

Bahman-Yār, *Chāp-Khānah-i Qānūn*, Teheran, 1317/1938; ibn Khallikān, *Wafayāt al-A'yān*, Vol. I, Bulāq, 1299/1882; Muḥammad Iqbāl, "Waṣāya-i Nizām al-Mulk," *Oriental College Magazine*, Lahore, Vol. IV, No. 1, Nov. 1927; Imām al-Haramain abu al-Ma'ālī 'Abd al-Malik b. 'Abd Allah, *Chiyāth al-Umam*, MS. Bankipur Library, and the Law Department of the Osmania University, Hyderabad Deccan, India; Kaikā'ūs b. Iskandar b. Qābūs b. Wāḡhmgir, *Naṣihat Nāmeḥ*, Deccan, India; Kaikā'ūs b. Iskandar b. Qābūs b. Wāḡhmgir, *Naṣihat Nāmeḥ*, known as *Qābūs Nāmeḥ*, ed. Reuben Levy, G.M.S., London, 1951; Aḥmad Hamid al-Din Kirmāni, *Rāḥat al-'Aql*, ed. Kāmil Husain and Muṣṭafa Hilmi, *Makhhūṭāt al-Fātūmiyyīn*, Cairo, 1952; A. K. S. Lambton, *Landlord and Peasant in Persia*, Royal Institute of International Affairs, Oxford University Press, London, 1953; Niccolo Machiavelli, *The Prince*, tr. L. Ricci, 1903, New American Library, New York, 5th ed. 1955; abu al-Ḥasan 'Alī b. Muḥammad al-Māwardī, *al-Aḥkām al-Sulṭāniyyah*, ed. R. Enger, Bonn, 1853; Nizām al-Mulk, *Siyāsāt Nāmeḥ*, ed. C. Schefer, *De l'école des langues orientales vivantes*, Paris, 1891; *Dastūr al-Wuzarā'* known as *Waṣāya*, MS. British Museum, London, Add. 26-267; *Naṣā'ih-i Khwājāh Nizām al-Mulk*, Bombay, 1305/1887; De Lacy O'Leary, *A Short History of the Fatimid Caliphate*, Kegan Paul, London, 1923; Plato, *The Republic*, tr. Benjamin Jowett, Clarendon Press, Oxford, 3rd ed., 1908; Muḥammad b. 'Alī b. Sulaimān Rāwandi, *Rāḥat al-Sudūr*, G.M.S., Leiden, 1921; C. Rieu, *Catalogue of Persian Manuscripts in the British Museum*, London, 1879, Vol. I; E. D. Ross, *A Biographical Introduction to the Rubā'iyyāt of Omar Khayyām*, tr. Fitzgerald, Methuen, London, 1900; Ṣadr al-Din abu al-Ḥasan 'Alī b. Nāṣir, *Aḥbār al-Dawlat al-Saljūqiyyah*, ed. Muḥammad Iqbāl, Lahore, 1933; Sa'id Naficy, *Tārikh-i Tammaddun-i Irān-i Sāsāni*, *Chāp-Khānah-i Dānish-Gāh*, Teheran, 1331/1934; 'Abd al-Karīm b. Muḥammad Sam'āni, *Kitāb al-Ansāb*, G.M.S., Leiden/London, 1912; H. K. Sherwāni, *Studies in Muslim Political Thought and Administration*, Sh. Muḥammad Ashraf, Lahore, 2nd ed., 1945; A. H. Siddiqi, *Caliphate and Kingship in Medieval Persia*, Sh. Muḥammad Ashraf, Lahore, 1942; W. C. Smith, *Islam in Modern History*, Princeton University Press, Princeton/Oxford University Press, London, 1957; Tāj al-Dīn abu Naṣr 'Abd al-Wahhāb al-Subki, *Ṭabaqāt al-Shāfi'iyyah*, Vol. III, ed. Aḥmad b. 'Abd al-Karīm, Husainiyyah Press, Cairo, 1524/1906; Sayyid Sulaimān Nadawī, *Khayyām*, Ma'ārif Press, Azamgarh, India, 1933; Muḥammad Taqī Khān, *Ganj-i Dānish*, Teheran, 1305/1887; J. Wellhausen, *Arab Kingdom and Its Fall*, tr. Khuda Bakhsh, Calcutta, 1927; Aḥmad b. abi Ya'qūb ibn Waḍīh Ya'qūbi, *Tārikh al-Ya'qūbi*, ed. M. Th. Houtsma, Brill, Leiden, 1883.

Chapter XXXIX

AL-GHAZĀLI

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

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

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

The immediate source of authority is somewhat more difficult to ascertain. Learning, or *'ilm*, is necessary for the discovery of what the *Shari'ah* is, and this qualification is the source of the title *'ulamā'*. The Sunni *'ulamā'* are distinguished from others by their acknowledgment of the "canonical" sources of the *Shari'ah*. However, since there is no priesthood in Islam, the *'ulamā'* form an undefined and unwieldy body. The business of discovering the law is at times very much like legislation, but the non-officialized body of the *'ulamā'* tend to convert their function to that of a huge, unwieldy board of judicial review. Obviously such action as might be undertaken by such a group must come after the political fact, and because of the nature of the institution the time-lapse between deed and decision might be generations. It would be wrong to deny the *'ulamā'* any authority at all, for the 'Abbāsīd dynasty went to great lengths to secure the support of the *'ulamā'* and to display respect for their judgments. The pattern of political behaviour thus established was carried on by subsequent Islamic rulers. Nevertheless, it was characteristic of the Caliphs to claim the more remote authority for their government.

In a sense the Muslim community, because of its intimate connection with the principle of *ijmā'*, may be reckoned a source of authority. However, since *ijmā'* is a source of the *Shari'ah*, and since it is a process rather than an institution, it cannot satisfy the requirement of an immediate source of authority. As a source of the *Shari'ah* it is theoretically anterior to it, and, thus, a more remote source of authority. In any case it is still subject to "discovery" and interpretation by the *'ulamā'*. As a process its legislative efficacy is similar

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

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

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

With the exception of the Qur'ānic Law, the Caliphate and the *Sharī'ah* developed *pari passu*. The Sunnah of the Prophet did not become constitutive until treated as such by the successors of the Prophet. *Ijmā'* and *qiyās* are certainly later accretions. This historical fact has tended to complicate the relationship of the Caliph and the *Sharī'ah*. In the main the Caliph is the executive of the *Sharī'ah*, the commander-in-chief of the Muslim army, and the leader in formal religious observances prescribed by the *Sharī'ah*. Above all, the Caliph is the head of the religious institution in Islam, only of the formalized part of it. Since religion was an all-inclusive concept, he was also the political institution. The subordination of the Caliph to the *Sharī'ah* was most clearly expressed as a by-product of early political controversy in the attacks on the piety and personal behaviour of the Umayyad Caliphs.² That the political behaviour of the Caliph must be in accordance with the *Sharī'ah*, was implicit in 'Abbāsīd religious policy. The theoretical implications of this policy were limited only to the function of the Caliph once appointed and as a consequence fail to define the authority for the appointment of a particular Caliph, or the authority for the institution itself.

The circumstantial authority arising out of the contention that the Caliphs were properly executing the function of the Caliphate did not exhaust the 'Abbāsīd theory. Their personal claim to the office itself was based both on agnate descent from the Prophet and the action of divine Providence. This theory of constitutive authority was never denied by Sunni theorists, but it was certainly omitted in the heavy casuistical overlay which attempted to camouflage the fact of dynastic succession. In time the Sunni theory of the constitutional process came to be a composite of the actual circumstances of the historical appointment of various Caliphs. These various circumstances were codified in detail, and with some juridical expansion by al-Māwardī,³ but the *Sharī'ah* nature of the constitutional process had already been established. Thus, the *Sharī'ah* was recognized as authority for the acts of the Caliph and for the manner of appointment of a particular Caliph, but there remains the problem of the authority for the institution itself. Al-Baghdādī's answer that the Caliphate is required because there are certain explicit *Sharī'ah* duties incumbent upon the Caliph merely begs the question.⁴ We must be satisfied then with the conclusion that the authority of the Caliph is primarily circumstantial, i. e., he has authority for what he does rather than for what he is.

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

So long as sufficient measure of power was attached to the Caliphate, this question did not agitate Muslim theorists. We might say the institution of the Caliphate was almost taken for granted. However, when the Caliphs lost control of affairs, circumstantial authority no longer applied to the Caliphate. Al-Māwardī is very much aware of this problem, but his treatment of it is entirely inadequate. He insists on the legitimacy of the Caliph who is constrained by one of his military aides, even though he expressly states that the "obligatory" character of the Caliphate is derived from the Caliph's duties as executor of the *Sharī'ah*.⁵ Nevertheless, al-Māwardī has not necessarily contradicted himself—he has simply failed to state explicitly the source of Caliphal authority. It was this omission which permitted theorists of the post-'Abbāsīd period to apply the criteria of circumstantial authority to the actual but "unconstitutional" holders of power. The inevitable corollary was the establishment of power as the constitutive authority of the Caliph.

¹ Ibn Khaldūn, *Muqaddimah*, Beirut, 1900, pp. 203ff.

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

³ Al-Māwardī, *al-Ahkām al-Sultāniyyah*, Cairo, 1909, Chapter I.

⁴ 'Abd al-Qāhir ibn Tāhir al-Baghdādī, *Uṣūl al-Dīn*, Istanbul, 1928, p. 272.

⁵ Al-Māwardī, *op. cit.*, p. 16.

Regarding the theory of al-Māwardī, our inference is that he considered the constrained Caliph legitimate because of the validity of the constitutional process by which he was appointed. The resulting situation is pure anomaly; the authority of the Caliph is his "constitutionality," while the authority of his constrainer is circumstantial (derived from his ruling in accordance with the *Sharī'ah*); and the sum total is legitimate government.

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

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

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

The Mu'tazilīh asserted that the obligatory character of the Caliphate was based on "reason" and not upon the *Sharī'ah*. The Sunni jurists insisted upon the *Sharī'ah* as the basis of the Caliphate. Al-Ghazālī follows the accepted Sunni line, but he develops his argument in a more logical fashion, adding

⁶ Functional authority is that which authorizes each separate act of the Caliph, without regard to the manner of his appointment. Institutional authority is that which provides that there shall be such an institution as the Caliphate. Logically, institutional authority must precede functional authority, though the office and its duties are conceptually joined. Constitutional authority provides for the manner in which a Caliph should be appointed. It will usually be found that the question of legitimacy in Islamic political theory relates to the constitutive process, while functional lapses are regarded as disqualifying and not illegitimizing.

⁷ Al-Ghazālī, *al-Iqtisād fi al-'I'tiqād*, Cairo, n.d., pp. 104-09.

new elements. First, he states that the Caliphate does indeed have utility, but he traces the proof of the *Sharī'ah* obligation of appointing an Imām first to *ijmā'* and, second and more importantly, to the deduced will of the Prophet. He contends that the will of the Prophet was the source of the consensus of the community. His argument is that the Prophet's purpose was the formal establishment of the religion of Islam. To secure this end both life and livelihood must be protected. The appointment of an Imām is therefore obligatory. He also indicates that only through the performance of formal religious observances may the bliss of the hereafter be achieved.

We have found the usual Sunni insistence upon the *Sharī'ah* character of the Caliphate inadequate for the definition of the institutional authority of that office. In supporting this view the Sunni theorists point to no specific provisions of the *Sharī'ah*. Instead they reason from the prescribed duties, deducing the executive institution.⁸ The weakness of their argument is manifest, for as we have seen, the Caliphate existed in fact before any of its duties were defined. By the addition of new elements to this argument, al-Ghazālī goes much further towards a definition of the institutional authority of the Caliphate. The most important innovation is his reference to the consensus of the community, which is no less than the historical practice of the community. Evidently, this is historical legislation.

Technically, the consensus by which the community has authorized the institution of the Caliphate has reference to the consent of the Companions of the Prophet to the establishment of the Orthodox Caliphate. The phrase "consensus of the community" is sufficiently vague to include the consensus of other generations as well. However, the consensus of the community is not actually a legislative process, but merely evidence of the fact that what has been approved by the community is actually provided for in the *Sharī'ah*. Despite this legal detail, we must conclude that the authority for the institution of the Caliphate is derived from the community of the Muslims. By the time al-Ghazālī wrote, the consensus of the community had become a source of the *Sharī'ah* in its own right. The community at large has been endowed by the grace of God with a special character, summed up in the words of the Prophet, "My community will never agree in error." The important thing to note is that consensus implies unanimity, or very nearly that. The community as a source of authority is then considered collectively. *Ijmā'* is, as has been said, primarily a conservative principle, tending to approve and perpetuate existing phenomena. But it is correlatively a dynamic principle, expressing in a way the historical continuity of the Islamic community. The institution of the Caliphate is intimately bound up with the collective unity of the community, as well as with its historical continuity.

⁸ Al-Baghdādī, *loc. cit.*; al-Māwardī, *op. cit.*, p. 3; see also al-Bāqillānī, *al-Tamhīd*, Cairo, 1947, pp. 185-86 "Concerning the Purpose for which the Imāmate is Established."

Al-Ghazālī's logical bent of mind will not allow him to be satisfied with the mere evidential fact of *ijmā'*. Clearly, *ijmā'* itself contains no logic, while al-Ghazālī's intention is to frame the requirements of the *Shari'ah* in a manner best calculated to convince the protagonists of reason. Therefore, he goes back to the source of the *ijmā'* which is, he says, the intention of the Prophet to organize the establishment of Islam.⁹ Primarily, he is referring to the establishment of external observances of the religion such as prayer, fasting, and pilgrimage; the execution of the *hudūd* punishments for such transgressions as drinking and adultery; the maintenance of the *Shari'ah* Law in such matters as marriage and inheritance; and the administration of Islamic justice by means of the Qādis. Under these headings come the collection of taxes and the government administration, for these are included either directly or indirectly in the *Shari'ah* requirements concerning them. The Prophet may have desired to accomplish other, less concrete things as well, but here the main point is his purpose of organizing the administration of the (Sunni) religion. Although it is here presented in slightly different terms, this is the same old argument leading to the functional or circumstantial authority of the Caliphate. Al-Ghazālī's argument goes on to show that the requirements of the *Shari'ah* imply the requirement of an institution of some sort to execute them. That institution, the form of which has been authorized by the consensus of the community, is the Caliphate.

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

The subject of utilitarian power comes into al-Ghazālī's argument again when he attempts to prove that the Imāmate is necessary for the realization of the Prophet's goal. It enters when he says that material security is a prerequisite for the carrying out of the *Shari'ah*.¹⁰ The concrete character of so many of the *Shari'ah* provisions necessitates, in the establishment of the *Shari'ah*, the setting up of a civic religious institution. Obviously, this implies the existence of a favourably disposed political power. This is provided by the Sultānate. His conclusion is that the Caliphate (execution of the *Shari'ah*) because of its relationship with the Sultānate (coercive power) is required as a result of the objective of the Prophet (the establishment and institutionalization of the *Shari'ah*). In the progress of this argument the Sultānate is brought in without any explanation of the relationship of the bearer of power to the

Caliph; we only know that the function of the Sultānate is an essential element of the authorized Caliphate.

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

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

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

¹¹ *Ibid.*, p. 107.

¹² *Ibid.*

⁹ Al-Ghazālī, *op. cit.*, p. 105.

¹⁰ *Ibid.*

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

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

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

To understand al-Ghazālī's treatment of this problem we must bear in mind his insistence upon the obligatory, even necessary, character of the Imāmate. We are not concerned with "an irresistible force" and an "immovable object." Al-Ghazālī tells us frankly that the necessity of having an Imām is so great that it compels the alteration of the qualifications when there is no other way out.¹⁵ The licence of duress had, indeed, been applied previously by al-Māwardī to validate the rule of "Amīrs by Conquest,"¹⁶ but he does not seem to have been able to bring himself to do the same for the constrictor of the Caliph. At any rate, al-Māwardī did not permit, even in a case of duress, the lowering of the qualifications of the Imāmate. Perhaps al-Mustazhir was obviously unqualified, or it might be that al-Ghazālī was more honest than al-Māwardī; anyway al-Ghazālī is willing to concede many of the qualifications in order to maintain the Caliphate. About the only concrete thing that he

insists upon is that the Caliph be of Quraishite lineage. As a result, the personal qualifications of the Caliph are hardly applicable to the nature of the Caliphate. On the other hand, the symbolic character of the Caliph could not be more sharply drawn. In other words, the Caliph himself represents only one of the three major aspects of the Caliphate.

The qualifications of the Caliph are probably the most well-developed part of the constitutive process in the hands of Islamic theorists. But they are very vague in their description of the constituent power. Al-Ghazālī says there are three ways in which one of those who is qualified for the Caliphate may be chosen: by designation of the Prophet, by designation of the ruling Caliph, or by designation of the holder of actual power. Al-Ghazālī tells us that only the last alternative applies to his time.¹⁷ Designation alone is not sufficient for appointment, for there must be the *bai'ah* as well. The *bai'ah* must be performed by the great men and the people of "loosening and binding" (*ahl al-hall w-al-'aql*).¹⁸ It is not easy to ascertain who these people are, but we take the great men to be those with some measure of power; and the people of loosening and binding to be the '*ulamā*'; in concrete terms this means that the most powerful Saljūq leader appoints the Caliph, then the appointee is recognized by the lesser Saljūqs, local princes, and the chiefs of the bureaucracy; and finally the appointment receives the consent of the '*ulamā*'. There is probably a fourth stage in which the appointment is announced in the mosques, and the people accept the decision handed down from above. In view of al-Ghazālī's statement to the effect we must look upon the holder of power, or the Sultān, as the constituent power. The whole of the constitutive process beyond the bare fact of appointment by the Sultān is a formality.

Al-Ghazālī's treatment of the constitutive process by no means contravenes the accepted requirements of the *Shari'ah* in this matter. It is true that al-Māwardī sets up special qualifications for those who choose the Caliph, as well as for the Caliph himself. But, generally speaking, the Sunni theorists are sufficiently vague about the question of selectors to allow al-Ghazālī's theory to meet their standards, particularly since some of them at least insist that there need not be more than one selector. On the other hand, it is quite possible that he belittles the importance of the *bai'ah* of the '*ulamā*' too much. His reason for this is probably that the important question for him was whether or not the Sultān would choose anyone at all. But, of course, the Sultān's primary concern was that his choice should be acceptable to the '*ulamā*' and the people. Were he not concerned with the attitude of these groups, and perhaps his own salvation, the Sultān might dispense with choosing a Caliph

¹³ Al-Ghazālī, *Ihyā' 'Ulūm al-Dīn*, Vol. II; *al-Ḥarām w-al-Ḥalāl*, p. 124.

¹⁴ See Goldziher, *Streitschrift des Gazālī gegen die Batiniyya-Sekte*, Leiden, 1916, pp. 80ff., for analysis and pp. 58ff. text for al-Ghazālī's early, detailed views, referred to in both *Iqtisād* and the much later *Ihyā'*.

¹⁵ *Iqtisād*, p. 107; *Ihyā'*, loc. cit.

¹⁶ Al-Māwardī, *op. cit.*, Chapter III, pp. 27-28.

¹⁷ *Ihyā'*, loc. cit.

¹⁸ *Iqtisād*, p. 107. The *bai'ah* is important, even essential, but not constitutive. Thus, according to al-Ghazālī, if a qualified Quraishite is an actual holder of power, he may appoint himself as Imām. (This is denied by al-Bāqillāni, *al-Tamhīd*, p. 180, and so may not be taken as a generally accepted Sunni theory.) Nevertheless, the *bai'ah* remains necessary, having only a declarative effect.

altogether. Having chosen a Caliph, he has gone so far towards preserving law and order and the "establishment of Islam" that al-Ghazālī cannot conceive of the repudiation of his choice by the 'ulamā' or the people.

The constitutive process is, then, loosely speaking, a *Shar'i* process, but the constituent power is the Sultān. The limitations upon the Sultān's choice are real, as is the importance of the general *bai'ah*, but since these have much greater reference to the functional and institutional authority of the Caliphate, we shall do no more than make a mental note of them here. Our conclusion is that the constituent authority for the appointment of the Caliph is the Sultān.

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

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

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

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

¹⁹ *Ihyā'*, loc. cit.

The fact that al-Ghazālī accepts this compromise sheds some light on the political objectives of Sunni theorists. The total achievement of this arrangement is the recognition by the holder of power that the *Sharī'ah* is the organizing principle of the Sunni community, and, in more concrete fashion, the establishment of Sunni Islam. The element of compromise enters when al-Ghazālī argues for the legitimacy of this arrangement, even though the Sultān actually ignores many provisions of the *Sharī'ah*. Recognition of the *Sharī'ah* by the Sultān without obedience to its provisions is form without content. This leads us to the second objective of the Sunni theorists, that is, the establishment of order and the maintenance of discipline. The governmental scope of the Sultānate included very few of the interests which concern modern governments. By the establishment of order and the maintenance of discipline the Sultānate merely provided a favourable field for the activity of the established Islamic institution. Al-Ghazālī, therefore, felt justified in validating the government of such a Sultān. He was willing to make concessions regarding a limited number of *Sharī'ah* regulations in order to preserve the religious life of the community.

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

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

Was al-Ghazālī's theory an accurate description of the government of his time? Such a development of the Caliphate was the result of many diverse and fortuitous events. Nevertheless, the roots of this development may be traced back to the calculated policy of the early 'Abbāsids. The early 'Abbāsids based their government upon the power of troops imported from Khurāsān,

²⁰ *Iqtisād*, p. 107.

and not upon local Iraqi levies. They asserted their own legitimacy upon the circumstantial fact that they were ruling in accordance with the *Sharī'ah*. They went out of their way to honour the 'ulamā' and give them a place at Court.

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

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

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

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

The origin and development of this principle present many difficulties, but

²¹ Naṣīr al-Dīn al-Ṭūsī, *Akhlāq-i Nāṣiri*, Treatise III, Chapter III, p. 309.

²² Henri Laoust, *Essai sur les doctrines sociales et politiques d'Ibn Taimiyya*, Cairo, 1939, pp. 282, 294, 307, 315, 317.

Laoust tells us that Ibn Taimiyyah was influenced rather by the Arab Neo-Platonists, such as the Ikhwān al-Ṣafa, than by al-Ghazālī.²³ It is unlikely that the idea itself originated with al-Ghazālī who was himself deeply influenced in his youth by the Hellenistic movement in Islam. Nevertheless, his application of it to the Sunni Caliphate was certainly an innovation, and all the more noteworthy for its reappearance two centuries later in the works of Ibn Taimiyyah. It need hardly be added that the 'ulamā' did in fact assume a special position of political authority as well as a part of the "original" Caliph function in the Ottoman State, and to a lesser extent, perhaps, in the Mughul Empire in India.

BIBLIOGRAPHY

- Al-Ghazālī, *al-Iqtisād fi al-I'tiqād*, Cairo, n. d.; *Ihyā' 'Ulūm al-Dīn*; al-Māwardī, *al-Ahkām al-Sultāniyyah*; 'Abd al-Qāhir ibn Tāhir al-Baghdādī, *Uṣūl al-Dīn*, Istanbul, 1928; al-Bāqillāni, *al-Tamhīd*, Cairo, 1947; Ibn Khaldūn, *Muqaddimah*, Beirut, 1900; Naṣīr al-Dīn Ṭūsī, *Akhlāq-i Nāṣiri*; Goldziher, *Muhammedanische Studien*, Vol. II; *Streitschrift des Ghazālī gegen die Batiniyya-Sekte*, Leiden, 1916; Henri Laoust, *Essai sur les doctrines sociales et politiques d'Ibn Taimiyya*, Cairo, 1939.

²³ *Ibid.*, p. 100, note 1.