approach in discussing different political issues. All Muslim scholars refused to accept, legally, the authority of the Buyids as a de facto rulers of Baghdad and other provinces governed by the Abbāsid Caliphate. They were always on the side of the Abbāsid Caliph trying to revive the Caliphal authority as the head of the Islamic community, in the fact of his enemies who had usurped his power of government. Al-Mawardi found that the time was not on the side of the Abbāsid Caliph. The country was ruled by Shi'i Amīrs who called themselves kings and were trying to seize all authority belonging to the Caliph. They were even trying to distort the Sunnite Islamic traditions by their innovations. It was vain, for al-Mawardi, to direct his advice to a powerless Caliph. The real
power was vested in the hands of the Būyid Amīrs who were able to do whatever they thought fit to their purposes. This explains al-Māwardī's full recognition of the Būyids as the real power which could adopt the necessary policies to prevent the Islamic community of Baghdad from being destroyed. Al-Māwardī, on the other hand, was careful enough not to deviate from his view of traditional Islam. He stated clearly that the ruler's duty was to respect the Imam and to behave as a delegated Amīr practising his power by the recognition of the Imam's spiritual power. This pragmatism might be labelled opportunism, but that does not conceal the fact that many Muslim scholars followed the same approach after al-Māwardī.

Seventhly, al-Māwardī's political writings show us his awareness of the social, economic, administrative and political problems of his society. He tried to find practical solutions for these problems and advised the ruler to adopt them to achieve security, safety and the prosperity for the people and the community at the same time.
CHAPTER II

AL-MĀWARDĪ'S TREATMENT OF MAN AND SOCIETY IN K. ADAB AL-DUNYĀ WA'L-DĪN
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K. Adab al-Dunyā wa'l-Dīn is the work in which al-Māwardī presents his main arguments concerning the principal pillars for establishing man and society from an Islamic point of view. Despite the fact that the word "adab" has always been used in a context of literature, as for example in K. al-Adab al-Saghīr and K. al-Adab al-Kabīr by Ibn al-Muqaffa, al-Mawardi's usage of the term is limited to an ethical context, although al-Māwardī does not use any philosophical approach in his writing as Ibn Miskawayh did in his work Tahdhīb al-Akhlaq.¹

The cultural impact of non-Arab civilization cannot be denied in al-Māwardī's work for he includes many maxims, metaphors and anecdotes of non-Arab origin concerning just rulers and good government. This had long since become a feature of adab literature.²

2. Cf. F. Gabrieli, "Adab", E.I.²
Certainly, al-Māwardī is not the first Muslim scholar who tries to weld non-Arab morals with the basic tenets of Islam. Much earlier, Ibn Qutayba (d.276/889) wrote the work *Uyūn al-Akhbār*. This was perhaps the first attempt to write about Islamic ethics while at the same time using both Islamic and non-Islamic material.\(^1\)

Most of the ideas discussed by al-Māwardī in *K. Adab al-Dunyā wa'l-Dīn* are also to be found in Ibn Qutayba's work. However, the main characteristic of al-Māwardī's work is the avoidance of a philosophical context which for instance constituted the form of Ibn Miskawayh's work. Al-Māwardī's goal was to build a realisable society based on Islamic law, the šari'ā.

In his work, al-Māwardī presents a series of ideas for a practical social system. His conception can be described as being attainable and of a nature to satisfy man as a moral being. Al-Māwardī's practicality can be considered "ideal" when the social system that he advocates is contrasted with the contemporary society of Baghdad, dominated as it was by social disorders and moral corruption. It is, however, impossible to consider al-Māwardī as a philosopher. He was, rather, a socio-political reformist and therefore unlike such philosophers as al-Fārābī whose comments

on the virtuous city arose from intellectual speculation. Despite the fact that al-Mawardi's programme was hardly likely to be instituted, it none-theless constitutes an attempt at a personal level to do something for his people and society.

Al-Mawardi deals with Islamic society in a way which attempted to demonstrate how it should be rather than describing its actual condition. He was probably influenced in this attempt by a desire to reform the society from the state it was in. This caused al-Mawardi to call his people, rulers and subjects alike, to cooperate in establishing a "new" society. The matter of whether or not his call had an effect is not important. His duty as a man of religion was to urge the people towards good. The achievement of goodness was dependent on the people themselves. This call, however, was in fact unheeded and disappeared.

Although al-Mawardi uses such general terms as salah al-dunya or the well-being of the world, and salah al-fard or the well-being of the human being - both the word dunya and fard have a wide implication that is not simply limited to Islam - he was in fact concentrating his attention on the society he knew best, that is Islamic society, and his conceptions were probably limited by his own experience.
In general, the Muslim scholars who deal with the subject of society and consider the moral sphere and its implications can be divided into two groups. The first group includes those whose arguments are based on pure speculation devoid of any connection with reality. This is the philosophical group already referred to. It includes such scholars as al-Fārābī who isolated himself and spent time in speculation and the study of ancient philosophy. This group found their ideal in the philosopher-king of Plato. The second group refused to isolate themselves and chose rather to participate in the political realities of their time. This they achieved through involvement in different events. Al-Māwardī was of this type. He was in contact with the different parties within the community and was well aware of its social problems. He tried to help to solve the problems by means of his writings. He advised the rulers and subjects on the need for cooperation, should they wish to restore their society to one based on Islamic principles.

Without doubt, al-Māwardī failed to bring about the reform he advocated. Nonetheless, his work is an attempt to present an Islamic society, attainable in its goals, should the people and their rulers join forces and work together with this end in view.
In Adab al-Dunyā wa'l-Dīn, al-Mawardi begins with the argument that reason (caql) is "the basis of all knowledge, virtues and the source of all cultures".\(^1\) It is the origin of religion and the pillars of the temporal world, and without it the religious commandments are not to be understood.\(^2\) These commandments are of two kinds; the first kind were necessitated by reason and confirmed by revelation. They include tolerance, voluntary prayers and assistance of others. The second kind of commandments were permitted by reason and considered obligatory by revelation. They are almsgivings, the prayer which all adult and sane Muslims were to practice at certain times, as well as obligatory fasting during Ramadān. The obligatory nature of all of these duties is justified by reason, as well as being compatible with the worship of Allah and their observance constitutes a sign of obedience to His commandments.\(^3\) In both cases the ability to reason is necessary so as to allow mankind an understanding of the commandments, thereby ensuring that they are practised properly. Further, reason allows man to distinguish between good and evil.\(^4\)

2. Al-Mawardi, Adab, p.94.
3. Ibid., pp.95-98.
4. Ibid., pp.19-20.
Al-Māwardī makes a distinction between inborn (gharīzī) and acquired (muktasab) reason.¹ The former is true and inherent and the means by which man becomes rational. This is because inborn reason makes possible the subsequent knowledge of necessarily ascertainable elements (Cilm al-mustadrakāt al-darūriyya). These elements are of two types. The first includes those elements which can be realised through sensation. For example, objects perceived through vision or recognized by touch, audible sounds, or the recognition of food and smells through taste, are elements which fall into the first category. The second includes elements know spontaneously. This embodies the perception that one is less than two or the impossibility of having two phenomena contained within one object, e.g. the combination of hot and cold liquids when it is impossible for both liquids to retain their characteristics. When man acquires the ability to perceive these two kinds of elements he is then rational.² Reason itself would then be sufficient to support a man who had knowledge of the basic minimum which he was responsible for under the sharīʿa (taklīf) be able to take charge of responsibility toward all things either evil or good.³

1. The same distinction in knowledge was also made by al-Māwardī in Aklām, p.19.
3. Ibid., pp.94-95 and 102-103; and cf. Aklām, pp.18-19.
Acquired reason results from experience and the application of inherent reason. This allows man to reach the peak of knowledge. This has no limits because it increases through time and practice. The virtuous man is one who gains these two types of reason. He is not only rational but is also perfect, because he has the natural ability, which alongside inherent reason, leads to acquired reason and this is increased as a result of intelligence and correct surmise. Philosophically, it is not a virtue to be quick-witted, because such intelligence could lead man to be tricky or sly. This is undesirable according to reason. In al-Māwardī's view, the acquisition of knowledge is a virtue as it could enable man to cope sufficiently with different problems in his society and to help him to solve these problems properly. Should a man use his intelligence to commit evil deeds though, this would be considered slyness and not a virtue.

Reason, on the other hand, is not only an inadequate motive to unite people, but it is also insufficient as a deterrent to turn them away from

1. Adab, pp.22ff.
2. Ibid., p.27.
3. Ibid., pp.28-30.
their desires and passions.\textsuperscript{1} This is because all human actions stem from a desire for reward in the Hereafter or a fear of punishment in hell. It is this which is most effective in encouraging adherence to good living and desisting them from bad.\textsuperscript{2} In spite of the fact that religion could negate the predomination of evil passions in the human spirit, reform divergent opinion, prevent aggression and allow for social harmony and mutual affections, yet still reason and religion were both weak and could be overcome by passion. Therefore, a competent authority would be the most effective restraint in a competition for power.\textsuperscript{3} Although this ruling power acquired its authority through force, it also ought to be based on both reason and religion.

From a political standpoint, a ruler would not achieve a reign of justice if he was to govern his subjects with passion rather than reason. Passion encourages self-interest which in itself is antithetical to the concept of justice. Should a ruler govern according to his own passion, the administration of state affairs would centre round his private interest.

\begin{enumerate}
\item Al-Māwardī, Adab., p.45.
\item Al-Clām, pp.18-19.
\item Adab., pp.136-137.
\end{enumerate}
Consequently, he would not deal with different issues justly. The result of this would be injustice and despotism and the community would therefore be doomed.\(^1\) Religion is also necessary in that it could produce harmony among different social classes. Religion is not only necessary for the community as a whole, but also for individuals as a restraint to their passions and carnal desires and also as a consolation for the soul in its affliction.\(^2\)

Learning and education were necessary for both ruler and subjects in the establishment of a just polity. Al-Māwardī says, "Know that knowledge is the most honourable desire which man could ask for, and the best that he could gain".\(^3\) The principal object in acquiring knowledge is an understanding of Islam. The attainment of all-encompassing knowledge was not possible though. Therefore, the best science was the science of religion. This would provide men with the correct approach for understanding religious commandments and could thereby allow them to organize their world.\(^4\) In the case of rulers, enlightenment would imbue them with wisdom and enable them to adhere

\(^1\) Al-Māwardī, Adab, pp.33-36.  
\(^2\) Ibid., p.136.  
\(^3\) Ibid., p.41.  
\(^4\) Ibid., pp.42-43.
to the straight path of justice, thus avoiding injustice and inflicting harm on their subjects.¹

Philosophy (al-ulum al-aqliya) was not the proper means for knowledge and rational sciences were not to be accorded more attention than the sciences of religion.² Education is necessary for the populace to provide them with manners. The process of education should be started immediately, in the early stages of life and be based on reason and religion. It was the parents' responsibility to educate their children in general ethics and the different customs of their community, in order that the child might accept them without argument when he attained maturity. Individuals also required instruction in matters concerned with moral ethics and social principles. These were to be of advantage to men in their relation with others.³

Reason and religion are indispensable as the basis for a just government. However, power is stronger than those two elements, but reason and religion act as a restraint upon it. It is essential that power should be exercised for the benefit of the whole community. Nothing can be achieved though if individuals do not enjoy a minimum level of economic prosperity.

¹ Al-Mawardi, Adab, p.47, and Nasīha, fols.6-7.
² Al-Mawardi, Adab, p.45.
³ Ibid., pp.227-29.
Justice is not to be expected from individuals should they lack adequate means for a basic existence.\textsuperscript{1}
If an individual is unable to acquire what is necessary for his livelihood, blame should not be placed upon him if life in the society deteriorates and becomes unstable and corrupted.\textsuperscript{2}

THE IDEAL SOCIETY

Al-Māwardī begins his concept of society according to the Platonic doctrine which holds that there is an inherent harmony between human nature and society,\textsuperscript{3} as man can only achieve his natural end within the framework of a community. He asserts that Divine Wisdom has ordained that man, while on earth, is in need of the company of others of his kind, for he would be unable to manage his earthly business without them. Man's inadequacy was deliberately created by God in order to remind man of his inability to be completely independent and further to remind him that he is in need of God, the Mighty, to support him even with basic material requirements to allow his life on earth.\textsuperscript{4}

\begin{itemize}
\item \textsuperscript{1} Al-Māwardī, Adab., p.208.
\item \textsuperscript{2} Ibid., p.132.
\item \textsuperscript{3} L. C. Wanlass, Geltell's History of Political Thought, 1959, p.53.
\item \textsuperscript{4} Al-Māwardī, Adab., p.132.
\end{itemize}
Al-Mawardī is unique amongst medieval Islamic political thinkers insofar as he has taken the concept of man as a social being and based its application on Divine Will, thus Islamicizing a secular idea. God creates all creatures as incapable of managing their needs without cooperation. In the case of man, God bestowed reason upon him. This then gave man the awareness of God's power, the knowledge that He was the Creator, and indeed man's only form of support. As a result of this knowledge man would be obedient to God, either because of his own accord or the fear of God. Man's actions should be dictated by the application of these two elements. In addition, human inability is viewed as a Godly grace and is for the benefit of man himself. It restrains him from committing wrongs towards either himself or others because oppression is inherent in the nature of man when he is self-sufficient. The Qur'ān says, "Nay, but verily man is oppressive, that he thinketh himself independent" (XCVI, 6,7).

Although men are compelled as a result of their deficiency to live together, God has imbued them with reason. This was to be used for their benefit and with a sense of responsibility. However, each

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2. Ibid., p.137.
man was able to use the power of reason to do either good or evil. Responsibility is dependent on the individual and is a necessary element which leads him toward perfection on earth. It is itself a preparatory stage for the after life. Individual perfection is, however, an essential aspect of a just polity and the ideal community.¹ Yet, the application of reason, if used only to satisfy material needs, does not constitute complete perfection. Nor does the fact that man might realize all his social needs by depending on himself alone. Reason, in fact, is only a guide to men during their lifetime and does not guarantee that they will receive everything they need. Should this be the case, submission to God would not exist.²

Religiously, earthly activity is worthless, unless it be considered as intermediary or a bridge to the hereafter. Dunya³ is the place where man works for the hereafter. Accordingly, it is important for man to know the main principles for man himself.⁴

¹. Al-Māwardī, Adab., p.132
². Ibid., p.133.
³. "The word dunyā is often combined with life to mean this world. It had more or less this sense before Islam. In Islam it contains the early world the eye can see. It consists of things allowed and things forbidden. Good Muslims avoided what is forbidden. In general, dunyā is the domain of the material life. See A.S. Tritton, "Dunyā", E.I.², and L. Gardet, "Dīn", E.I.².
⁴. Adab, p.133.
The dunyā could be well organized in two ways. The first is concerned with the essential pillars for establishing a good society; the second is concerned with the ethics which are necessary for man himself. Neither of these could be achieved without the other because of the idea of mutual dependence between man and the community. Therefore, it is impossible for a virtuous man who lives in a wicked society not to be negatively influenced. This is because as an individual he is a member of the community and must consequently participate in all political, economic, and social events. Likewise it would be impossible for a wicked man to live in a virtuous community without adapting to its social requirements.\(^1\)

How does the need for social cooperation manifest itself? Al-Mawardī's view is that that results from natural differences in mental and material abilities. These dissimilarities are what makes cooperation necessary, for should all people be equal, mutual interdependence would not be necessary and societies would not exist and all would vanish.\(^2\) The well-being of the temporal world (salāh al-dunyā) should be organized according to the following six

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1. Adab, p.134.
principles:

(1) a religion which is adhered to (dīn mutaba'ā);
(2) a competent authority (sultan qāhir);
(3) a comprehensive system of justice (ṣadl shāmil);
(4) public security (ṣanmān āmm);
(5) ample means of production (khāsbdārr); and
(6) good prospects (amal fasīh).

1. There must be a religion which is adhered to.
From an Islamic point of view, the religion of Islam is the only valid earthly religion, for it is the only one which is accepted by God. Should anyone desire another religion it would never be accepted. Man must therefore subject the temporal world (dunyā) to religion, so that it be included in the domain of religion.

Religion is an essential feature for organizing societies because it binds individuals together in religious unity and cuts off insidious passions. Only when religion overcomes passion will men submit to religious commandments and work within in the most effective way for the world's prosperity. On the other hand, a proper understanding of religious commandments is achieved through reason.

2. L. Gardet, "Dīn", E.I.
case, religion and state are closely bound to each other and the exercising of public office is one of the important duties required by religion. This justifies Muslim jurists' assertion that the Imam's duty of safeguarding religion is his main duty for without religion, society has no chance of survival.\(^1\)

2. A competent authority is required, since there is in the nature of individuals a love of competition and contention. This is because men have such a strong desire to subdue those whom they oppose that they can only be deterred by a powerful restraint. This is perhaps the restraint of reason, or the restraint of religion, or the restraint of a competent authority, or the restraint brought about by inability. Of these, the restraint of the competent authority is the most effective one, since reason and religion are often weak or may be overcome by passion.\(^2\)

The main object of the ruling power is the fusion through force of diverse opinions and various tendencies (social solidarity), and the establishment of stability and order in the community.\(^3\) Force and cruelty are necessary requisites in the initial stages of establishing a society, but later on state affairs

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3. Ibid., pp.136-137.
should be administered according to the requirements of justice.¹

As a Sunnī jurist al-Māwardī believed that the existence of an Imam is better than fitna for the sake of Muslim unity, and the Imam is either just or unjust. The necessity of the Imam was to ensure that religion would be defended against heresy and innovators. Without this competent authority, religious commandments would alter and vanish.² One of the earliest concepts concerning reason, revelation and politics was the obligatory nature of the Imamate. The question arises, was the Imamate demanded by reason or revelation (šarī'ah)? Al-Māwardī does not provide an answer to this question, but rather presents different legal opinions of various schools of thought.³

As the aim of the ruling power was to fuse different opinions, it was therefore impossible that there be more than one Imam in the same place and at the same time.⁴ However, he seems to leave the question of whether there could be two Imams in two different places at the same time unsettled, he does describe the group who hold this view as shādhda (exception).⁵

1. Adab, pp.136-137.
2. Ibid., p.137.
3. Ibid., p.138.
4. Ibid., p.138; and cf. Nasīha, fol.57b.
The Imam was to carry out seven duties.

These were:

i. To safeguard religion against heresy

ii. To protect Islamic territory

iii. To construct cities and other facilities for public use.

iv. To administer public wealth justly and according to revealed law.

v. To judge justly between different parties

vi. To carry out legal penalties without immoderation or slackness

vii. To choose reliable and honest officers to administer state affairs.

If the Imam failed to carry out these duties he was then liable to be blamed and punished. Unfortunately, al-Mawardi did not discuss the manner and means by which the subjects could punish their rulers.¹ The concept, in fact, is questionable in the way that al-Mawardi used it, for his thoughts do not conform to any legal criterion.

3. A comprehensive system of justice should exist. According to al-Mawardi, justice was divided into two classes, (a) justice to oneself; and (b) justice to others.²

1. Adab, pp.139-140.

2. Ibid., pp.141-144. Al-Mawardi had also divided justice into three types. Justice in financial matters; justice in speech, and justice in deeds. For more details see K. al-Wizārā, pp.52-55.
Justice towards oneself happens through encouraging oneself to perform good actions and desisting from doing wrongs. The individual should balance his soul in both cases, neither indulging in excess nor doing too little. Justice to others could be divided into three categories: (i) to be just with those who are inferior in rank—such as the ruler with his subjects, and the employer with his employees. Justice in this case could be achieved by following easiness, deserting hardship, desisting from using unlawful force, and following righteousness in behaviour; (ii) man should also be just to others who are superior to him, for instance the people with their ruler. People could be just through sincere obedience, support for their ruler, and loyal faithfulness. When the people follow these principles, this will lead them to social unity and moral prosperity. (iii) Man should also be just towards others equal to him in rank. He could achieve this category of justice through three channels: to leave arrogance, to refrain from humiliating others, and to desist from doing harm. Should man be unjust towards persons who are equal to him, his relations with others would deteriorate and the social

1. Adab, p.141.
2. Ibid., p.142.
relations in the society would be spoiled.\footnote{1}

4. **The maintenance of public security.** If fear is the result of injustice, then public security is the result of justice. Public security is fundamental if social and economic prosperity is to exist. Without it people cannot run their business and they would abandon their own society and move to another place where they could enjoy security and prosperity.\footnote{2}

5. **To ensure an ample means of production.** This may take place when there is justice and public security. These two factors give people the opportunity to develop their economic business and all society would therefore be able to live in material prosperity and peace, with their material needs being satisfied. Consequently, envy and hatefulness would tend to be reduced and brotherhood expanded.\footnote{3} This general prosperity would satisfy the material needs of the people and could therefore achieve a social unity in which people would unite together so that they could acquire objects for their benefit.\footnote{4}

6. **By good prospects, al-Māwardī stated that hope and thought of the future are essential elements for establishing societies.** "Hope is God's mercy to the people". It is a positive process of construction

\begin{itemize}
    \item \footnote{1}{Adab, p.143.}
    \item \footnote{2}{Ibid., pp.144-45.}
    \item \footnote{3}{Ibid., p.145.}
    \item \footnote{4}{Ibid., p.146.}
\end{itemize}
from one generation to another. It motivates people to plan for the future even though they are not sure that they will live in it, for they would be planning for the other generation. This explains the survival of societies through centuries. If every generation were to work only for their own time, there would be little chance of survival for new generations because it is difficult to constantly reconstruct a society.\(^1\)

Hope, for Muslims, releases them from a fear of the hereafter, for the constant presence of such a fear in the minds of Muslims would hinder their ability to build for the future. However, a line must be drawn between hopes and wishes. The former are based on the present with a view towards a better future, while the latter keeps man in the realm of imagination and dreams.\(^2\)

These are the six main pillars necessary for the establishment and organization of the Islamic society. However, no society will remain forever. It is in the nature of the world (\textit{ahwāl al-dunyā}) that perfection does not persist. Changes are required so that societies come and go and reach their ends.\(^3\)

\begin{itemize}
\item 1. \textit{Adab}, \textit{loc.cit.}
\item 2. \textit{Ibid.}, p.147.
\item 3. \textit{Ibid.}, p.149.
\end{itemize}
The well-being of man (salāh al-insān) according to al-Mawardi, takes place within the context of the well-being of the temporal world (salāh al-dunya). Man needs to satisfy three requirements in order to be able to live in concord within society. These requirements are: a soul which is obedient to right guidance and which avoids errors; a generally good-natured attitude which attracts (men's) hearts towards it and by which all that is loathsome is kept away; and lastly, sufficient means of productivity to support himself with the means of subsistence.¹

Man is either in control of his soul or it controls him. In the latter he would submit to his temporal desires, while in the former he could balance his acts, that is, determine what is wrong, and what is right. Reason (caql) could restrain passion, but if man were to become overwhelmed by passion then man would not be able to make proper judgements and consequently, would have no right to ask for obedience of others.² This concerns the ruler more than anyone else in the society, because

2. Ibid., p.148.
should passion control his reason, he would work only for his self-interest and would act unjustly. This would lead the whole community to decay.\(^1\)

A general good-natured attitude on the part of each individual in the society is necessary to allow social unity in a context of cooperation not only for themselves, but also for the following generations. Since religion is an essential feature for organizing societies, it must also be an essential element in the individual's relation with his fellow men. Al-Mawardi supports his view by citing the example of the role of Islam in uniting the Muslims in Medina and the way in which this unity engendered peace for decades. Religion has a priority over all other things, even fatherhood and brotherhood. Obedience to God must be a Muslim's main concern in his earthly life. Loyalty to God's religion is essential and not loyalty to a tribe of a family because it is religion which is the sole adhesive element among the members of the society, and must be raised above all other elements.\(^2\)

Religion, on the other hand, is not sufficient to compel men to cooperate for their livelihood, men also

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need a minimum of material prosperity for no man can
be just in behaviour if he lacks it. If this is not
present there is no chance of him being effective in
the community.¹ Men also need an education which
would make them able to build up a background to
accept different social traditions and to acquire a
good disposition for maintaining relationships with
others. Reason is necessary so as to lead men to
righteousness and religion is necessary so that they
model their actions according to religious commandments.²

Man, as an earthly human being, is in need
of sufficient means of production which would support
him with means of subsistence. Without these means
man would not be able to survive and his temporal world
would deteriorate.³ These are profession, trade and
agriculture.⁴ Profession, which is the most important,
is divided into three types: profession of intellect,
profession of labour, and profession which includes
both. The profession of intellect (sinācat al-fikr)
is the most honourable. It includes activities based
on "sound opinions", such as government of people
(siyāsat al-nās) and administration of the country
(tadbīr al-bilād).⁵ In other words, the area of

¹. Adab, p.208.
². Ibid., p.209.
³. Ibid., loc.cit.
⁴. Ibid., loc.cit.
⁵. Ibid., p.212.
government is the loftiest of all sciences, and consequently, the ruler is the best in the community from a practical point of view since he will practise the most honourable art. Following in importance is the process of intellectual contemplation which is made by scholars who provide the rulers with the necessary knowledge for government. Therefore, the ruler and the scholars (ᶜᵘˡᵃᵐᵃʳ') have the most honourable positions in that they are engaged in the most honourable occupation, i.e., the profession of intellect. To sum up, the ruler, either king or Imam, is the most exalted among the people and is followed by the religious scholars.

Those who are occupied with professions of labour are divided into two types. Those who are occupied with a creative profession (ᶜᵃᵐᵃˡ ᵇⁱⁿᵃᶜʳ), also use contemplation whereas those who are occupied with manual work, like cleaning and cutting wood, do not. The former is nearly in the same rank as religious scholars, while the latter is limited to base souls and despicable characters. If we accept the assumption that al-Mawardi's discussion of government in Adab al-Dunyā wa'l-Dīn is connected with his earlier work Nasīḥat al-Mulūk, then it could be said that the

1. Adab, p.212.
2. Ibid., loc.cit.
people who practise manual activities must work for the ruler, not the society.

Al-Māwardī's view on this point resembles Plato's theory of specialization of classes which he discussed in his work "The Republic". Plato asserted that the class of workers who are fitted by nature to produce has the function of supplying the physical needs of the rulers.\(^1\) This idea is clearer in Nasīhat al-Mulūk than in Adab al-Dunyā wa'l-Dīn. Al-Māwardī stated clearly in Nasīhat al-Mulūk that the subjects were created as "organs" for the service of the "head", the ruler.\(^2\)

Al-Māwardī conceives the soul as created with deficient tendencies and ethical attitudes which have to be acquired. This explains why they need education either in the period of childhood, and youth, this being the duty of parents, or in the stage of manhood, which is the responsibility of man himself.\(^2\)

Parents are responsible for building the social background of their children. They must teach them suitable conduct which would benefit their social life in the society, and also teach them to accept

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different traditions and customs of the community. This educational process is essential for the child in order that he is able to live in harmony with others in the future. If the parents failed to do this, they will face many difficulties in convincing their children to accept these customs and traditions. The education must include social conventions which are recognized and agreed upon by reasonable men (ṣuqālā'). There is no need to provide a logical explanation for these principles which include manners of eating and the wearing of traditional clothes. If a man tries to behave contrary to these customs, he will be blamed and criticized by colleagues.¹

There are several moral principles which should be acquired by man regarding his relation with others. These principles are necessary if man wants to establish a cooperative society. Men should avoid haughtiness, pride, envy and anger. They should be modest, tolerant, good mannered, truthful and should comply with others for good. The majority of these principles were discussed by al-Māwardī from a moral point of view, and his main object was the creation of an "ideal" man, who was full of good disposition,

¹. Adab, p.228.
truthfulness, modesty, and who could avoid pride, envy of others and anger for the sake of the unity of the society.\textsuperscript{1} Acquiring these merits and avoiding vices will cause men to be just in their behaviour either towards themselves, others, or their Creator, and social destitution would accordingly be eliminated.\textsuperscript{2}

Reason and religion play a great role in the process of education for both of them either forbid or dictate certain standards of conduct.\textsuperscript{3} However, the "ideal" man, according to al-Māwardī's opinion, should acquire all these principles in order to be able to live in the Islamic community. Al-Māwardī did, though, add yet another principle which is that of self-satisfaction (al-qanā'\textsuperscript{a} al-nafsiyya) and which could be achieved according to the following conditions. First of all, a man must accept his destiny in this world without argument. This acceptance is part of his faith; secondly, a man must not interfere in another's business, particularly if they are better than him in wealth or in any other characteristics; thirdly, he should not concern himself with things which he cannot afford.\textsuperscript{4}

\textsuperscript{1} \textit{Adab}, passim.
\textsuperscript{2} \textit{Ibid.}, pp.242,260.
\textsuperscript{3} \textit{Ibid.}, pp.254-55.
\textsuperscript{4} \textit{Ibid.}, pp.224-25.
Al-Māwardī also required the individual to play a greater role in the maintenance of his society than merely being obedient to the ruler. He did this through the doctrine of al-amr bi 'l-ma'rūf wa'nahy an al-munkar (enjoining the good and forbidding the evil). That he deals with this in his section on adab al-dīn indicates that as far as he was concerned this principle was connected with revealed religion (sharī'ah) rather than rational ethics. It is, in fact, an obligatory aspect of a Muslim's life. He cites the Hadīth from the Prophet:

"Whosoever of you sees an evil action, let him change it with his hand, and if he is not able to do so, then with his tongue, and if he is not able to do so, then with his heart, and that is the weakest of Faith."

The individual Muslim, then, had no excuse for accepting evil actions in his community.¹

Those who practise reprehensible acts are either individuals or groups. In the first case, where the individuals are separated and not united, it is easy to stop them and punish them. However, a Muslim is under a religious obligation to stop their actions if he has the ability and his action will not cause harm. If harm was expected to occur, the matter would have to be discussed in light of the nature of

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¹ Adab, pp.101-102.
the evil actions committed. If these actions were neither relevant to revealed law nor manifest in the word of truth, the people would not be obliged to make any objection. But, if these actions concerned the revealed law, everyone would be obliged to exercise this principle even if he would be killed for doing so. Yet, if a possibility existed that death might occur before achieving the object, it would then be unacceptable by reason to do so.  

This doctrine was clear when applied to individuals but its treatment is more difficult when community faces a strong and united band. Is it obligatory to forbid wrong? There are many views according to al-Māwardī. The scholars of traditions said that people were not obliged to forbid wrong and it was better for them to stay quiet. Others who believe in the existence of *al-Imam al-muntazar* (i.e. the Shi'a) said that the people should wait for this Imam who would fight wrongs. The people then, should support him. A third group also denied the obligation of forbidding of wrong. This group thought it not obligatory to do so unless there was a just Imam. Most of the people of Kalam state that the principle is obligatory but subject to the condition of having a

sufficient number of followers who are able to forbid wrong. Without them men should stay calm as they might be killed before achieving the aim.¹

Al-Māwardī, however, avoids discussion of a situation where the ruler commits wrongs and the doctrine should, therefore, be applied to him.

CONCLUSION

Despite the fact that al-Māwardī tried to bridge the gap which existed between the ideal pillars necessary for establishing Islamic society and the actual situation of his own society, i.e. Baghdad, through linking religion as the main requirement for all aspects of life, yet, his thought and discussions of different concepts in Adab al-Dunyā wa’l-Dīn reflect many un-Islamic approaches and exhibit the influence of non-Muslim cultures. On the other hand, the study of al-Māwardī's conceptions of man and society shows a religio-intellectual development in comparison with early treaties Naṣīhat al-Mulūk and Tashīl al-Nazar.

Al-Māwardī's assertion of the importance of reason (Caql) as being considered as the sole source of all knowledge including religion is hardly justified

1. Adab, pp.102-103.
on strictly Islamic grounds. In addition, the division of the two types of reason (gharīzī and muktasab) is not really Islamic. Rather it reflects the views of the philosophers and thus shows the influence of Greek thought on his work. The nature of reason was much discussed by philosophers and theologians at this time.¹

Al-Māwardī's view of the bad nature of the soul could be considered a continuation of his conception concerning the same issue in Naṣīḥat al-Mulūk and Tashīl al-Nazar. Certainly the concept is un-Islamic and al-Māwardī's concept bears similarities with the Christian idea of original sin. However, it may also be as a result of the influence of ideas from the Greek. It shows that al-Māwardī, at least in this, was not an orthodox Muslim.

In spite of al-Māwardī's belief that reason and religion were important to work as restraints for human competition of power and self-interest, yet none of them is sufficient to deter men from doing harm to each other because reason and religion could be overcome by passion. This was enough for al-Māwardī to make the existence of a competent authority to work as an effective restraint and to repress these evil passions a fundamental condition for the proper organization of

¹. See for example Miskawayh, Tahdhīb al-Akhlaq, passim.
society. It fused all tendencies in one direction, that is the commonwealth. In this way al-Māwardī continued to emphasize the idea of force which he had considered in Nasīhat al-Mulūk and Tashīl al-Nazar.

The idea of the requirement of using force for the purpose of organizing the society has no origin in Islamic thought. Certainly, the discussion reflects al-Māwardī's observance of the unusual situation of his society but this may only hint at the reason for his introducing this concept. It is certainly at odds with the traditions of Islam and seems to be based on al-Māwardī's concept of the evil nature of the soul.

The concept of division of labour which al-Māwardī discussed in Adab al-Dunyā wa'l-Dīn, shows us a Platonic influence. Al-Māwardī was still carrying his ideas of the nobility of the science of government which is practised by honourable souls because it consists of a high intellectual process. This idea will lead, logically, to the view that the ruler is the most honourable person in the community, whereas those who practise the manual work are base and despicable. The profession of manual work, says al-Māwardī, is the most contemptible profession. This tendency was adopted before by Plato in his "Republic", but has no trace in Islam which honoured manual work as
is clear from many Prophetic Traditions.

The content of *Adab al-Dunyā wa’l-Dīn* shows two developments in the thought of al-Māwardī. First of all, that the head of the community is no more the king but rather the Imam instead. This development might be justified on the grounds that the "king" was no more effective beside the increasing influence of the Caliph during the last phase of the reign of the Būyids. Since al-Māwardī was always dedicating his advice to the actual power in the society, as is clear from his early treatises, therefore it was natural for him to neglect the king and deal with the Imam. Secondly, that rulership was no more a God-gift or God's shadow on earth in a sacred sense - who should be obeyed without question. The ruler in *Adab al-Dunyā wa’l-Dīn* has duties to carry out for the benefit of the subjects and the community. If rulers failed to carry out these duties properly, they should be blamed and punished. Earlier in treatises of *Nasīḥa* and *Tashīl* al-Māwardī denied people's right to question the ruler and left that to God alone.
CHAPTER III

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EARLIER VIEWS OF AL-AHKĀM AL-SULTĀNIYYA

Following Enger's edition and the publication of Kitāb al-ahkām al-Sultāniyya, the book received the attention of several European scholars who have regarded it as a key document in the evolution of Islamic political thought. The book has since been studied from several points of view especially as an administrative text book concerning the Islamic state. Nevertheless, the political ideas of al-Māwardī have not been studied with the attention which they merit.

Without doubt Kitāb al-ahkām al-Sultāniyya has enjoyed a wide academic reputation from the time of its composition continuing up to the present time. Although

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1. Published in 1853 under the title "Kitāb-Ahkām as-Sultāniyyah (Constitutiones Poliitaec).
it has been discussed by many orientalists and was translated into different languages,¹ there is yet a major disagreement on the nature of the book, the author's purpose in writing it, and also as to the author's intellectual tendencies. However, scholars do agree that this was the first book to be compiled on Muslim political jurisprudence.²

The judgement of Brockelmann was that the book was a "purely idealistic exposé, an abstraction resulting from the political conditions of his time".³ A similar view was adopted by other scholars. Von Grunebaum insists that the nature of al-Mawardī's book is uncompromisingly theoretical. He states that:

"Never once did he stop to bring his postulates in accord with the world in which he was living; never once did he deviate from the normative truth as deducible from revelation and traditions; and he would have indignantly rejected the suggestion that he had written an utopian book. He recognised and deplored the shortcomings of his period, but he took no note of them for his system. Despite his participation in practical politics, al-Mawardī never conceded to mere facts higher validity than to logical necessity." ⁴

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1. A detailed discussion of these translations has been made by D. May, al-Mawardī's al-Ahkām al-Sultāniyya Unpub. Ph.D. thesis, Indiana Uni.; 1974, pp.120-23
2. H. Laoust, "La pensee et l'action politique d'al-Mawardī". R E I , XXXVI, 1968, p.11
3. Ibid., p.12
4. Islam. Essays in the nature and growth of a cultural tradition, 1955, p.68
Professor Malcolm Kerr also denied the realistic implication of *al-Ahkām* when he wrote that "the classical theory itself had not been a programme for action but a hyperbolical, almost allegorical, rationalization".¹

A reaction against such views was made by H.A.R. Gibb who analysed the main ideas of the theory of the Caliphate in al-Māwardī's work and tried to situate them within the political context of the time.² In another article Gibb stated that *K. al-Ahkām al-Sultāniyya* "was not an elaboration of an established theory, it is in reality an apologia or adaptation inspired and shaped by the circumstances of his (al-Māwardī's) time."³ Gibb's views were followed by E.I.J. Rosenthal, who extended them to clarify the impact of al-Māwardī's theory of political necessity and expediency on al-Ghazālī and Ibn Jamaʿā, when they legalized the validity of seizing the Caliphate by force.⁴

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1. *Islamic Reform*, 1966, p.220
2. "al-Māwardī's theory of the Khilāfah", *I.C.* 1937
On the other hand, Gibb had suggested that al-Māwardī's work had "a pragmatic purpose. It was necessary for al-Māwardī to regularize the institution (of the Caliphate) to the best of his ability", and "that al-Māwardī's work was in reality in the nature of a programme which looked forward to an early restoration of the full powers of the Caliphate and set to define those powers where and how they should be exercised".²

In Siddiqī's words, "it is absurd to suppose that a man of the intelligence of al-Māwardī should have composed such a treatise as a mere essay in theoretical idealism".³ Al-Māwardī's work is, as George Makdisi pointed out, "equally as concerned with the theoretical as with the practical".⁴

Nonetheless, there is no agreement on al-Māwardī's intellectual tendencies. During his lifetime he was charged with Muʿtazilism. The issue has been discussed elsewhere.⁵ It seems also that Professor Gibb was the only western scholar to accuse al-Māwardī of Ashʿarism

2. Ibid., loc. cit.
5. See Introduction.
in most of his writings, and that Kitāb al-Ahkām should be read in this context. However, al-Māwardī's theory, says Gibb, "can readily be interpreted through the materials to hand in the work of an equally authoritative contemporary, the Usūl al-Dīn of Abū Mansūr ʿAbd al-Qāhir al-Baghdādi", who was an Ashʿarite. In another article, Gibb writes that, "the theory which lies at the base of al-Māwardī's exposition is, in fact, the theory of one school, that of al-Ashʿarī, and it shares two of the characteristics of the Ashʿarite theory in general, namely, that it forces the argument a little too far, and formulates the conclusions too rigidly". This view has, however, been contended by John Mikhail. He maintains that al-Māwardī was neither a Muʿtazilite nor an Ashʿarite. "He was an independent thinker who refused to follow blindly any one theological sect." Henry Laoust, in a similar view, adopts the judgement that al-Māwardī belonged to the category of doctors of law that did not condemn Ashʿarism but did not associate themselves with it and kept their liberty of judgement. He has described Kitāb al-Ahkām

4. "La pensee", E R I, p.59
al-Sultāniyya as "the model par excellence of the
treatises of Islamic public law". ¹

THE REASON FOR COMPILATION OF THE BOOK

In the introduction to Kitāb al-Ahkām al-
Sultāniyya al-Māwardī gives the reason for writing the
work. He said:

"since the ordinances of government are concerned
with those in authority (Ulū' 1-Amr), and since
their admixture with other ordinances make it
difficult for them to make a thorough study of
them, I have devoted a book exclusively to these
ordinances, on the command of one whom it is
obligatory to obey, in order to make him know
the opinions of the jurists as to those ordinances
which define his rights in order that he may exact
them in full, and his duties, in order that he may
perform them in full, for the purpose of following
justice in his executions and judgment, and of
respecting the rights of others in his taking and
giving".²

Without doubt the indication of authority in
this passage refers to the Caliph since he was the sole
person to whom all Muslims must render their obligatory
obedience. But, unfortunately, al-Māwardī did not state
who the Caliph was.

It seems unlikely that this work was written
for the Abbāsid Caliph al-Qādir, as it was during the
reign of al-Qā'im that al-Māwardī's position with regard

¹. Ibid.
². Al-Māwardī, al-Ahkām al-Sultāniyya. 1973, p.3
to the 'Abbāsid Caliph had become well established enough for him to be requested to write such a book.

Insofar as the book seems to represent a break with the Būyids, it seems probable that it was written after the death of the Būyid prince Jalāl al-Daula, with whom al-Māwardī seems to have enjoyed a particularly close relationship.

It seems also that al-Māwardī's early leaning toward the side of the Sunnite Caliph occurred in 429/1037 when he refused to legalize Jalāl al-Daula's request for the title of King of Kings. The Caliph was satisfied with al-Māwardī's opinion and granted him the title of Aqḍā al-Qudāt in the same year.¹ In 434/1042 al-Māwardī again sided with the Caliph against Jalāl al-Daula when the latter had interfered with the Caliph's private sources of income. The Caliph sent al-Māwardī to convince Jalāl al-Daula not to carry this out but al-Māwardī failed in his mission.²

THE STRUCTURE OF THE WORK

Al-Māwardī's work not only described the theoretical foundations upon which the Islamic government must rest, but also cites the institutions and the administrative

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¹ Ibn al-Jawzī, Muntazam, v.8 p.65
² Ibid., p.116.
regulations which must rule the economic system of Islamic government. *K. al-Ahkām al-Sultāniyya* can be divided into two main parts. The first part includes the first three chapters of the work. They are the Imamate, the vizierate, and the emirate. These three chapters belong to the political theory of the institution of the Imamate and its desirable character under Islam, while taking particular interest to the political reality of the time. As concerned the theory of the Imamate, al-Mawardi discussed different aspects relating to the subject such as the necessary qualifications of the Imam, his functions, his rights, and the contractual nature of it. Then al-Mawardi moves on to discuss other institutions which were intimately connected with the office of the Imamate, in particular the vizierate and the emirate.

The second part of *K. al-Ahkām al-Sultāniyya* deals mainly, in detail, with the rules necessary for public administration and government, such as the supervision of those in charge of holy war, prayers, pilgrimage, almsgiving and other rules which are concerned with the regulation of the provinces, public lands, taxes, criminal statutes and inspection of justice in general.

Al-Mawardi's exposition of these administrative offices shows al-Mawardi's knowledge of different problems in Islam.
1. THE CONCEPT OF THE IMAMATE

The preface of K. al-Ahkām al-Sultāniyya to which little attention has been directed, presents us with some interesting observations on the Imamate.

"God, may His power be exalted, delegated (nadaba) a leader for the Umma, by whom He replaced Prophethood, and through whom He protects religion. He has entrusted to him the government so that management (of affairs) may stem from revealed religion and views may follow an authoritative judgement. Therefore, the Imamate is a principle on which the rules of religion are given ultimate effect and through which the interest of the Umma are organized, so that general affairs are validated through it and particular legal authorities are issued by it."

The author says that "God has delegated (nadaba) a leader for the Umma, which could mean that He delegated him in such a way that it could be accomplished through a revealed text, i.e. sharī'a. It could also mean that He delegated him in a manner to be achieved through reason (ʿaql). Although one facet of the Imam's duties was to give effect to the rules of revealed religion, this does not necessarily imply that the institution of the Imamate is itself a part of revelation. It could also be understood in the sense that the use of reason is necessary if the view is taken that it is the Imam who gives effect

1. Al-Māwardī, al-Ahkām p.3.
2. The work nadaba means, according to Ibn Manzūr, "to send someone to do a thing." Lisan al-ʿArab, v.2 p.251
to the "rules of revealed religion" which are to be attained.

The office is seen as a replacement for Prophethood but this does not imply any continuation of the religious part of the function of Prophethood. As al-Māwardī says, it involves government of the people so that the revealed religion may prevail among them. He goes on to define the Imamate as a principle by which the rules of religion are given effect and as an institution which provides legitimacy to the government of the people. This may indicate at least implicitly that he has some tendency towards the necessity of the Imamate by ūṣūl but it is by no means clearly stated.

In actual text, after the preface, al-Māwardī gives a briefer more succinct definition of the Imamate. It should be noted that these two definitions appear to be the earliest proper definitions we have of the Imamate. He says in this definition: "The Imamate is placed on earth to succeed Prophethood in the duties of defending the religions and governing the world".\(^1\) Two principles can therefore be deduced. First of all, that the Imamate is an earthly institution, with the Imam succeeding the Prophet in his temporal duties. Secondly, that the Imam's main duties were to safeguard religion against heresy and

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1. Al-Māwardī, al-Ahkām, p.5
to govern the world, not the community, according to Islamic traditions. The term *dunyā* is used here and means the world, both Islamic and non-Islamic. Therefore, there is the implication of a continuation of holy war against idolators and non-Muslims until the time when an Islamic world was to be achieved.

Al-Ḥāshīṣṭī maintains that the Imamate is obligatory. Without comments, he says that some people regard its obligatory nature as necessary by revelation while others regard it as necessary by reason. There is, however, a consensus (ijma) that the contract of the Imamate must be made to the one who will undertake the office.

Gibb and Khan\(^1\) seem too definite when they say that al-Ḥāshīṣṭī maintains that Imamate as necessary by revelation. It seems also clear that the meaning of *ijma* (consensus) at this point has nothing to do with legal terminology and seemingly refers to the agreement between scholars on the necessity of the Imamate, whether they maintain that necessity by reason or by revelation.\(^2\) However, the whole treatment of the Imamate after this, as

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well as the passage in the preface previously cited, seem to indicate a tendency towards the necessity of the Imamate by sharīʿa.

Al-Māwardī takes up the quotation from the Qur'ān which he has cited as evidence given by the group who supported the necessity of the Imamate by revelation which is: "Obey God and obey the Apostle of God and those in authority (ūlū ʿl-amr) from among you". He says: "Therefore obedience to the ʿūlū ʿl-amr is necessary for us". Certainly he would not argue against the Qur'ān but it does not mean that he is accepting this verse as indicating the necessity of establishing the Imamate by revelation. He remains neutral in that argument after he has presented the two arguments for the necessity of establishing the Imamate which has already accepted as necessity for the whole community by virtue of the argument of both parties on its necessity even though their reasons for it are different. He then proceeds to indicate the necessity of the community to obey the Imam. This obedience is required not only by ʿaql; it is obligatory to submit to a leader who would prevent them from committing injustices against each other but also by sharīʿa, "Obey God and obey the Apostle of God and those in authority from among you". In this context the ʿūlū ʿl-amr are the Imams but elsewhere the same

1. Al-Ahkām, p.3

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verse has been used to support obedience to the Buāyid Aṁirs.¹

The obligatory nature of the Imamate was therefore established as being either through sharʿ or ʿaql, and was the obligation for all by a few or fard kifāya, like the holy war and the study of religion.² If the Imamate was not taken up by someone capable of it, presumably by an ʿahd or covenant, then the fard al-kifāya was to be carried out by two groups of the community. The first group was the people of choice (ahl al-ikhtiyār) who were qualified to choose an Imam for the Umma, and the second group was ahl al-Imāma, those who were qualified to fill the post of Imam, among whom one would be invested with the Imamate.³

According to al-Māwardī, "the electors must satisfy three conditions. The first is a collective justice (Cdāla jāmiʿa). The second is the knowledge (Cilm) which is sufficient to recognize who is worthy to be the Imam by

1. Al-Māwardī, Nasīḥa, fol. 10b
2. The study of religious sciences is obligatory for all Muslims. It is an individual duty (fard ʿain) according to the Hadīth "seeking religious knowledge is an obligation for every (adult) Muslim". The case is, however, different with al-Māwardī for he meant the religious studies which were necessary for scholars, according to the Qurʾānic verse (IX, 112), which really could be considered as fard Kifāya. See M.J. Ghazi, al-Amr bi 'l-Maʿruf waʾl-Nahi ḫan al-Munkar by Ibn Taymiyya, 1979, pp 23-44.
3. Al-Māwardī, al-Ahkām, pp. 5-6

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the virtue of having the necessary qualifications. The third is judgement and wisdom (al-ḥikma wa'l-ra'y) to choose the best candidate for the Imamate.¹ At this point, al-Mawardi seems to be ignoring a concept which he laid much stress on in his earlier writings. He is, in fact, ignoring the role of power in influencing the election of an Imam.

Al-Mawardi lists seven conditions which must be fulfilled by the candidates for the Imam. The first is a collective justice. The second is the knowledge requisite for leading him to make sound judgements about different legal matters. The third is soundness of the senses in hearing, vision and speech in a degree to accord with their natural functioning. The fourth is the soundness of the body limbs from any defect which would prevent freedom of movement and agility of an arising. The fifth is the judgement conducive to the ruling of subjects and administering state affairs. The sixth is courage and bravery necessary for protecting Muslim territory and waging holy war against the enemy. The seventh condition is to belong to the tribe of Quraysh, since there is an explicit statement (nass) in this issue,

1. Ibid., p.6
and the consensus has agreed about it. The Prophet has said, "give preference to Quraysh, and do not go before them", and due to this explicit Prophetic Hadīth, there can be no claim of obscurity, and no denial of it.\(^1\)

\section*{A. Contractual Theory of the Imamate in Case of \textit{Ikhtiyār}.}

The Imamate, says al-Māwardī, is concluded in two ways. One is by the selection (\textit{ikhtiyār}) of ahl al-hall wa'l-\textit{aqd}; the other is by designation (\textit{Cahd}) by the previous Imam.\(^2\) The Muslim jurists who represented the entire \textit{Umma} had not practised the process of electing the Imam since the time of Mu\textsuperscript{c}awiya. Al-Māwardī is presenting the ways agreed upon by the vast majority of jurists before him.\(^3\) The fact that this way was no longer practised does not detract from the need to discuss it. As it was more complicated, it required a more detailed presentation.

Al-Māwardī rejects the idea put forward by some people that only an election carried out by ahl al-hall wa'l-\textit{aqd} from all the provinces could be valid. He does this on the basis of Abū Bakr's election at the \textit{Saqīfa}.\(^4\)

1. Al-Ahḵām p.6
2. Ibid.

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He then gives three different minimum numbers of electors from *ahl al-hall wa' l-caqd* without giving his preference. They are five according to Basran authorities who base their arguments on five named electors from the *Saqīfa* incident and the five electors who elected the sixth of the *shūra* by Ṭālāb. He then gives the three which are maintained by the Kūfans. They base their arguments on an analogy with the requirement of a *walī* and two witnesses for a valid marriage. Finally, he gives the view of the possibility of only one member of *ahl al-hall wa' l-caqd* being necessary for a valid election of the Imam. The argument for this view is based on the report of al-Ṭālābī offering to pledge allegiance to Ṭālāb at the time of the Prophet's death.¹

The way al-Māwardī presents these views progressing as he does from all *ahl al-hall wa' l-caqd*, which he rejects, to five, then three, then one, suggests that al-Māwardī may have been prepared to accept as valid all these numbers, which would give him plenty of scope to accept the nomination of an Imam by one *Amīr*, even though that *Amīr* may not technically attain the full requirements of being a member of *ahl al-hall wa' l-caqd*.

¹. Al-Māwardī, op. cit., p. 7
In fact the number of electors was not a fixed religious matter, but rather was subject to the political circumstances and was mainly derived from historical precedents, not from the revealed law.  

When the ahl al-hall wa'l-caqd found someone among the candidates suitable to be an Imam, they were to offer him the Imamate. If he accepted, the people then were to swear their allegiance to him as an Imam and the contract of the Imamate would be concluded. The entire Umma was obliged to pay their homage to him and swear to obey him. If he refused the offer of the Imamate, he could not be forced to accept it, because the Imamate was a contract of consent and choice (ridā' wa l-ikhtiyār) into which neither compulsion nor coercion were to enter.  

In fact, the jurists before al-Māwardī had explained the contractual nature of the Imamate in the manner that he did. He dealt with the subject within the Islamic context of the concept of cāqd, which involves an offer (cārd) and acceptance (qubūl). The main principle in the contract, is that it is to be concluded without force and were any kind of compulsion or coercion to

2. Al-Māwardī, al-Ahkām, p.7  
3. C. Chehata, "ʿAkd", E.I.  

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enter, the contract could be illegal except under certain circumstances. The offer would have been made by the body of authority or \textit{ahl al-hall wa'l-\textsuperscript{c}aqd}, who represent the community, and the acceptance or refusal would be up to the candidate. If the candidate accepted the offer, he would be the Imam of the community. The entire community were under obligation to swear allegiance to him and give him their obedience. The oath was obligatory unless the Imam failed to fulfil the conditions of the contract. The contract would be invalid in the case of changing the qualifications and this would cause him to be removed from the office of the Imamate. On the other hand, though, the homage (\textit{bay\textsuperscript{c}a}) which is considered obligatory after nomination and acceptance may seem to be a mere "acknowledgement of already existing obligation", it should be understood in the sense that the \textit{Ummā} or the community were acknowledging the legitimate function of their qualified representatives to make a choice on their behalf.

\begin{enumerate}
\item Al-Mawardī, \textit{al-Ahkām}, p.7.
\item Ibid.
\item Ibid., p.17
\item Kerr, \textit{op. cit.}, p.36
\end{enumerate}
Thus the decision of *ahl al-hall wa' l-aqd* was obligatory to the entire body of the community.¹

If two candidates were equally qualified for the Imamate, al-Māwardī stated that the elder of the candidates should have priority in election. However, it would be permissible to swear allegiance to the younger for the old age, along with the attainment of legal majority is not a condition in the Imamate. On the other hand, the election would depend on the needs of the time (*ma ṭujibuh ḥukm al-waqt*). If the need for the virtue of courage is greater to defend the frontiers and to fight the rebels, then the more courageous is more entitled to the Imamate. If the need for the virtue of knowledge is greater because of the calmness of the masses and the appearance of heretics, the more learned one is more deserving of the Imamate.²

If *ahl al-ikhtiyār* elected one who is the best among the candidates (*afdal al-jamaʿa*), for the Imamate, and then appears after him one who is better than the elected Imam, the contract of the Imamate with the former is still valid, and is not permissible to pass over him.

2. Ibid., loc. cit.
for the most excellent (al-afdal). If ahl al-ikhtiyār have begun paying homage to al-mafdūl, with the existence of al-afdal, then this situation is to be looked into. If this has been done for a reason such as that al-afdal was absent or ill or because al-mafdūl inspires more obedience among the people, or was dearer to their hearts, then the homage (al-bay'a) to al-mafdūl is concluded and his Imamate was considered valid.¹

Al-Māwardī seeks to describe the views of other scholars on the position of the afdal (most excellent) and the mafdūl (less excellent).² He deliberately avoids giving his own opinion but seems to incline towards the validity of the Imamate of the mafdūl. Perhaps this was a recognition of the Buyids' Zaydī inclination. In the same manner he goes on to discuss the possibility of their being only one person possessing the appropriate qualities for the Imamate. In this case he asserts that such a man should be appointed Imam.³ Without giving his own preference, he then goes on to discuss a dispute among scholars as to whether the Imamate can be validly assumed by an Imam without the process of ikhtiyār or an ļaqd.

¹ Al-Māwardī, al-Ahkām, p. 8
² Ibid.
³ Ibid.

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It seems unlikely that the Imam becoming an Imam without an 
caqd was actually held by Sunni scholars. It is a rather 
surprising view to find being discussed in such a book on 
the Imamate. The fact that al-Māwardī again leaves the 
matter unsettled would suggest that he is again making some 
kind of gesture towards the Būyids.

In view of the above discussion by al-Māwardī, 
there does not seem to be any evidence for Gibb's suggestion 
that al-Māwardī maintained that, "election cannot be dis-
pensed with, even if there is only a single qualified 
candidate". ¹ In fact, as pointed out, al-Māwardī left this 
question open. ²

A.1 The Case of Two Imams

Al-Māwardī shows a much firmer attitude towards 
the Ash'arite view of the possibility of there being two 
Imams in different places at the same time, ³ than he did 
in Adab al-Dunyā wa'l Dīn. ⁴ Whereas in the latter work he 
had presented the two arguments, although showing a slight 
bias against the Ash'arite view of it being valid, he now 
firmly rejects such a concept. He says: "it is not

2. Al-hkām, pp.8-9
3. Al-Baghdādī, Uṣūl, p.274
4. Al-Māwardī, Adab., p.138

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possible that the *Umma* has two Imams at the same time, even though a group (i.e. the Ash'arite) hold an exceptional view and allow it.\(^1\)

It is surprising that while in *Adab al-Dunyā wa'l-Dīn*, al-Māwardī cites two prophetic Hadīths as part of the arguments, he fails to report them here. Perhaps Gibb's suggestion that this view was prompted by the Fatimids in Egypt and the Umayyads in Spain\(^2\) may be correct. However, his close association with the Ābāsid Imam in Baghdad may have been of greater influence on al-Māwardī than his hostility to the other claimants.

Al-Māwardī continued his discussion at this point and was concerned as to which of the different Imams would be the actual Imam and other related matters. The scholars disagreed about who was to be the Imam. One group said it would be the one to whom the Imamate had been contracted, in the province in which the preceding Imam had died. This was because those presented there were more fully acquainted with the procedure of contracting the Imamate and consequently they were entitled to exercise their choice.\(^3\) Although al-Māwardī does not actually

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1. *Al-Ahkām*, p.9
2. Gibb, *op. cit.*, p.296
3. *Al-Ahkām*, p.9
support this view here, earlier he has made his position clear with regard to the right of those members of ahl al-ikhtiyār in the province where the Imam died to elect the new Imam, when he said: "Those who live in the province of the (previous) Imam do not have any advantage of priority over those from outside the province. In fact, the people living in the province of the Imam do become the ones who give effect to the qād of the Imamate through urf (traditional practice) not sharā (revealed law) because of their prior knowledge of his death and because those suitable for the Caliphate are generally found in his province".¹

This again seems to indicate al-Māwardī arguing in favour of Baghdad and the Baghdādī Imamate on the grounds that conveniently fit his own position.

Others said that it was, rather, the duty of each one of the two Imams to renounce the Imamate and to surrender it to the other, out of desire for public safety. In this way the electors could elect either one of the two candidates, or even a third. While others said they should make a lottery among them and whoever was successful would

¹. Ibid., p.6
have the right to the Imamate. This suggested al-Mawardī repudiates for two reasons. First of all because the Imamate was the result of a contract and secondly, because sharing of the Imamate was not allowed. Drawing a lot had nothing to do with anything that did not admit sharing, e.g. it cannot be done for marriage. In al-Mawardī's view, the Imamate belongs to whichever one was the first to receive allegiance and concluded the contract, just as in the case of two legal guardians acting in the marriage of the same woman. If these two give her in marriage to two different men, the marriage is valid for whichever one was first to conclude the contract. If the one who was first can be recognized as such, then the Imamate is firmly established in him, and the second should surrender the authority to him and enter into obedience to him.

However, if the Imamate was contracted to both of them at the same time, al-Mawardī stated that neither one of them was the first and proper Imam, and that both contracts were invalid. The contract should subsequently

1. Al-Ahkām, p.9
2. Ibid., loc. cit.
3. Ibid., loc. cit.

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be renewed with either one of them or with a new party.  
1 Al-Māwardī did not, like the Ashʿarites, stop at this point.  
2 He rather discussed other relevant problems. 
He states that if one of the two received allegiance then he would be the first Imam. However, it is difficult to establish his priority.  
3 Nothing exists in Islamic sources which would solve this problem. 
Al-Māwardī then, played a major role in using his ijtihād (legal speculation) to find a solution and thereby established new principles in Islamic theory of the Caliphate. His opinion was that an investigation should ensue to determine the status of the two candidates. If they were to contest one another's right to the Imamate,  
4 and if each of them claimed to be the rightful Imam, the claim of neither of them was to be recognized. Their oath would not be acceptable, as neither had an exclusive right to make it, rather the right to such an oath about who was first belonged to the Muslim. As a result, the legal outcome of this situation would not depend on anyone's

1. Ibid., loc. cit. 
2. Al-Baghdādī, Usūl, p.281  
3. Al-Ahkām, p.9  
4. Contending for the Imamate is not reprehensible since the people of shūrā (the Consultative Council) who were appointed by Umar, to elect a new Imam, had contended for the Imamate. See al-Ahkām, p.7

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taking an oath or refusing to take it. Likewise, if one of the contenders were to surrender the Imamate to the other, the remaining candidate would not become the Imam unless a clear proof could be found which would support that fact that he was the first. On the other hand, if one of them were to acknowledge that the other was first, he would lose his right to the Imamate, but the remaining candidate would again not immediately assume the position of the Imamate, because such an acknowledgement is within the right of Muslims. The persistence of doubtfulness would nullify the contract of the Imamate with both candidates, and the ahl al-ikhtiyār would have to conclude a new contract with one of them.1

All of the above discussions were theoretical in nature and had never been practised in reality from the time of the Caliph ʿAlī. Al-Māwardī was, without doubt, aware of the fact that the democratic election of the Caliph by ahl al-hall waʿl-aqd had ceased to exist with the accession of Muʿāwiyya. Nevertheless, it was impossible for al-Māwardī to ignore the theory which had developed concerning the election of a caliph. In treating this method, it is his duty to outline the arguments involved in it. Yet, this long treatment does

1. Al-Ahkām, p.9

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not indicate that al-Māwardī was only concerned with theory and not reality. He does not anywhere say that this process of election is the only or the best method of appointing a caliph. He merely gives the particulars of its requirements.

B. Imamate by Designation (Cahd)

The conclusion of the Imamate by means of designation (Cahd) by the previous Imam was permissible by the virtue of ijma’ (consensus). The validity of the designation was based on two incidents. One of these was that the first Caliph Abū Bakr entrusted the Imamate to c Umar and the Muslims confirmed c Umar’s Imamate as contracted by Abū Bakr’s designation. The second was that c Umar entrusted the Imamate to ahl al-shūrā. The Muslims accepted c Umar’s limitation of the candidates for the Imamate to the members of ahl al-shūrā, out of the belief of the validity of designating a limited number to the Imamate and excluding the rest of the Companions from it. Accordingly, designation to the Imamate became unanimously accepted as a means of concluding the contract

1. Al-Māwardī, al-Ahkām, p.10
of the Imamate.¹

Al-Mawardi was passive in his attitude towards ahl al-ikhtiyār when he denied the necessity of their consent in the validation of the contract of the Imamate. He says that, "the correct opinion is that consent to the swearing of allegiance need not be taken into consideration because the swearing of allegiance to cUmar did not depend on the consent of the Companions and also because the Imam is more entitled than anyone else to swear allegiance, for his choice respecting the swearing of allegiance is more discerning, and what he says about it is more likely to be carried out".² This does not mean that the successor became an Imam during the life of the current Imam,³ for this would result in two Imams at the same time. This would, of course, negate al-Mawardi's theory. A distinction should be drawn between cahd and caqd. The

1. Ibid., loc. cit. Khan's complaint that al-Mawardi has incorrectly interpreted the nominations made by Abū Bakr and cUmar is based on his own somewhat unsubstantiated interpretation of the events. Khan seems, like al-Mawardi, to be indulging in what Rosenthal has described as, "the habit of interpreting events of the past in the light of their contemporary experience". See Khan, al-Mawardi's Theory of State, pp.26-27 and Rosenthal, Islamic Political Thought in Medieval Islam, p.30.

2. Al-Ahkhām, p.10

3. Ibid., p.11

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The designation did not constitute a contract during the Imam's life-time. Rather, it gave the ahl al-hall wa 'l-
Caqd no choice in the election of another person after the
Imam's death, unless the future-Imam could no longer fulfil
one or more of the conditions of the Imamate. On the
other hand, the new contract between ahl al-hall wa 'l-
Caqd who represent the Umma and the new Imam, was totally
in contrast with the theory of concluding the contract of
the Imamate by election, which he had outlined earlier, for
three reasons. The first was that al-Mawardī accepted the
conclusion of the contract of the Imamate by Cahl without
the consultation with any of the electors; secondly, he
regarded the electors' consent (ridā') in this case as not
necessary; and thirdly, he gave them no option to elect
anyone else.1

It is obvious that the role of the Umma as
represented by ahl al-hall wa 'l-Caqd was passive, and al-
Mawardī's argument that the Imam is the head of the
community, who enforces his orders for the benefit of the
subjects and even sometimes in a way that harms them.
Accordingly, there seems to be no valid way of opposing his
selection.2 Thus, generally, the Imam is given the right
to choose the successor and at the same time the Umma,

1. Al-Ahkām, pp.10-13
2. Ibid., p.10

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represented by ahl al-hall wa 'l-'aḍḥ, is denied the right of practising their role as a main partner in the contract which, according to this method, is established by the authoritarian will of their Imam.

Although, at first, al-Māwardī refrained from giving a conclusive opinion as to whether the Imam would nominate a son or a father to succeed him, he does later make it perfectly clear that he in fact accepted the right of the Imam to select a son as a successor, for he cites the example of al-Rashīd nominating three of his sons to succeed consecutively. He gives his evidence for this practice in the ijma of the jurists. Thus he does not, in fact, remain silent as a result of "the dilemma in which Sunni apologists were placed by this argument", but actually holds a view and has a legal argument to support it.

Al-Māwardī sets out his opinions of the conditions for the nomination of a successor by the Imam. These conditions can be regarded as logical deductions

1. In fact it was nonsensical for al-Māwardī to consider the Imam's designation of a father, especially as it had never happened in Islamic history.
2. Al-Ahkām, p. 13
4. Al-Ahkām, p. 13

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necessary once the view has been accepted. His arguments can be divided into twelve sections as they are listed below:¹

1. When the Imam nominates the person who is qualified for the Caliphate, having taken into account the necessary qualifications, the nomination is conditional upon acceptance by the nominee.

2. The Imam cannot renounce his nomination so long as the nominee's qualifications have not changed.

3. If the Imam were to renounce his successors and nominate another, the nomination of the latter would be invalid.

4. The nominated Imam had no right to abdicate in favour of another, and if he were to abdicate, the homage to the other would be illegal until the process of selection had been performed again.

5. If the Imam's successor were to resign from the office, his resignation would be invalid, until it had been ratified by the Imam. Thereupon, if the Imam were to find someone else qualified for the office, the assigned Imam could then resign. If no-one were to be found, neither his resignation, nor the Imam's acceptance of it, would be permissible, and the assigned Imam would be obliged to carry out his duties as required by the office.

6. The conditions necessary for the Imamate were to be taken into account regarding the Imam-designate at the time of his nomination. If he were under-age or dissolute at the time of designation, but of legal majority and with a good reputation at the time of the Imam's death, his Caliphate would not be valid until the electors renewed their homage to him.

7. If the Imam were to nominate someone who was absent and it was unknown whether or not he was alive, the nomination would be invalid. If he were alive, the nomination would be conditional upon his return, and the ahl al-ikhtiyar would have to call him at the

¹ Ibid., pp. 11-13
Imam's death. If he were still absent and the Muslims were to suffer from his delay, the ahl al-ikhtiyār could authorize someone else to administer the duties of the Imamate, and they could swear allegiance to him as a deputy, not as a caliph, until the advent of the new caliph.

8. If the heir apparent (wālī 'l-āhd) wanted, before the death of the Imam, to pass his successorship to someone else, he could not, because the Caliphate would be vested in him only after the death of the Imam.

9. If the Caliph abdicated, the Caliphate would be transferred to his successor, because his abdication would have the same results as his death.

10. If the Caliph were to designate two successors and did not make his preference for either known, it would be possible for the ahl al-ikhtiyār to elect either of them after the Caliph's death.

11. It would be permissible for the Caliph to appoint the electors, just as he was able to appoint a successor. The only valid election would be the one which was comprised of the appointed electors. This was one of his rights as a Caliph.

12. When the Imam convened a constitutive council (shurā) as 'Umar did, the members could not appoint a further candidate after to succeed the one they selected. That is, they did not have the right, like al-Mawardī suggests the Imam has to appoint more than one successor.

Concerning the Imam's right of nominating two or more successors for the Caliphate and arranging the order of their succession, al-Mawardī bases his argument on the Prophet's instruction for the command of the army.
in the Battle of Mu'ta. ¹ However, the headship of the army (wilāyat al-jaysh) is a special type of wilāya or wilāya khāṣṣa, ² while the Caliphate or the Imamate is a general headship of wilāya ʿammā. The rules of the special wilāya could not be applied to the general wilāya, whereas the opposite is possible. Al-Māwardī, in fact, was trying, with all of his juristic efforts, to legalize the Ābbāsid arrangements by which the Caliphate was monopolized by their family in the past. He further attempted to justify the practice with the historical precedents of the Umayyad Caliph Sulaiyman ibn ʿAbd al-Malik and the Ābbāsid Caliph Ḥarūn al-Rashīd. ³ With regard to the former, he seems to have ignored the report that Saʿīd ibn al-Musayyib abstained from swearing allegiance in 85/945 to the Umayyad Caliph ʿAbd al-Malik's son al-Walīd and then Sulaiyman. Saʿīd justified his

1. The Prophet had appointed Zayd ibn Haritha as commander of the army at Mu'ta (a place near the Dead Sea and where the Muslims fought the Byzantine troops) and said, "If he is killed, then Ja'far ibn Abī Tālib will take his place; if Ja'far is killed, then ʿAbd Allah ibn Rāwaḥa must succeed him; if he is killed, then the Muslims can choose anyone they like". See Hull, "Mu'ta", E.I.¹

2. Heffening, "Wilāya", E.I.¹

3. Al-Māwardī, al-Ahkām, p.13
action by saying, "I would not swear allegiance while the Imam is alive".\(^1\) If we accept Sa\(^\text{c}\)ād\(^\text{i}\)'s justification then the \(\text{c} \text{ahd}\) or designation during the Imam's lifetime was illegal. However, this seems to be the main opposition to designation reported by the authorities. It is important to note that both of the Caliphs, Abū Bakr and ĔUmar made their nomination at the end of their lives. This precedent was also ignored by al-Māwardī's and, perhaps, he constructed his argument so as to please the ĖAbbāsīd Caliphate.

Al-Māwardī subsequently presented theoretical assumptions concerning the rights of the successor (when he was to become an Imam) to nominate another successor outside of the Caliph's two nominees. He presented different opinions without aligning himself to a specific view.\(^2\) However, he does state that when the Caliphate was firmly established, the entire Ūmma would have to know that the Caliphate had been vested in one who was worthy of it by virtue of his qualifications, while it was obligatory only for the electors to know his name and have personal contact with him.\(^3\)

\(^{1}\) Ibn Kathīr, \textit{Bidāya}, v.9, pp60-61
\(^{3}\) \textit{Ibid.}, p.15

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Mawardi stood against that group of Zaydites who followed the doctrine of Sulaiymān ibn Jarīr and which was known as the Sulaiymāniyya. The latter had stated that, "all people must know the name of the Imam just as they must know Allah and His Prophet". Al-Mawardi's objection was that, "if it is required for everyone to know the name of the Imam and his description, then everyone has to go to him. Those persons farthest away certainly would not be excused from showing up, and that would surely lead to the desertion of the frontiers... a result that would certainly be a departure from tradition and reversion to decay". This is a very practical reason to justify the general lack of involvement in the election of the Imam.

C. Duties of the Imam

When the people knew their Imam and delegated to him the authority for handling state affairs, the Imam had to fulfil ten duties. They were as follows:

1. To maintain the religion according to its established principles and those agreed upon by the earliest Muslims (al-salaf al-sālih), and if an innovator were to appear, or someone were to become a sceptic,
the Imam would have to clarify and show him the correct way. He would also have to admonish him to recognize the rights and the punishments so that religion could be preserved from disorder, and the community from stumbling.

2. To carry out legal judgement for litigants, and to cut short any disputes among plaintiffs, so that equity would prevail, without either curbing the oppressors, or weakening the oppressed.

3. To guard Islamic territory and to protect womenfolk (Harim) so that people could carry out their economic activities freely and travel throughout the land without fear from any threat to life or property.

4. To enforce legal penalties (hudūd), so as to secure Allah's prohibitions against violation and to protect the people's right from harm or destruction.

5. To strengthen the frontier fortresses with equipment. This would mean that the enemy could not attack, as a result of the Imam's neglect. He was also to prevent the committing of misdeeds or the shedding of the blood of any Muslim or non-Muslim.

6. To wage holy war against those who resist Islam. This would happen after entreating non-Muslims to accept the religion of Islam. This should be carried out until they were converted to Islam or had the status of dhimmīs. This would ensure the right of God to grant Islamic victory over all other religions was exercised.

7. To collect legal taxes according to the revealed law, as written or interpreted, without fear or oppression.

8. To assess the gifts and whatever sums of money should be payable by the public treasury without lavishness or stinginess, and to make payment at the proper time, neither in advance nor late.

9. To appoint honest and sincere men. This would ensure that whatever tasks they are to carry out will be done efficiently. Also, if they were to be entrusted with sums of money, the monies would be safe.
To carry out personally the supervision of state affairs, so that he himself could direct the national policy of the *Umma* and protect its interests. He was not to delegate these duties to others so that he could immerse himself in the pursuit of pleasures or religious workshop. All responsibility was with him for all other people could be expected to act treacherously or offer misleading advice.

Actually, al-Māwardī's argument was nothing more than a generalization of the administrative duties specified in earlier writings on the art of government. These had been discussed in brief, with emphasis on the first two points as the main duties of the Imam.\(^1\) It is noteworthy that al-Māwardī's emphasis on the administrative functions is directed against any negative conception of the Imamate as a purely religious leadership.\(^2\) This, perhaps, explains why al-Māwardī devoted a large part of his work to the elaboration of a detailed apparatus of government and pictured it as a delegated authority from The Caliph to the officials. He tried to, "defend the responsibility and scope of Caliphal power in relation to normal administration".\(^3\) This case illustrates the

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the disputes which occurred between the Caliph and the Buyids, who disregarded the Abbāsid Caliph in matters of administration and placed them outside the realm of the Caliph's competence. Al-Māwardī implicitly encouraged the Caliph to exercise personal supervision and "not to rely upon delegating these functions to others (i.e. the Buyids),...and busy himself with temporal desires or worship, because the trustworthy men may betray and the truthful advisor may deceive." Al-Māwardī went even further when he supported the issue with religious sanctity by using the Qur'ānic verse, "O David! Indeed, we have made you a viceroy on earth; so judge between men with truth, and follow not passion lest it lead you astray from God's Path" (XXXVIII, 26), and then al-Māwardī says, "for Allah did not limit Himself to delegating His powers without personal supervision and will not excuse the Caliph for following his earthly passion. This is not only because personal supervision is the Caliph's duty by virtue of religion and the position of the Caliphate but also because it is a political right of every one of his

1. Gibb, op. cit., p.298
2. Al-Māwardī, al-Ahkām, p.16
As personal supervision by the Caliph was virtually impossible due to the contemporary political circumstances, the alternative suggested was that all of the Amīrs' actions should be done through the caliphal delegation of powers to Amīrs, even if it was nominal. Otherwise, as he pointed out in Tashīl al-Nazar, all Amīrs' actions would be considered illegal and sooner or later they would be removed.

Most of the Imam's duties have been mentioned earlier by al-Mawardi in his works Nasīḥat al-Mulūk and Tashīl al-Nazar, where he discussed them in relation to the "king". In K. adab al-Dunyā wa'l-Dīn, he presented many of them - more systematically than in other works. In fact, he listed seven of these duties, and attributed them to the Imam.

D. The Circumstances under which the Imam becomes ineligible for the Imamate

In discussing the Imam's disqualification for the office of Imamate, al-Mawardi was careful not to use sensitive terms like deposition, sedition, or revolution.

1. Al-Mawardi, al-Ahkām, p.16
2. Al-Mawardi, Tashīl, fol.32b
3. Al-Mawardi, Adab. p.139

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The majority of the discussion was concentrated on showing the Imam's ineligibility as a result of natural causes according to three categories. The first category was the loss of senses which includes loss of reason (ُقَآل), loss of vision, loss of the ability of smelling and tasting, deafness and dumbness.\(^1\) The second category includes the loss of limbs.\(^2\) The third category includes loss of liberty and which will be discussed later.\(^3\)

Al-Māwardī seems to be denying that the people owed blind obedience to their Imam. Obedience is obligatory as long as the Imam carried out his duties properly. If the Imam failed, the people were no longer obliged to give their obedience and support him.\(^4\) The Imam was no more God's shadow on earth. There were certain duties he had to carry out, and if he failed to do so, the people owed him neither obedience or support. It seems clear that al-Māwardī, unlike so many other jurists, gave the people the right to withhold their obedience to the Imam if certain conditions were not fulfilled.\(^5\) However, al-Māwardī deliberately refrained

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2. Ibid., pp. 18-19
3. Ibid., pp. 19-20
4. Ibid., p. 17
from going through details as to how the people could remove the Imam, and by what means.

In spite of the fact that there are Hadiths, Qur'anic verses, and juristic opinions which advocated blind obedience to rulers, al-Mawardi refused to follow this tradition and preferred to use his own ijtihad in interpreting these religious texts. The principle of conditional obedience was adopted by al-Mawardi only, and was completely neglected by later jurists. This principle led al-Mawardi to refuse recognition of the Imamate of the dissolute (fasiq). The dissolute is one who commits forbidden acts and undertakes reprehensible actions by submitting himself to passion and covetousness.¹ Unlike the Hanafites, who accepted the Imamate of the dissolute as they held that the condition of justice was not required,² al-Mawardi adopted the classical Shafiite view which prevented the contracting of the Imamate in this case as well as continuing it.³ This is natural when it is realized that it comes from a Shafiite leader.

1. Al-Mawardi, al-Ahkam, p.17. Al-Mawardi's view is also against the Ash'arite. Cf. Baghdadi, Usul, p.278
2. Abu Ya'la, al-Ahkam, p.20
In the case of dissoluteness, which concerns the adoption of beliefs that were either in contrast with the Sunna or could be interpreted in a negative way, the scholars differed in opinion as to this kind of dissoluteness.\textsuperscript{1} Al-Māwardī did not cite his own view and only presented the views of others. Some of these views prevent concluding the contract of the Imamate and its continuation and that its occurrence justifies the Imam's removal from his office. While many scholars of Basra say that it neither prevents concluding the contract of the Imamate, nor justifies the Imam's removal from his office.\textsuperscript{2} It seems that al-Māwardī's view was against the Basrites since his book al-Ahkām was basically written to defend the Abbāsid Caliphate. Therefore, his acceptance in this case would legalize the rise of a Shi'ite Caliphate in Baghdad. This would have been possible under the Būyids.

Even though the concept of infirmity, as it would affect the Caliph's rule, had been previously considered briefly by the Ash'arīte Abū Bakr al-Baqīllānī in his book al-Tamhīd,\textsuperscript{3} al-Māwardī was the only jurist to

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\textsuperscript{1} Al-Māwardī, \textit{op. cit.}, p.17
\textsuperscript{2} Al-Māwardī, \textit{al-Ahkām}, p.17
\textsuperscript{3} Ibish, \textit{op. cit.}, pp.57-58
proceed with a detailed examination of this problem. This idea was accepted by Muslim jurists in the field of political theory in general. Al-Māwardī too was unique in giving consideration to a point which might be considered as the core of the theory of the Caliphate, i.e. the problem of naqṣ al-tasarruf or curtailment or loss of liberty.¹

The Caliph's loss of liberty could have had two facets, either restrain (ḥajr) or captivity (qahr). The first would occur when one of the Imam's assistants were to take control of the Imam and the power of management, "without demonstrating his insubordination or publicizing his opposition".² The first part of al-Māwardī's definition of restraint was in contrast to the theory of the Imamate in which certain duties had to be carried out by the Imam who would have been unable to do so in this case. However, al-Māwardī was careful not to imply in his definition that he rejected the Caliphate of al-Qū'im's predecessors. This then explains the second part of the definition in which al-Māwardī stipulated that the usurper must not display his insubordination or

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1. As translated by Gibb in "al-Māwardī's Theory of the Khilāfah," p.298
2. Al-Māwardī, al-Ahkām, p.34
publicize his opposition to the Caliph. Here, he described the exact relation between the Buyids and the Abbasid Caliphs, and at the same time legalized the Imamate of the Abbasids. It is, however, still necessary to examine the actions of the usurper. Al-Mawardi says, "if these actions are compatible with the ordinances of religion and the requirements of justice, then the Caliph should give his approval so as not to cause harm to the Umma. But if these actions are not compatible with religion, the Caliph must seek the aid of those who will be able to put an end to the usurper's domination". This was an indirect call to the Saljuqs, who rose as a power from 422/1030 onwards, to save the Sunnite Caliphate from Shi'ite domination.

The case of captivity would occur when the Imam became a prisoner in the hands of an overpowering enemy from which he could not liberate himself. The enemy could be an infidel or a Muslim. It was obvious that the only threat was the Fatimids in Egypt, who laid claim to the Caliphate and antagonized the Abbasids with their support to various seditious groups in different Irāqī provinces. Al-Mawardi examined the theoretical capture of Baghdad by the Fatimids, or rebel Muslims who would align themselves

1. Ibid., pp.17-18
with the Fātimids. In the event of the capture, the Caliph would be taken prisoner. In this case, said al-Māwardī, "if the rebels have elected for themselves an Imam to whom they pay homage and whom they obey, the Imam held captive by them is considered removed from the Imamate because of the lack of hope of liberating him. The electors in the realm of justice (Dār al-cadl) would have to elect a new Imam". In other words, the Imam elected by the rebels, who would be Fātimids, would not be the Imam of the Umma. The people's duty would be to fight the rebels in order to maintain order in the community. This point will be discussed fully later in the discussion of al-Māwardī's concept of rebellion.

2. THE WIZĀRA

As already mentioned, al-Māwardī had written an earlier work on al-Wizāra. In Kitab al-Ahkām al-Sultāniyya, he dealt with the subject of the Wizara from a different point of view. The subject was neither a course of literature, nor a social function.

1. The term of Dār al-cadl which had been used by al-Māwardī was to be related to the territory which was ruled previously by the captive Imam.
2. Al-Māwardī, al-Ahkām, p.20
3. Ibid., pp.58-59
It is treated here as essentially religious and is embodied in a text entirely devoted to the theory of the Islamic government. Non-Islamic traditions had no place here as all of the work was based either on legal texts or legal interpretation of religious text and on Islamic historical precedents. The wizāra in al-Ahkām was a legal, general power or wilāya, issued by the Caliph, which was also entrusted in his representative, i.e. the wazir.1

The vizierate was of two types, the vizierate of delegation (wizārat al-tafwīd) and the vizierate of execution (wizārat al-tanfīdh).2 Al-Māwardī's distinction of the wizāra was entirely different from that in Kitāb al-Wizāra, when he described the nature of the office of the wazir in general and literary terms, without any attention to the concept of wilāya. See Kitāb al-Wizāra, pp.47-49

1. Al-Māwardī, al-Ahkām, p.22

2. Al-Māwardī, al-Ahkām, p.22
of the vizierate was not his own invention. Abū Mansūr al-Thā'ālibī, who was one of al-Māwardī's contemporaries, divided the vizierate into two types. The unlimited vizierate (wizāra muṭlaqa) and the limited vizierate (wizāra muqayyada). He also called them the vizierate of delegation (wizārat tafwīd), and the vizierate of execution (wizārat tanfidh).\(^1\) As for the first (wizārat al-tafwīd), the Imam was to entrust someone with the management of affairs according to his own opinion and personal judgement. The legal basis for the vizierate was analogy or qiyās. As the vizierate, said al-Māwardī, was permissible in Prophethood,\(^2\) it was all the more so in the office of Imamate.\(^3\) It seems that al-Māwardī was the first to provide such a legal basis for this kind of secular office which existed as a result of a historical development, more than an office founded by sharī'a. All jurists who wrote on the subject of the vizierate followed al-Māwardī's legal justification in their texts.\(^4\) The Imam, then, was in need

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1. Al-Thā'ālibī, Tuhfat al-Wuzarā, Passim
2. According to the Qur'ānic verse, XX, 29-33.
3. Al-Māwardī, al-Ahkām, p.22 and cf. al-Thā'ālibī, Tuhfa, p.39
of the vizier's assistance in the administration of state affairs. This ensured that decisions would be as effective as possible, with as few errors as possible.¹

The conditions which were necessary for the wazīr al-tafwīd were the same as those for the Imamate, except for the specification of lineage.² There were, however, specific conditions which required that the wazīr be qualified in matters of war and finance.³ As the vizierate was wilāya ḍamma, then this position like that of the Imamate, would only be established with a contract which was valid as a result of the clear pronouncement by the Caliph.⁴ This had to include two conditions. The first was that of the generality of jurisdiction or ʿumūm al-nazar, and the second that of deputyship or al-nīyāba. If it was restricted to the deputyship, without specifying the extent of authority of the deputyship, the vizierate could also not be established. However, should the Caliph's pronouncement combine both of the two conditions, the vizierate could be established.⁵

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1. Cf. al-Wizāra, pp. 67-68
2. Al-Mawardi, al-Ahkām, p.22
3. Ibid., p.23
4. Cf. al-Thaʿalibī, Tuhfa, p.75
5. Al-Mawardi, al-Ahkām, pp.23-24
The relationship between \textit{wazīr al-tafwīd} and the Caliph was based on a partnership in administration. This was because the concept of the vizierate derived from help and consultation, for the main duty of the vizier was to support the Caliph and share with him the burden of state administration.\textsuperscript{1} The concept of partnership in administration did not constitute an absolute authority on the part of the vizier. Two conditions were deemed necessary so that the vizier would not monopolize power. The first condition concerned the vizier, where he is obliged to support the Imam with all administrative measures he has carried out, either affairs he has executed, or official appointments he has made, so that he could not be in the same category as the Imam in exercising absolute authority. The second concerns the Imam and consists in his frequent supervision of the actions of his vizier and his personal management of state administration in order to ratify what is correct and to check actions which are contrary to the common good of the community.\textsuperscript{2}

It is obvious that al-\textit{Māwardī} was aware of the fact that the Imam was powerless, and in the event that he

\begin{enumerate}
\item Ibid., p.24
\item Ibid., p.24
\end{enumerate}

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(the Imam) were to appoint a vizier of delegation with such an authoritative power, the vizier could monopolize administrative power. The Imam would then be devoid of any power. Therefore, stipulating these two conditions was necessary so as to prevent the possible existence of such a situation.

The functions of wazīr al-tafwīd were many and various. It was permissible for the wazīr to rule by himself and to appoint governors, just as the Imam could do, because he fulfilled the requirement for governing. He could investigate an act of injustice and could appoint a deputy to exercise his duty instead of the vizier. He also was to carry out personally, the holy war, and was to appoint someone to take his (the vizier) place. He had further to take charge of the execution of decisions which he made as well as to appoint someone to do so.\(^1\) In other words, the wazīr al-tafwīd was allowed to do all of the things that the Imam could do except for three things. The first was the designation of a successor (wilāyat al-cāhd). The second was that the Imam had the right to ask the Umma to release him from the Imamate, while the vizier did not enjoy this privilege. The third was that the Imam

\(^1\) Al-Māwardī, al-Ahkām, pp.24-25 and cf. al-Wizāra, pp. 115-120.
had the right to dismiss whoever was appointed by the vizier, while the vizier did not have the right to dismiss those who were appointed by the Caliph.¹

It is interesting that in Kitāb al-Wizāra, al-Māwardī's discussion of the suitable reasons for the discharge of the wazīr followed the discussion of his investiture.² In Kitāb al-Ahkām, al-Māwardī ignored the issue completely, and moved immediately to the second type of wizāra.² It would be interesting to know why al-Māwardī ignored this issue and accorded it no attention in Kitāb al-Ahkām al-Sultāniyya. The answer might be related to the nature of political circumstances in which al-Māwardī wrote these works, since the book of al-Wizāra was, as is pointed out by the editors, dedicated to Ibn Mākulā, the wazir of Jalāl al-Daula who called himself a king and whose authority was sufficient to allow him to discharge a wazīr at any time he chose to do so. This matter was common during the Būyid's reign in

¹ Al-Māwardī, al-Ahkām, p.25
² Al-Māwardī, al-Wizāra, pp.121-25.

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Therefore, it was natural that al-Māwardī discussed the circumstances under which the Sultan could dismiss his vizier from the office, as the Sultan was completely capable of exercising this right. In Kitāb al-Ahkām, the case is different. It became customary for the Abbasid Caliph to rule without a vizier and he had no right to appoint anyone to this office. In fact, the office of the wazīr al-tawīlīd never existed in the matter which al-Māwardī discussed in Kitāb al-Ahkām at any time during the Buyid reign. The nature of the administrative authority of the vizier of delegation was the same as that of the emirate by seizure. Both persons were expected to have the same requirements and could practise the same functions.

1. From the beginning of the Buγid reign in Baghdad, the vizierate passed into the hands of Muγizz al-Daula, who could choose whomever he liked. Through time, the wizāra came to be completely under control of either the Buγid Amīrs or of their favourites. The viziers were under constant threat of dismissal. The viziers were merely puppets in the hands of the Buγids who could dismiss and appoint the same vizier several times or even appoint unreliable people to this office. For more details see Ibn al-Āthīr, al-Kamil, v.8, p.339; Miskawayh, Tajārib, v.5 passim.

2. Al-Māwardī, al-Wizāra, p.65. Where al-Māwardī defined this type of the vizierate as "al-istiylā' ala-Tadbīr".
The difference lay in the title of their offices. With such a situation, it seems pointless to discuss these matters under such circumstances. It is clear that al-Māwardī was aware of the Caliph's inability to dismiss the Amīr who might seize the authority by force, i.e. the Būyids, but, as usual, he preferred to ignore the issue completely and considered another point.

The important point relating to the vizierate of execution or wizārat al-tanfīdh was that it was not a wilāya, (a legal power), because it could not be classified according to any of the four types of legal powers (wilāyat) that were issued by the Imam, and also because the appointee was not technically a vizier, as in the case of the wazīr al-tafwīd. The appointee was assigned only to execute different affairs according to the will of the Imam. He had neither the capacity, nor the authority, to administer according to his own opinions. Should the Imam, however, consult him about different affairs of state, he was then more entitled to the title of wazīr. But if he was not consulted about these affairs

1. Al-Māwardī, al-Ahkām, p.21
2. Ibid., loc. cit.
then it was more suitable that he be called an intermediary or an envoy. 1 Nevertheless, al-Māwardī stated clearly in both of his works, Kitāb al-Wizāra, 2 and at the beginning of the section dealing with the vizierate of execution in K. al-Ahkām, 3 that the person who occupied this office acted as an intermediary (safīr or wasīṭ), between the Imam or the Sultan and his subjects and governors. His duty was to carry out the Imam's orders concerning different affairs. The same opinion was also held by al-Tha'labī, in his work Tuhfat al-Wuzara'. 4

The vizierate of execution was not common in Islamic history, as stated by al-Mawardi himself when he wrote that the majority of the viziers of the Muslim rulers were wuzara' tafwid while most of the viziers of Persian kings or mulūk al-ajam were wuzara' tanfīdh. 5 For what reasons then did al-Mawardi use the term wazīr in this context? It seems that the term was used simply to create an aura of honour and respect around the position of the secretary

1. Al-Mawardi, al-Ahkām, p.26
2. Ibid., pp.26-27
3. Ibid. p.25
4. Ibid., pp. 83-85
5. Al-Mawardi, al-Wizāra, p.138

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to the Caliph. This figure is not generally referred to as a wazīr by the Islamic historian writings on the period. As the wizārat al-tanfīdh was not a legal power or wilāya it could therefore be concluded without a contract and a caliphal declaration of investiture. It only required an oral authorization (mujarrad al-idhn) by the Imam. Neither freedom nor knowledge was required by the appointee because he did not have the right to wield authority or the power to rule.  

As a mediator, the wazīr al-tanfīdh had only to fulfil seven conditions, which were honesty, truthfulness, lack of greed, a good disposition with people, a good memory, and refraining from following his passions. If this vizier were to participate in deliberations, he then needed an eighth quality which was wisdom and experience which would lead him to formulate correct opinions and proper management.  

All of these qualities resulted from logical deductions as opposed to being required by religion. The important element here was that al-Māwardī did not stipulate the condition of religion (al-diyāna) regarding who was to be appointed to this office. It was therefore 

2. Al-Māwardī, al-Ahkām, p.27.
natural that al-Māwardī stated that the dhīmmīs (the people of the Book) were eligible for the office of the wizārat al-tanfīd, while they were not eligible for the wizārat al-tafwid because it was a wilāya and the religion of Islam was a necessary attribute in such a vizier. Al-Māwardī gave no legal basis for this view which was adopted by himself alone. The view was praised by Von Kremer who described it as "a liberal sentiment in a juristic work".² It was, however, fiercely attacked by al-Māwardī's contemporary, Imam al-Haramayn Abū al-Ma‘āli al-Juwaynī, who regarded al-Māwardī's view as an unforgivable mistake.³

It is certain that al-Māwardī's view had no legal basis in either the Qur'ān or in the Sunna. In addition, there are many Qur'ānic verses which are against it.⁴ It might be said that al-Māwardī's view was influenced by the political situation of his time. The custom of placing Christians in state offices was introduced by the

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1. Al-Māwardī, al-Wizāra, p.116
3. Ghiyāth al-Umam, Ms. fol.8b.
4. Verses, II, 118; III, 144 and IV, 51.
Būyid prince ʿAdud al-Daula (367-372/978-983), who appointed the Christian Ibn Mansūr Naṣr ibn Ḥa-rubīn as a wazīr. 1 ʿAdud al-Daula also had Christian assistants engaged in the administration of state revenue. One of them was Sahl ibn Bishr who was in charge of collecting the revenues of Ahwāz, as well as the various districts of ʿIraq. 2 The argument was made because ʿAdud al-Daula’s innovation was not common during the Būyid rule in Baghdad, especially during the last phase of their rule. However, al-Mawardi’s opinion regarding non-Muslim eligibility for the wizārat al-tanfīdh was a mere juristic deduction based on the nature of this type of vizierate. Since it was not a wilāya, religion was not a requirement for a person appointed to this office. 3 He would neither rule nor make appointments on his own. Accordingly, nothing would prevent a non-Muslim from holding the responsibility of this office. In the case of the vizierate of delegation, however, which was a wilāya, religion was a requirement and therefore it was not permissible to choose the vizier of delegation from

2. V. Kremer, op. cit., p.251 and Kabīr, op. cit., p.33
3. Al-Mawardi, al-Wizāra, p.116 and al-Ahkām, p.27
among them (ahl al-dhimma). ¹

Women, according to al-Māwardī, had no right to hold the office of the vizierate of execution. ² This statement was related to the Prophetic Hadīth: "People who entrust their affairs to a woman will never prosper". This Hadīth provided justification because the office of vizierate necessitated conditions of judgement and firmness of resolution which, according to al-Māwardī, women were unable to acquire. Further, it was not permissible for women to participate in different affairs. ³

The differences between these two types of vizierate were four. ⁴ Firstly, it was permissible for the wazīr al-tafwīd to rule and to look into complaints, while the wazīr al-tanfīḍh did not have the right to take charge of such functions. Secondly, the wazīr al-tafwīd had the right to appoint local agents, while the wazīr al-tanfīḍh did not. Thirdly, the wazīr al-tafwīd could administer

1. Al-Māwardī, al-Ahkām, p.27
2. Al-Māwardī did not discuss this point in K. al-Wizāra. The reason might be justified on the grounds that K. al-Wizāra is a book of literature, while K. al-Ahkām is a juristic work and therefore it was necessary to mention it briefly without going through any further discussions. See al-Ahkām, p.27
3. Al-Māwardī, op. cit., p.27
the financial affairs of public spending, while the other vizier had no such authority. Fourthly, the wazīr al-tafwīd had the authority to dispatch armies and wage wars, while the other vizier did not have this authority. These four differences between the wazīr al-tafwīd and the wazīr al-tanfīdh in the field of jurisdiction, result in four differences concerning the conditions required by each vizier. Firstly, freedom was a necessary condition for the wizarat al-tafwīd, but not for the wizarat al-tanfīdh. Secondly, to be a Muslim was a condition for the first type, but not for the second type. Thirdly, knowledge of the revealed law (ahkām al-shari‘a) was a condition for the first type, but not for the second. Fourthly, knowledge of the administration of war and finance was a condition for the wizarat al-tafwīd, but not for the wizarat al-tanfīdh.¹

At the end of the section concerning the vizierate, al-Mawardi tried to pave the way for the legalization of the emirate by seizure. This is apparent as he cancelled the role of the wazīr al-tafwīd as a legal power issued by the Caliph and replaced it with those who seize power by force. If this were to happen the

¹ Al-Mawardi, al-Ahkām, p. 27
Amīrs had the right to appoint wazīr al-tafwīd as well as a wazīr al-tanfīd in the same way as the Caliph himself had. Al-Māwardī was careful to avoid the implication that the Caliph had nothing to do in this case. He tried to make the Caliph the main source of authority. He began his statement with "if the Caliph delegates the administration of the provinces to those in control of them, as happens in our time,¹ then it is permissible for the ruler of each province to appoint a wazīr.²

The institution of the vizierate as it was discussed by al-Māwardī as well as earlier Muslim thinkers, never came into existence, particularly in the systematic form described in the theory of the Islamic governmental system. Neither al-Māwardī nor other Muslim scholars gave a legal base for this division which was never actually adopted by the Ābbāsid Caliphs.

Throughout the long history of the Ābbāsids, the nature of the vizierate varied from time to time. The first "minister" to hold the office of the vizierate for the first Ābbāsid Caliph, al-Saffāh, was Hafs ibn

¹. The indication is referred without doubt to the Būyids. ². Al-Māwardī, al-Ahkām, p. 29
Sulaymān Abū Salama al-Khallāl who supported the ʿAbbāsids financially in their propaganda. After his death, al-Saffāḥ appointed another one called Abū Salama al-Khallāl who was the first to be called the vizier.¹ Abū Salama was killed because, it was said, he turned away from the ʿAbbāsids to the ʿAlīids. The office was occupied by Khālid ibn Barmak.² All of these people were entitled to the vizierate without specification. Certainly they were not wuzaraʾ tafwīd but, on the other hand, they had more authority than the wuzaraʾ al-tanfīdh.

The vizierate under the reign of al-Mansūr lost much of its prestige because of al-Mansūr's authoritarian rule in state administration.³ The first who really deserved to be called wazīr tafwīd was Yahiya al-Barmakī during the reign of the ʿAbbāsid Caliph Ḥarūn al-Rashīd, who entrusted Yahya with absolute authority in all areas of jurisdiction.⁴

The position of the vizierate after the death of al-Maʾmūn deteriorated and was occupied by whoever could pay most for the position.⁵ The situation under the

1. Al-Thaʿalibī, Tuhfa, pp.114-15
3. Ibid., p.168.
4. Al-Jahshaiyari, al-Kuttab waʾl-Wuzaraʾ, p.177
Būyids was even worse. It was characterised by Goitein who said, "with the rise of the Būyids in 334/945, the ʿAbbāsid vizierate came to an end. It was not revived till a century later". Even at the time of al-Māwardī, the authority of the vizier was limited by the Amīr who could either make him a vizier of a delegation or a vizier of execution, and could change the vizier's position even during a vizierate.

To summarize, al-Māwardī's theory of the vizierate was not practically related to the situation during the ʿAbbāsid Caliphate. His distinction of two types of the vizierate, and also the differences between these two types could have been borrowed from al-Thaʾalīlibī. All of the administrative rules and duties of the viziers of both types, as well as other principles, i.e. the eligibility of the dhimmīs to hold the position of the vizierate of execution, resulted from speculation and were without a legal basis from the Qurʾān, Sunna, and historical precedents.

However, it was rather difficult for al-Māwardī to avoid the discussion of the subject of the

1. Goitein, op. cit., p.390
vizierate which was "the mother of governmental functions and royal ranks", and which became a main part of the Islamic theory of government.

3. THE THEORY OF THE EMIRATE

It seems certain that al-Māwardī was the first Muslim jurist who devoted a complete section in a juristic work to the subject of the emirate. To al-Māwardī, the emirate is a legal power (wilāya ṣamma) issued by the Caliph. The Amīr had a general jurisdiction in particular areas. With full cognizance of political reality, al-Māwardī spoke of two types of emirate. They were either general (ṣamma) or special (khāssa). The first type was of two kinds. It was either an emirate which was concluded by the free choice of the Caliph (imārat istikfā') or was an emirate which was concluded under compulsion (imārat istīlā').

Since imārat al-istikfā' was concluded by the free will of the Caliph, it was a mere administrative post issued and supervised by the Caliph, like any other official post in the Islamic government. There is no need to enumerate the Amīr's administrative functions as detailed

1. Ibn Khaldūn, op. cit., v.2, p.6
2. Al-Māwardī, al-Ahkām, p.21
3. Ibid., p.30
by al-Māwardī. They were, in fact, the same as to the functions of the vizierate of delegation. The conditions for this emirate are the same as those for the vizierate of delegation. As far as the special emirate was concerned, the Amir does not have the right to rule like the Amir of the first type, therefore the conditions for this emirate are the same as those for the vizierate of execution plus two additional conditions, Islam and freedom because the emirate implies the Amir's authority over religious affairs. However, the condition of religious knowledge is not necessary because the Amir of this type of emirate has no right to rule. These two types of emirate, however, are more relevant to the sphere of administration, than to the sphere of politics.

The new element in al-Māwardī's discussion of the subject was what he called the "emirate by seizure" and which was concluded by coercion. This situation would happen when the Amir took full control of certain territory by force. The Caliph would then invest in him the governorship and delegate to him its government and administration. Such a situation was common from the

1. Ibid., pp.30-32
2. Al-Māwardī, al-Ahkām, p.33
3. Ibid.
"break-up of the Abbāsid Caliphate in the early third Hijri century. Most of the provincial governors were in full control over local affairs of their provinces and succeeded in establishing hereditary dynasties".¹ In the east of Baghdad, for instance, the Tāhirids succeeded in establishing their own state in Khurasān. It was abolished then by the Saffārids.² There was also the Samānid dynasty in north east Persia and Transoxiana which was ended by the Ghaznavids.³

The Abbāsid Caliphs fully realized the political dilemma and consequently accepted the situation as a de facto because the situation was, as pointed out by Philip Hitti, "an unavoidable consequence of such a far-flung domain with difficult means of intercommunication."⁴ However, from a juristic point of view the problem of the emirate by seizure remained as to how to give this situation legal sanction and validity. Al-Māwardī, in fact, refused to accept the jurists' silence toward this problem and worked to create a new theory by which he could legalize not only what was happening at his time,

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¹ W. M. Watt, Islamic Political Thought, p. 99
³ A. H. Siddiqī, op. cit.
⁴ Ph. Hitti, History of the Arabs, 1968, p. 331

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but also what had happened in the past. 1

Al-Mawardi was fully aware of this problem even before writing Kitāb al-Ahkām al-Sultāniyya. In his work Tashīl al-Nazar, al-Mawardi asserted that if the usurper were to base his rule on justice and good conduct, then his governorship would be legitimate and power would be delegated to him by the Caliph. 2 In al-Ahkām, al-Mawardi discussed the case in detail because of its relation to the theory of the Imamate. In this kind of emirate, the Amīr enjoyed the full power of government and administration, while the Caliph became the enforcer of the rules of religion in order to transform affairs from imperfection to rightfulness and from prohibition to permission. Al-Mawardi, however, admitted the irregularity of such a situation and admitted also, its conditions, as well as its rules, were against the traditional way of investiture, but that they existed under certain circumstances and therefore had to be legalized to safeguard the religious rules and preserve them from being corrupted or weakened. 3 In other words, al-Mawardi's main object

2. Al-Mawardi, Tashīl, fol. 32b
3. Al-Mawardi, al-Ahkām, p.33
was to adapt the emirate by seizure to conform to Islamic principles, even though they were a mere juristic deduction made by al-Māwardī himself. He did this for the sake of legalizing different affairs practised under this rule throughout the ʿAbbasid Caliphate.

This explains al-Māwardī's insistence on the seven legal requirements which were obligatory for both the Caliph (who theoretically invested power in the Amīr) and the conquering Amīr. These requirements were more binding on the Amīr than to the Caliph. The first was to maintain the office of the Imamate as a succession to the Prophethood and the administration of the affairs of faith in order to protect the office of the Imamate in accordance with what the revealed law required and to safeguard whatever rights spring from it. Second, was that the Amīr had to demonstrate religious obedience, which would remove every basis for resistance in religion and would negate the sin of insubordination to the Imam. Third was the cooperation on the basis of harmony and mutual support so that the Muslims would have the upper hand over all others. Fourth was to assure that the conclusion of the contracts of religious guardianships were valid and that their judgement and rulings had legal force so that these would neither be rendered null and void as a result of

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loopholes in their contracts. The fifth was to assure that the taxes due according to the revealed law were collected in a legal manner. The sixth was to assure that the legal penalties (hudūd) were rightfully carried out and fully applied to whoever deserved them. The seventh was to assure that the Amīr in maintaining religion, was scrupulous in avoiding what God had prohibited.¹

These stipulations, which al-Mawardi described as gawānīn al-shār or the rules of the revealed law, were necessary for the safeguarding of the rights of the office of the Imamate and the rules that govern the Umma as well. It was on account of these that the investiture of the usurper was rendered necessary. If the usurper fulfilled the conditions of the emirate by free choice, then his investiture was definite in order to receive his obedience and to avoid any possible conflict with him. Through the authorisation of the Caliph, the Amīr acquired full power to execute the rights of religion and the rules of the Umma. The Amīr also had the right to appoint a vizier of execution just as the Caliph did.²

¹. Al-Mawardi, al-Ahkām, p.34
². Ibid. loc. cit.
However, if the Amīr did not fulfil the conditions required for the emirate, investment was permissible in order that obedience be received and that any conflict which might ensue between him and the Caliph would be halted.

Although this situation constituted a deviation from normal legal principles, it was permissible for two reasons. First of all, necessity makes it possible to dispense with the conditions which had to be fulfilled in the case of free choice. Secondly, the fear of throwing the public interest into a state of disorder justifies a relaxation of its conditions rather than those necessary for private interests.¹

It seems that al-Mawardi's extreme enthusiasm to define the shaken position of the Abbasid Caliphate, and also his desire to legitimize all that happened in Baghdad even if it deviated from legal principles, as he admitted in his book, led him to "invent" new principles and use his position as a religious leader to make these principles legal. In addition, these new principles were also created regardless of what actually happened in reality.

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1. Al-Mawardi, al-Ahkām, p.34
In al-Māwardī's view the maintenance of the institution of the Imamate was essential in sharī'ah. However, his primary concern was the preservation of the Islamic principles within the Community. The main object of al-Māwardī and all other Muslim scholars was to preserve the revealed law itself and to see that the religious penalties and rules were carried out by the ruler regardless of the nature of his governorship. For the sake of the Islamic community and the preservation of Islamic law, the Amīr must be invested and authority must be entrusted to him whether or not he fulfilled the necessary conditions for the emirate. The Caliph's consent was vain as he could do nothing. It seems that al-Māwardī was concerned with the validation of Islamic law through the Caliphate. The fact that this validation was in practice nominal did not seem to undermine al-Māwardī's view of its necessity. However, it is possible that in maintaining this view of its necessity, al-Māwardī was trying to preserve some reason for the existence of the caliphate when its practical authority had long since been undermined.

The theory of expediency was accepted and used in Islamic political thought a long time before al-Māwardī. It did not, however, receive much attention, perhaps because it was not organized in a juristic work as in Kitāb al-Ahkām. Imam Ahmad ibn Hanbal legalized
the Imamate by force, and every Muslim was then expected to recognize the Imamate of the conquerer whether he was pious or dissolute.\(^1\) And if the theory of expediency was applied to concept of the Imamate, then it is more acceptable for the other types of *wilāyāt*.

If the Caliph should invest the usurper simply to ease the probability of conflict of resistance and to receive the *Amīr*’s obedience, then the declaration of investiture had to be carried out, no so much for the sake of Muslim unity, but rather for the preservation of the institution of the Caliphate itself, which was under the threat of destruction if the Caliph refused to declare the investiture of the conqueror. The Buyids, though, recognized the spiritual authority of the Caliph as the head of the state since the existence of a Sunnite Caliph in the seat of the Caliphate would satisfy the Sunnite majority and at the same time would allow them to rule the state without objections from the Sunnite scholars.

However, the emirate by seizure was, by one way or another, a violation of legal law, because it stood against the Imam who had to be obeyed according to the Qur’ān. And, if the Caliph was not in a weak position

\(^1\) Abū Ya‘lā, *al-Ahkām al-Sultāniyya*, p.20
the question arose as to whether or not he would deal with the issue in the same manner described by al-Māwardī, or would he consider the usurper as a rebel, and consequently have to fight against him because of his abuse of power.

Al-Māwardī was aware of the fact that if he considered the Amīr who imposed his rule by force a rebel, he had to find a legal justification for what Gibb called "the practical ijmāʾ" of the Sunnite scholars for all of those years, which was more difficult than legalizing the emirate by seizure itself.

Earlier we have seen how al-Māwardī elaborated his view of the necessity for "force" to be involved in the process of government. Only by establishing itself through control over the people could a governing authority come into being. This "role of force" in al-Māwardī's political theory may well have been influenced by his own experiences of his times. Nonetheless, whatever the influence, the basic principle of al-Māwardī's earlier political thinking re-emerges in the "emirate by seizure". On the other hand, he has acknowledged that it is the almost unanimous view of Muslims that the institution of the Imamate is necessary for the community to be able to fulfil its Islamic duties. His elaboration of the doctrine of emirate by seizure
within the context of the Imamate seems to be an attempt to reconcile these somewhat conflicting views.

4. **AL-MĀWARDĪ'S CONCEPT OF REBELLION**

The concept of rebellion which was constituted by anyone carrying arms against the unjust rulers was always discussed under the principle of commanding the right and forbidding the wrong - which was introduced into political theory by the Mu'tazilites.¹ Al-Māwardī dealt with the subject in different ways. He stated clearly that the people had the right to depose the ruler who failed to carry out the duties of the Imamate, but he did not clarify how and by what means.² Like other Muslim jurists, al-Māwardī used the term _al-bughāt_ or law-breaker as a description of them.

The subject was discussed in _K. Nasīḥāt al-Mulūk_, _Adab al-dunyā wa'lis-dīn_, and in _al-Aḥkām al-Sultāniyya_. In each work al-Māwardī used a different method of discussion. In the first book he classified the rebels as state enemies and people of felonies.³

In _Adab al-dunyā wa'lis-dīn_ though, he used the general

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2. Al-Māwardī, _al-Aḥkām_, p.17 and _Adab al-dunyā wa'lis-dīn_, p.139
3. Al-Māwardī, _Nasīḥāt al-Mulūk_, fol. 77a

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method of discussing the concept under the principle of commanding the right and forbidding the wrong.¹ The difference between the two methods is that in K. Nasīḥat al-Mulūk, al-Māwardī's advice was directed to the ruler and he advised him how to deal with the rebels, whereas in Adab al-Dunyā, al-Māwardī discussed the issue as it concerned the community in general. Every individual is under obligation to command what is right and forbid what is wrong within the context of ability under certain conditions and without any connection with the role of the ruler.² In K. al-Ahkām, al-Māwardī distinguished between the concept of the rebellion and the principle of commanding the right and forbidding the wrong. This principle became concerned with pure religious and social matters, and it was the duty of the muhtasib, the man who was appointed officially by the Imam, to carry out the religious rule among the people. By doing so, the muhtasib practised the principle of commanding the right and forbidding the wrong.³ In other words, the principle is fard kifāya which was not a personal obligation like

¹ Al-Māwardī, Adab, p.101
² Ibid., pp.101-103.
³ Al-Māwardī, al-Ahkām p.240

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prayer and almsgiving, for the principle could be performed by the state through the muhtasib.\(^1\) The rules of the treatment of rebels or al-bughāt were discussed under the section of "wars for the common weal" or ḥurūb al-maṣāliḥ. This term implied that the rebels were violating legal principles as well and social and moral standards of the community and therefore had to be fought by the state for the sake of the unity of the community.\(^2\)

A close examination of the rules which governed the relationship between the rulers and the rebels shows that al-Mawardi followed the same rules in all of his writings. The dissenters or al-bughāt were those Muslims who renounced the law of the community and their allegiance to the just Imam, whether for the sake of force (mutaghallibīn) or because of a religious misunderstanding.\(^3\) Al-Mawardi's stipulation that the rebels be considered as only those who renounce their obedience to

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2. Al-Mawardi, al-Ahkām, p.55
3. Al-Mawardi, Nasīḥat, fol. 78a
the just Imam adds a new dimension to Islamic political thought when he forbids the Imam from fighting the people who renounce their obedience because of a religious misunderstanding or muta'awwilīn because they are not rebels from an Islamic point of view. ¹ Al-Māwardī, however, abandoned this point in K. al-Ahkām and turned his attention to the rules which regulate the fighting of ahl al-baghī, those who dissent from the opinion of the Islamic community and corrupt themselves with a new doctrine of their own invention. ² Those dissenters were of four types and different regulations had to be taken into consideration regarding each of them. First of all, if they neither clearly renounced their obedience to the Imam, nor isolated themselves in a certain territory, and were scattered individuals whom the authorities could reach and punish, they should be left alone and not fought and the rules of justice should apply to them as regards their rights and duties as well as the law of legal penalties. ³ It is obvious that it was the Shi'a who were meant by this type of dissension, for they adopted Mu'izz al-Daula's innovations of the Day of

¹. Ibid.
². Al-Māwardī, al-Ahkām, p.58
³. Ibid.

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There are the innovations of cursing the Companions, the Shi`as also called for the Fatimids ruler of Egypt, al-Hakim, who was a Shi`ite, many times and mentioned his name in the Friday ceremony. This happened especially during the civil riots between the Sunnites and the Shi`ites. Politically as well as religiously, this attitude from the Shi`as was against the opinion of the Sunnite and also implied renouncement of obedience to the Sunnite Imam. Accordingly, the Shi`ites, in this case, were bughāt of the first degree which required no fighting. Secondly, if they announced their belief while living with the people of justice (ahl al-adl), then the Imam must make clear to them the falsehood of their beliefs and call upon them to renounce them and return to the straight path. The Imam had the right to reprimand those who exhibited their false beliefs, without killing them or exercising a legal punishment. This case also applied to the Shi`ite minority of Baghdad who lived among the Sunnites, and at the same time adopted false innovations such as their mourning on the Day of Cāshūra`. The third type included the dissenters

1. Ibn al-Jawzī, Muntazam, v. 8, Passim.
2. Al-Māwardī, al-Ahkām, p. 58
who detached themselves from the community and isolated themselves in a certain territory and refused to associate with the people, without renouncing their obedience to the Imam, nor refusing to fulfil their duties. Such dissenters were not to be fought as long as they still fulfilled their duties and gave their obedience to the Imam.\(^1\) It was mentioned by John Mikhail that al-Māwardī considered the fighting of this type of baghī permissible in Kitāb al-Hāwī fi' l-fiqh, to ensure the unity of the community.\(^2\) However, al-Māwardī's position on this topic is now more in conformity with his view of the emirate by seizure, perhaps demonstrating an attitude which had regard for political realities.

Fourth, if the dissenters renounced their obedience to the Imam and refused to fulfil their duties, they had to be fought, regardless of whether they had an Imam or not. This was to stop dissension and regain obedience to the Imam. If the rebels installed an Imam as their leader, in whose name they collected taxes and executed judgements, then all of these would become legal. But, if they did not have an Imam, then all of their judgements were illegal.\(^3\)

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1. Al-Māwardī, al-Ahkām, p.59
2. J. Mikhail, op. cit., p.37, Note 112.
3. Al-Māwardi, al-Ahkām, p.59
It seems that it was the Fatimids who were represented by the first case, and whose Imamate was considered illegal by al-Mawardi when he refused the coexistence of two Imams at the same time.\(^1\) It was, however, difficult for al-Mawardi to render different affairs of Muslims under the Fatimids rule illegal. Therefore, a distinction was made between the rebellious group which was without a leader and that group which constituted a community.

The military leader who was appointed to fight dissenters had to warn them within a specific period of time to make their decision. If they insisted on rebellion, he had to fight them face to face and not attack them by surprise at night.\(^2\) As the rebels were Muslims, fighting them was conditioned in eight ways.\(^3\) These were as follows:

1. The aim of fighting was to prevent rebellion not to kill.
2. The fighting had to be face to face and had to cease when the rebels retreated.
3. The military leader of the Caliph should not kill their wounded fighters.
4. The leader should not kill the rebels who were taken captive.

\(^{1}\) Ibid., p.9
\(^{2}\) Al-Mawardi, al-Ahkām, p.59 and Nasīha fol, 78
\(^{3}\) Al-Mawardi, al-Ahkām, pp.60-61
5. The rebels' properties should not be taken as spoils of war, and their women and children must not be taken as prisoners of war.

6. The military leader of war should not use a dhimmi or a polytheist in fighting the rebels.

7. The leader should neither formulate a truce with the rebels nor make peace with them in return for money.

8. The leader should neither use a catapult against the rebels, nor burn their houses, nor cut down their date palms and trees.

The main reason for all of these conditions was that the fighting was between Muslims within the realm of Islam or Dār al-Islam, in which everything within its boundaries could not be lawfully seized.¹

Unlike most Muslim jurists, al-Māwardī was opposed to the claim of undisputed obedience to the Imam.² However, like most of those jurists, he did not set up "a legal procedure for how to enforce the law against the rulers".³ Al-Māwardī's failure to elaborate a theory of rebellion is not unusual considering that his work was mainly in defence of the Caliphate. He did not intend to expose its defects nor to give the subjects the right to depose the Imam, for al-Māwardī was in his service,

¹. Al-Mawardī, al-Ahkām, p.60
². Ibid., p.17
³. B. Lewis, "Islamic concept of revolution", in Revolution in the Middle East, ed. by P. J. Vatikiots, p.33
and did not have any political or administrative power even in the realm of his personal affairs. In addition, it seems that al-Māwardī did not wish to work against the general theory of revolution in Islamic political thought. The theory which gives the people the right to depose an unjust Imam without supporting them with the legal means of deposing him. Certainly, it is a dilemma, not for al-Māwardī alone, but for all Sunni political thought in general.¹

¹ Gibb, "al-Māwardī's Theory....", p.300
CONCLUSION

The political thought of al-Mawardi cannot be considered on the basis of one book, i.e. Kitāb al-Ahkām al-Sultāniyya. For it is only when his earlier works are taken into consideration that we can properly understand the significance of the ideas which he expressed in Kitāb al-Ahkām al-Sultāniyya. Al-Mawardī has a particular view of man, society and the nature of government. This view is not a view based on religion but rather it could be described as a view based on reflections of a more philosophical nature, much influenced by Persian culture and perhaps Greek thought. His final and greatest work is, in fact, an attempt to reconcile a religio-governmental institution, the Imamate, with this other view.

In al-Mawardī's earlier works, a picture emerged of society in which man was essentially evil. Thus society could only be given an ordered existence through the operation of force to make people live together harmoniously. It was al-Mawardī's view that such authority could not maintain itself for any length of time; he describes the three stages of it and how another competent authority will emerge as a result of a new power. Al-Mawardī emphasised the need for the
ruler to govern justly because it was only in a just society that the individual could function properly. Injustice would provoke discord and thus bring about the eventual decline of the ruler.

These theories can be described in Islamic terms as based on reason (caq). In this sense al-Mawardi has constructed a framework in which political authority is necessary according to reason (caq). Thus, at one level it could be assumed that he believed that Islamic political authority, i.e. the Imamate, was necessary according to reason.

However, what is described in the earlier works is basically non-Islamic framework for authority. It was necessary, even in these earlier works, for al-Mawardi to make this kind of framework applicable to Islamic society. He did this by showing that within a properly governed society, Islamic law could function in a proper manner. In Kitāb al-Ahkām al-Sultāniyya (as also in K. Adab al-Dunya wa’l-Dīn) al-Mawardi takes account of the Islamic institution of the Imamate. Although he never categorically states that the Imamate is necessary by shar, he does state that this constitution is that which gives validity to the operation of revealed Islamic law in society, and thus, by implication, is necessary by shar. However, even here he seems to
indicate that an Imam elected by rebels can give some kind of validity to the operation of Islamic law among the rebels. In this way, he is perhaps, moving towards a concept of any Islamic governmental authority being able to give validity to the operation of Islamic law within a society. Yet he has not moved this far in any public statement of such a position and in the context of the writing of *al-Ahkām*, it would have been very unlikely for him to do so. The implications of this are that the Imamate was in fact not necessary by *sharīʿa* but rather by reason - i.e. a governmental act was necessary in order that the law could function.

Nonetheless, the main position taken up by al-Māwardī in *al-Ahkām al-Sultāniyya* was that it was necessary that the institution of the Imamate be maintained in order that Islamic society may be given a valid context in which to operate Islamic law. In this, he was echoing views long-established in Islam. To declare the Imamate unnecessary for the validation of Islamic practice would have been a major break with Islamic principles as they stood at that time, something which it would have been impossible for him to do. Once the institution was accepted as necessary, then the conditions for its maintenance had to be laid down. Al-Māwardī followed his scholar-jurist predecessors in detailing all these conditions. However,
he clearly recognised that such details, although necessary for inclusion, were ideals that had never really attained.

In order for the theory - that the Imamate provided validation for Islamic society - be maintained, he accepted all the ways, by which previous Imams had become Imams, and attempted to provide these ways with some juridical justification from the practice of the Prophet, the action of the Companions and the consensus of later generations. Of all the qualifications and conditions which he described as necessary for the Imamate, only membership of Quraysh seemed untarnished by the progress of history. Yet he did not actually maintain that previous Imams had lacked those other qualification and conditions. He stated an ideal practice but was prepared to support this ideal by citing actions carried out by later Caliphs such as Sulaymān b. ʿAbd al-Malik and Ḥarūn al-Rashīd.

However, even though he was writing *al-Ahkām al-Sultāniyya* for a Caliph, who was making some effort to restore caliphal power, al-Mawardī felt it necessary to reconcile this Islamic conception with his own theory of political history. Thus the emirate of seizure not only describes the actual nature of the position of many earlier Caliphs, it also agrees with
his view of the rise to government of strong forces who were capable of controlling society. This view may well have been based on his own observations of the cause of history as well as his own more immediate experience. Nonetheless it provides a theoretical framework of a reconciliation between his theory of the nature of force in government and for his Islamic belief in the necessity of the Imamate.

As a man of religion, al-Mawardi felt that it was his task to advise the rulers on their Islamic duties. This task he performed in all his works. When addressing the Buyids, he tried to persuade them to do this in language they would understand. When addressing the Caliph, he made him aware of his duties and the duties of government by presenting him with a handbook of administration according to Islamic principles, which is the major part of Al-Ahkam al-Sultaniyya.

When addressing his Buyid masters, al-Mawardi shows great reluctance to countenance any rebellion, even though the theory he puts forward in these works makes such a rebellion inevitable. However, when addressing the Imam, he is much more amenable to the idea of the deposition of any unjust Imam. Yet, this work - Al-Ahkam al-Sultaniyya - shows indications of being written by an elderly al-Mawardi, who is tired of the conflicts and turmoils of his society. In his
ethical work *Adab al-Dunya wa'L-Dīn*, he had advised the people to avoid conflict insofar as it was possible. In his latest work, he gives this advice to a Caliph who is seeking power. He encourages as far as possible to seek reconciliation and to avoid conflict. This advice is too religious in content to have any real impact on practical politics.

The Imamate had for centuries possessed little or no power, as such theories of the Imamate with regard to duties and qualifications may be considered as a practical fiction. Al-Māwardī was a thinker who tried to show that, despite these political fictions, the Imamate had something positive to contribute to Islamic society. He states on more than one occasion that the Imamate provided validation to the operation of Islamic practice. In stating this, the qualification for the maintenance of the office was given whatever the political conditions. He, himself, aware of the political reality might have been willing to allow any Islamic government to give validation to Islamic practice. However, he wrote his final work for a Caliph who was regaining power and he did not desert him.
During the last phase of the Buyid rule in Baghdad, two books on al-Ahkām al-Sultāniyya (ordinances of government) were produced by two religious jurists. The first is Abū al-Hassan al-Mawardi and the second is Abū Ya'la ibn al-Farrā' (d.458/1065). Both jurists occupied the post of Qādī under the reign of the Abbāsid Caliph al-Qā'im (422-467/1031-1073). Al-Mawardi was the leader of the Shāfi'ī group at Baghdad where he became Aqḍā al-Qudāt in 429/1037, whereas Abū Ya'la became the Qādī of the Harīm in 447/1055, after the death of Qādī ibn Mākūla.

Both texts use almost the same sentences, paragraphs, classification for chapters, and deal with the same subject. However, al-Mawardi’s book cites different legal views from various Islamic schools of thought (apart from the Hanbalite doctrine) and adds traditions and reports from the Companions and successors in support of his own school. Abū Ya'la cites the ruling transmissions of the Hanbalite school, relating most of the Hadīths to Imam Ahmad ibn Hanbal.

1. Yāqūt, Irshād, v.5, p.408.
It seems that both authors were in Baghdad at the same time since they received their posts of Qādi from the same caliph, i.e. al-Qā'im bi-amr-illah. It is not known which one began his book first, nor is it known which one followed the examples set by the other. There is no date mentioned which shows when the two books were written. Therefore, it is necessary to determine which book was written first. The importance of this chronology is that it enables us to assess the originality of al-Mawardi's contribution to Islamic political thought in Kitāb al-Ahkām al-Sultāniyya.

In addition to the question of whether al-Mawardi or Abū Ya'la is the original author, there is also a third possibility, put forward by the French orientalist Henri Laoust, which holds that both authors based their books on a third, as yet unknown, source. Unfortunately, Laoust could provide no proof and none has come to light. Therefore it seems more worthwhile to concentrate on the first problem.

The majority of eastern and western scholars are in favour of al-Mawardi's originality. However,

1. H. Laoust, "Hanābila", E.I.
2. See the following references:
   (a) C. Cahen, "The Body Politics", Unity and Variety in Muslim Civilization, p.151.
   (b) Q. Khan, al-Mawardi's theory of state, p.19.
   (c) H. Laoust, op.cit.
no firm evidence has been put forward to substantiate these views and it seems appropriate to examine the two men's work in some detail.

The nature of al-Māwardī's discussions in al-Ahkām shows the relationship of al-Māwardī's political activities, for he played a prominent role in the political affairs of his time as a diplomatic mediator from 422/1030 onward. In contrast, Abū Yaĉlā avoided contact with rulers and Amīrs most of his life; even when he accepted the office of Qādī al-Harīm in 447/1055 at the age of sixty-seven, he accepted it with the following reservations and stipulations: 1

Firstly, that he should not be expected to take part in official processions or to meet the important people received by the Caliph.

Secondly, that he should be excused from attending the palace in person.

Thirdly, that he should be allowed to spend one day each month at Nahr al-Mucalla and another at Bab al-Zāj, nominating during his absence a deputy (nājavib) at the Harīm. 2

Abū Yaĉlā stipulated these conditions simply because he believe that, "looking at the unjust (rulers) extinguishes the brightness of faith". 3 It was better therefore not to have any relation with the rulers and their entourage. This raises the question of Abū

Ya’c là’s reliability of writing a juristic work devoted exclusively to government as in al-Ahkâm al-Sultâniyya.

It seems probable that al-Mâwardî’s version of Kitâb al-Ahkâm was written before 447/1055, for al-Mâwardî was at the age of eighty-three. If Abû Ya’c là’s version was the original there is little likelihood of the aged al-Mâwardî bothering to copy the book out in the last years of his life. Assuming that it was written before that date, it is impossible for al-Mâwardî to claim in his introduction that no book was available on public law which could provide the ruler with the governmental principles directly concerned with the state affairs. Al-Mâwardî said,¹

"Since the ordinances of government have a special concern to the rulers, and since they are mixed with other kinds of ordinances which debar those rulers from making a thorough study of them because of their preoccupation with politics and administration, I have devoted a book exclusively to this subject."

This claim would be false if Abû Ya’c là’s version were available in addition to the fact that such treatises could not be kept in secret.

However, despite the close similarities between the two books, there are some differences in content and the points below will make these differences clear.

1. Al-Ahkâm al-Sultâniyya, p.3.
One: Division of the book

Al-Mawardi's version is divided into twenty chapters, as he says in the introduction, whereas Abu Ya'la's is divided into seventeen chapters. This is because he dealt with four topics, i.e. the vizierate, the emirate, holy war (jihad), and wars in the public interest (al-wilaya ala hurub al-masalih), under one main chapter entitled wilayat al-Imam, or Imam's authorities.

Two: Methods of Study

From the beginning, al-Mawardi declared that his book would be based on a comparative exposition of several divergent views of different schools of legal thought (except the Hanbalite). He refrained from adopting some of these views and left the matter of choice to the Imam who could adopt any one of them as he liked. Al-Mawardi chose this method deliberately, as his aim was to make the regulations on government readily available to the rulers who were concerned with state affairs, in order that they could choose what was most suitable to them. In contrast, Abu Ya'la's version

1. Al-Mawardi, al-Ahkam, p.3. It is noteworthy to mention that the reason for excluding the Hanbalite doctrine might be traced to the contentions between the Shafites and the Hanbalites at that time.
was based - mainly - on the Hanbalite doctrine, without much attention to other schools of thought.

Three: **Number of Hadiths**

It is interesting that al-Mawardi cites about one-hundred-and-twenty-four Hadiths, while Abu Ya'la cites only eight-four Hadiths.

In addition to these differences, the two authors held different ideas on the concept of the Imamate, expressed in the opening chapters of both texts. Abu Ya'la restricts his thought to the Hanbalite doctrine, and states that the Imamate is obligatory by revelation (sharī'ah) and not by reason (aql). Al-Mawardi, on the other hand, admits the obligatory nature of the Imamate, but refrains from expressing his own view as to whether it is obligatory by revelation (sharī'ah) or by reason (aql). He preferred rather to expose different views concerning the subject.

It is clear from al-Mawardi's introduction that he compiled *K. al-Ahkām* on government in obedience to an unnamed caliph, whereas Abu Ya'la states that his book is an elaboration of an earlier work on the Imamate, which formed a chapter in his book entitled

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3. Ibid., p.2.

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Kitāb al-Muʿtamad is in fact a treatise on theology. The chapter on the Imamate is divided into thirty-nine sections which can be considered as refutations (rudūd) of other Islamic sects, such as the Muʿtazilites, the Shiʿites and the Khārijites. It would seem appropriate here to assess Abū Yaʿāla's claim of his al-Āhkām being an elaboration of that chapter.

In Abū Yaʿāla's version of al-Āhkām we seem to find him following al-Mawardi when he says at the end of the paragraph concerning the obligatory basis of the Imamate, that, "it is (the Imamate) an obligation for all by a few (fard kifaya)". This statement is not mentioned in K. al-Muʿtamad. The same applies to his view on the necessary qualifications which must be possessed by the people of choice (ahl al-ikhtiyār). He stipulated the three necessary qualifications of justice (ʿadāla), knowledge (ʿilm), which was essential in order to allow recognition of those worthy of being an Imam, and judgement and management, which could enable the correct choice of the best qualified person to be an Imam.

The last three lines of the same chapter are, in fact, in contrast to what Abū Yaclidā himself said in Kitāb al-Muclidām fī Usūl al-Dīn, concerning the concept of election of the new Imam. In his work of al-Ahkām, Abū Yaclidā, using exactly the same words as al-Māwardī, says:

"The person who lives in the province where the Imam died has no advantage over anyone else from another province. However, the inhabitants of the province of the incumbent Imam can conclude the Imamate to one of them in practice (Curf) ... not by right, because they are the first ones to know about the Imam's death and because the candidates for the Imam are to be found in his province."¹

Whereas in Kitāb al-Muclidām, Abū Yaclidā states that, "The people of the province where the Imam died have no right to conclude the contract of the Imamate over the heads of others in other provinces. This view is in contrast with the opinion which is held by others and asserts the people of the province where the Imam died, the right of electing the new Imam."²

It seems that K. al-Muclidām was written even before Abū Yaclidā's appointment as the qādī of Harīm in the Caliph's palace. Abū Yaclidā may well have had to change his view out of necessity, for the Caliph's authority hardly extended further than Baghdad. It is also evidence that the two authors did not agree upon numbers of the necessary qualifications to be possessed

2. Ibish, op.cit., p.213.
by the candidates for the Imamate. Al-Mawardi lists seven qualifications, while Abū Ya'la lists only four. It is necessary to cite the two texts in order to clarify these differences.

Al-Mawardi said that, "seven conditions are to be taken into consideration regarding those persons qualified for the office of the Imamate". They are:

1. Justice in all its characteristics (al-cadila al-jamica).
2. Knowledge (cilm) which is conducive to the formulation of independent opinions (ijtihad) in disputes and judgements.
3. Soundness of the senses (salamat al-hawass) in hearing, sight and speech, in a degree to accord with their normal functioning.
4. Soundness of the body's organs (salamat al-acd) free from any defects, that would prevent freedom of movement and agility.
5. Judgement (ra'y) which is conducive to the governing of subjects and administering matters of general welfare.
6. Courage and bravery so as to protect Muslim territory and wage the jihad (holy war) against the enemy.
7. Lineage, he must be of the tribe of Quraysh, because of the existence of revelation (nass) and consensus to this effect.

Abū Ya'la said, "Four conditions are to be taken into consideration regarding those persons qualified to be an Imam". They were:

1. He should be a pure Quraysh, i.e. of those of the progeny of Quraysh Ibn Badr Ibn Naḍr Dālīl Bani Kināna, for Abūmad b. Ḥanbal has said: "There is to be no non-Quraysh Caliph".

2. He should have the qualifications of the Qādī, freedom (hurriya), maturity (bulūgh), rationality (caql), learning (cilm) and justice.

3. He should be skilled in leading war and the government in applying legal punishments without pity, and in defending the Umma.

4. He should be the superior of all the candidates in learning (cilm) and religious knowledge.

In contrast to al-Mawardi, Abū Ya'la states that the qualifications of justice, knowledge and superiority (according to Ibn Ḥanbal) can be disregarded in certain circumstances, i.e. dissolution (fisq), and furthermore, that usurper of the Caliphate (wa man ghalabahum bi-Ṣayīf hata sāra khalīfa) must be acknowledged as a caliph even if he is dissolute (fājir).

Contrary to al-Mawardi's statements, Abū Ya'la states that the Caliph should not be deposed for immorality.

2. Ibid., p.20.
3. Ibid.
Al-Mawardi states that immorality puts the Caliph under the threat of deposition, though he does not state by which means.\(^1\)

However, both authors agree upon the deposition of the Imam under specific circumstances. They did not suggest though how this is to be carried out. Al-Mawardi uses the term ( adam al-istidâma) or incontinuity. Abû Ya'lâ on the other hand, in Kitâb ab-Mu'tamad, uses the term "suqût al-tâ'â wa'l-khalâ", or dissolving of obedience and deposition.\(^2\) However, in his version of al-Ahkâm, Abu Ya la adopts the term "Cadam al-istidâma", as used by al-Mawardi.\(^3\) Abû Ya'lâ's opinion was that the Imam must be kept in office unless one of several circumstances arose. He discussed them under the section of "suqût al-tâ'â wa'l-khalâ" in K. al-Mu'tamad, and they are:\(^4\)

1. Permanent madness.
2. Senility, which renders the Imam unfit to judge different matters.
4. Dumbness.
5. Deafness.

\(^1\) Al-Mawardi, al-Ahkâm, p.17.
\(^2\) Ibish, Nusûs, p.215.
\(^3\) Al-Mawardi, al-Ahkâm, pp.17-20.
\(^4\) Ibish, Nusûs, p.216.
6. Inability to wage the holy war in person.

7. Being taken prisoner by the enemy for a period of long enough degree that could cause harm to the community.

These conditions were discussed in fuller detail in his work *al-Ahkām al-Sultāniyya*, both in general terms and within the chapter on the Imamate.\(^1\)

It is noteworthy that Abū Ya'la did not follow the same order which he cited in *K. al-Muṭamad*. In fact, Abū Ya'la followed al-Mawardī's definitions word by word, including sections such as deficiency in smell, taste and limbs, which had not been included in *K. al-Muṭamad*.\(^2\)

Another example is where Abū Ya'la discussed the eligibility of the Imam for the office if he falls unconscious occasionally. This case was not touched upon by *al-Muṭamad*. In his work *al-Ahkām*, Abū Ya'la introduces this section with "it was said".\(^3\) The question naturally arises, but by whom? Abū Ya'la gives no reference to the identity of the person who made the statement. In fact he uses al-Mawardī's words.\(^4\) The words "it was said", are clear evidence that there was a book which existed before Abū Ya'la's version, and which discussed

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these points in detail. It is also clear that Abū Yaŷa'ūb had read this book. Otherwise, how can the use of the term "wa qad qīl" (it was said) be explained? It seems certain that it was al-Māwardī's version which was the original in forbidding the Imam from occupying office in case of occasional unconsciousness. Abū Yaŷa'ūb not only copied al-Māwardī's view on this matter, but also, in the next two pages, concerning the soundness of the senses and body organs without making any reference to the original author.

Despite the fact that there are some differences in the opinions expressed between Abū Yaŷa'ūb and al-Māwardī in each of the opening chapters on the Imamate, it still is quite clear that Abū Yaŷa'ūb did not hesitate in copying al-Māwardī's views and precise phraseology in many cases. This is evident in the phrases of "dim-lighted vision at night", "the inability to distinguish between different kinds of smells, stammering, weakness of hearing and many other different defects".\(^1\) All these issues had not been even mentioned in K. al-Muțtamad.

In the chapter on the wizāra, Abū Yaŷa'ūb's comments are weak because the subject was outside the realm of jurisprudence and had no connection with

\(^1\) Abū Yaŷa'ūb, al-Aḥkām, pp.21-22; and cf. al-Māwardī, pp.16-19.
K. al-Mu'tamad. Al-Māwardī, on the other hand, was experienced in these matters and was the author of the well known Kitāb al-Wizāra (Adab al-Wazīr). In opposition to al-Māwardī, Abū Ya'la believed that it was better to keep away from "ahl al-Sultan", and consequently he spent sixty-seven years outside the realm of the Caliphs and viziers, until in 447/1055 he opened communications with them. This was when he was chosen to hold the office of Qādī al-harim in the Caliphal palace. Even after that, he never came to any agreement with the Caliphs or viziers, because of the conditions he imposed when the Caliph al-Qā'im forced him to take charge of the office. In addition, Abū Ya'la did not relate any Hadīth from Ahmad ibn Hanbal in the whole chapter on the vizierate.

In view of his experience, the question arises as to how a man like Abū Ya'la could, under such circumstances, write such a detailed treatise, and where did he get his information for it from? Without doubt, Abū Ya'la in his elaboration of K. al-Mu'tamad decided to incorporate the chapter of the vizierate in his book al-Ahkām al-Sultāniyya, but unfortunately he did not give much attention to

al-Māwardī's text, as can be shown in this comparative reading of the two texts.

Al-Māwardī:

"The vizierate is of two types: a vizierate of delegation and a vizierate of execution. The vizierate of delegation is when the Imam delegates to a vizier the administration of affairs in the light of his own opinion and the execution of them according to his own judgement .... All the conditions necessary for the Imamate are to be taken into consideration in the investiture of this vizierate with the sole exception of lineage." 1

Abū Yaʿlā:

"The vizierate is of two types: a vizierate of delegation and a vizierate of execution. The vizierate of delegation is when the Imam delegates to a vizier the administration of affairs in the light of his own opinion and the execution of them according to his own judgement. All the conditions necessary for the Imamate are to be taken into account in the investiture of the vizierate." 2

It is clear that Abū Yaʿlā had stipulated that the vizier must be a Qurayshite. This is something which had never been stipulated by any Muslim jurist either before or after Abū Yaʿlā. It is probably a mistake then, made by Abū Yaʿlā when he was trying to copy al-Māwardī's version. If we theoretically accept Abū Yaʿlā's original authorship of the text, a problem still exists, for it is not possible to

1. Al-Ahkām, p.22.
2. Al-Ahkām, p.29.
determine the legal validity of his view, and he does not provide the legal justification. In addition, both authors agreed that the vizierate of execution (wizarat al-tanfīdh) could be occupied by a non-Muslim (dhimmī), but there is a difference between al-Mawardi and Abū Ya'cīlā which can be seen when the two texts are compared.

Al-Mawardi:

"It is permissible to choose the vizier of execution from among the dhimmīs, while it is not permissible to choose the vizier of delegation from among them."1

Abū Ya'cīlā:

"It was said (wa qad qīl) that it is permissible to choose the vizier of execution from among the dhimmīs, while it is not permissible to choose the vizier of delegation from among them."2

The words "it was said" are a clear indication that someone before Abū Ya'cīlā had maintained that view, and it is certain that that "someone" was al-Mawardi. He had been attacked by Imam al-Haramayn Abū al-Ma'cāli al-Juwaynī, who considered al-Mawardi's opinion of the dhimmīs' right to hold the office of the vizierate of execution as an unforgivable mistake.3

The last two thirds of K. al-Ahkām al-Sultāniyya, the chapter on taxes, land policy, and various administrative and judicial offices, are a "concrete picture of the institution which accord exactly with what we know otherwise about them".4 It

1. Al-Ahkām, p.27.
2. Al-Ahkām, p.32.
3. Ghiyāth al-Umām, Ms. fol.18.

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is natural in such discussions to find many similarities in the two texts, simply because both authors depend on the same references - such as Kitāb al-Kharāj by Abū Yusūf, Kitāb al-Amwāl by Ibn Sallām, Kitāb al-Mughnī by Ibn Qudāma, Tarīkh al-Waqīdī, and Kitāb al-Kharāj by Yaḥya al-Qurayshī. The similarities of sources notwithstanding, both authors use the same references in the same place without any change. For example, al-Mawardī says, "Ibn Qudāma said ... or Abū Yūsuf said ...". Abū Ya'qūb does exactly the same, using the precise references, and the exact wording for the same subject in Kitāb al-Aḥkām al-Sultāniyya.¹

With regard to the subject of administration of justice, al-Mawardī was an authority. He occupied the chief of Qādī of Ustwā near Nisābūr many years before Abū Ya'qūb, and was later appointed as aqā al-quḍāṭ. This took place in 429/1037 by the Caliph al-Qā’im, and it was eighteen years before Abū Ya'qūb’s occupation of the office of qādī al-harīm in 447/1055. In addition, al-Mawardī was well known as the author of Adab al-Qādī,² in which he established many judicial principles which still figure in the judicial system.

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¹ For example al-Mawardī, al-Aḥkām, pp.169,173; and Abū Ya'qūb, al-Aḥkām, pp.199,204.
on Islam. Contrary to al-Māwardī, Abū Ya'qūb neither practised al-Qadā' in his early life, nor wrote any text concerning this field of study. He was chosen as the judge of Harīm for his piety rather than for his judicial background. Therefore, Abū Ya'qūb was not an authority, and was not as equipped as al-Māwardī to discuss the judicial system in the detail which he did in al-Ahkām.

The discussion about nazar al-qādā' and nazar al-mazālim also supports the claim of al-Māwardī's originality. A comparison of the two texts shows that al-Māwardī begins the paragraph with, "The differences between nazar al-mazālim and nazar al-qadā' are of ten facets ..." Abū Ya'qūb, by contrast, begins his paragraph with, "some of the people of knowledge (ahl al-ilm) have said that 'the differences between nazar al-mazālim and nazar al-qadā' are of ten facets' ..." Who are these people of knowledge? Again Abū Ya'qūb is silent as to the identity of the learned people he cites. And again the conclusion must be that he is referring to al-Māwardī.

1. For example, the qādī is not bound to limit himself to his madhhab as he has the right to adopt views of other schools in his judgements. Also, it is neither permissible to appoint the dumb as a judge nor the blind, and if he becomes blind after the appointment, the Imam must dismiss him because he cannot distinguish between the claimant and the defendant. See Adab al-Qādī, v.1, pp.79-82.
3. Abū Ya'qūb, al-Ahkām, p.79.
Similar references occur in other chapters and these indicate that al-Mawardi was the original author and that Abu Ya\\u0160la copied al-Mawardi's text, at times word for word. The last three chapters are especially close.\(^1\) Again, a question arises. Why did Abu Ya\\u0160la refuse to mention al-Mawardi's name as a reference in his version, especially when he never hesitated to mention other jurists such as qadi Ab\\u00fbi Yusu\'f, Ibn Qudama and Ibn Sallam as references? The reason can be traced to the antagonistic spirit between the Hanbalites and the Shafi'ites at that time.

However, two early jurists supported the claim of al-Mawardi's originality of these writings. The first was Imam al-Haramyin Ab\\u0160 al-Ma\\u0160li al-Juwayn\\u0160 (478/1085), who attacked al-Mawardi for exposing different opinions concerning the Imamate without giving any established conclusion.\(^2\) It is quite obvious that it was only al-Mawardi who presented different legal views concerning the Imamate in the opening chapter of his book al-Ahkam. Ab\\u0160 Ya\\u0160la based the whole chapter on the Imamate on only one doctrine - Hanbalite doctrine.

The second jurist who supported al-Mawardi's

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1. Al-Mawardi, al-Ahkam, pp.199ff.; and Ab\\u0160 Ya\\u0160la, pp.236ff.
authorship was Ibn Rajab (795/1393), who wrote the following sentence in his book \textit{al-Istikhrāj fī Ahkām al-kharāj}, at the beginning of the chapter \textit{Amwāl al-Ṣadaqāt} (pp.116,122):

"Qādī Abū Ya'la has mentioned in Kitāb al-Aḥkām al-Sultāniyya following al-Māwardī that monies of almsgiving ..."

This statement provides us with clear proof of al-Māwardī's originality in this subject.

Thus, al-Māwardī is clearly the original author of \textit{K. al-Aḥkām al-Sultāniyya}. It is also demonstrated that most of Abū Ya'la's version is merely a copy of al-Māwardī's.

Abū Ya'la's version, however, still holds interests in that he does at times provide an alternative Hanbalite view of political theory. This makes this work the earliest exposition of Hanbalite political theory.
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