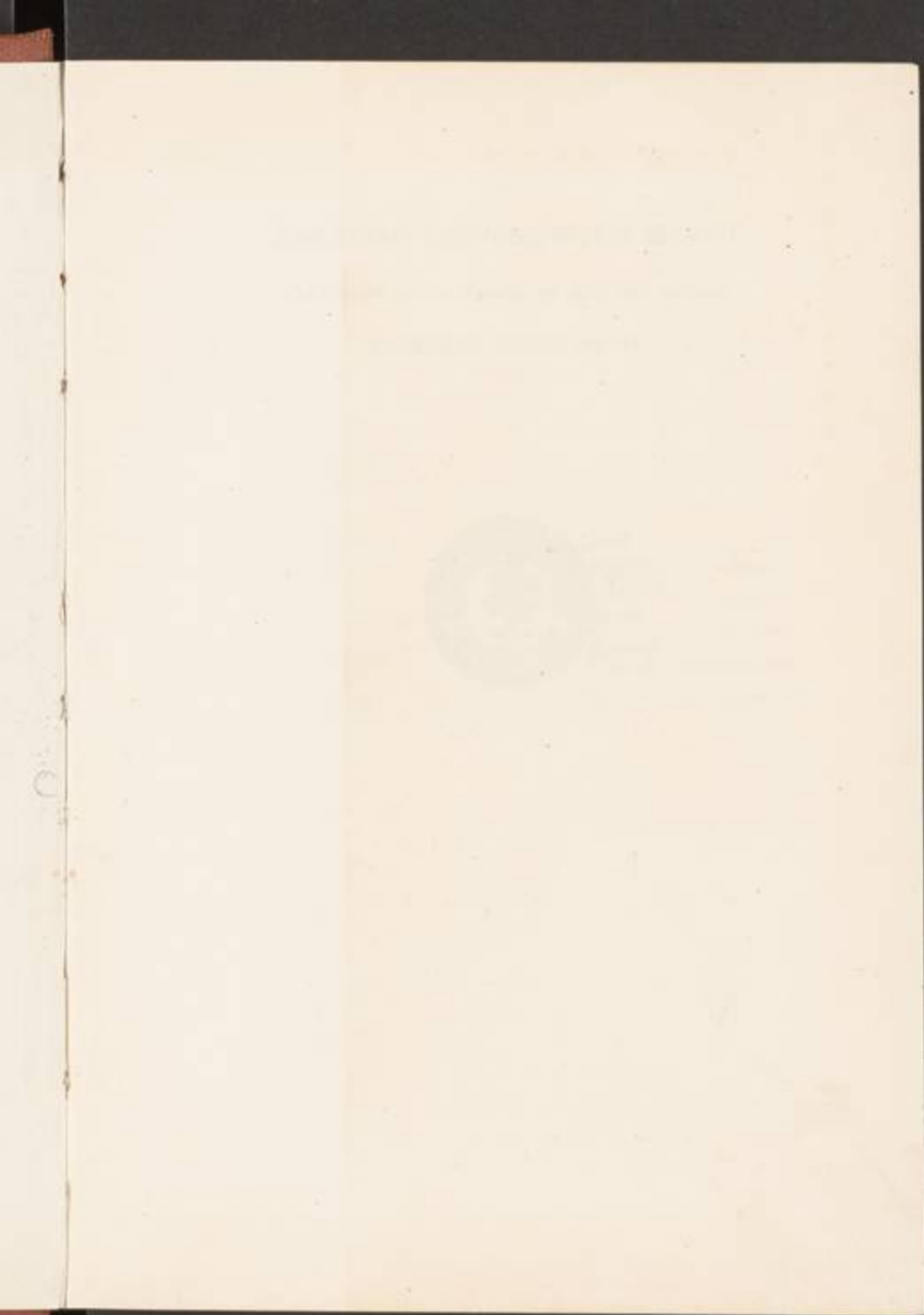


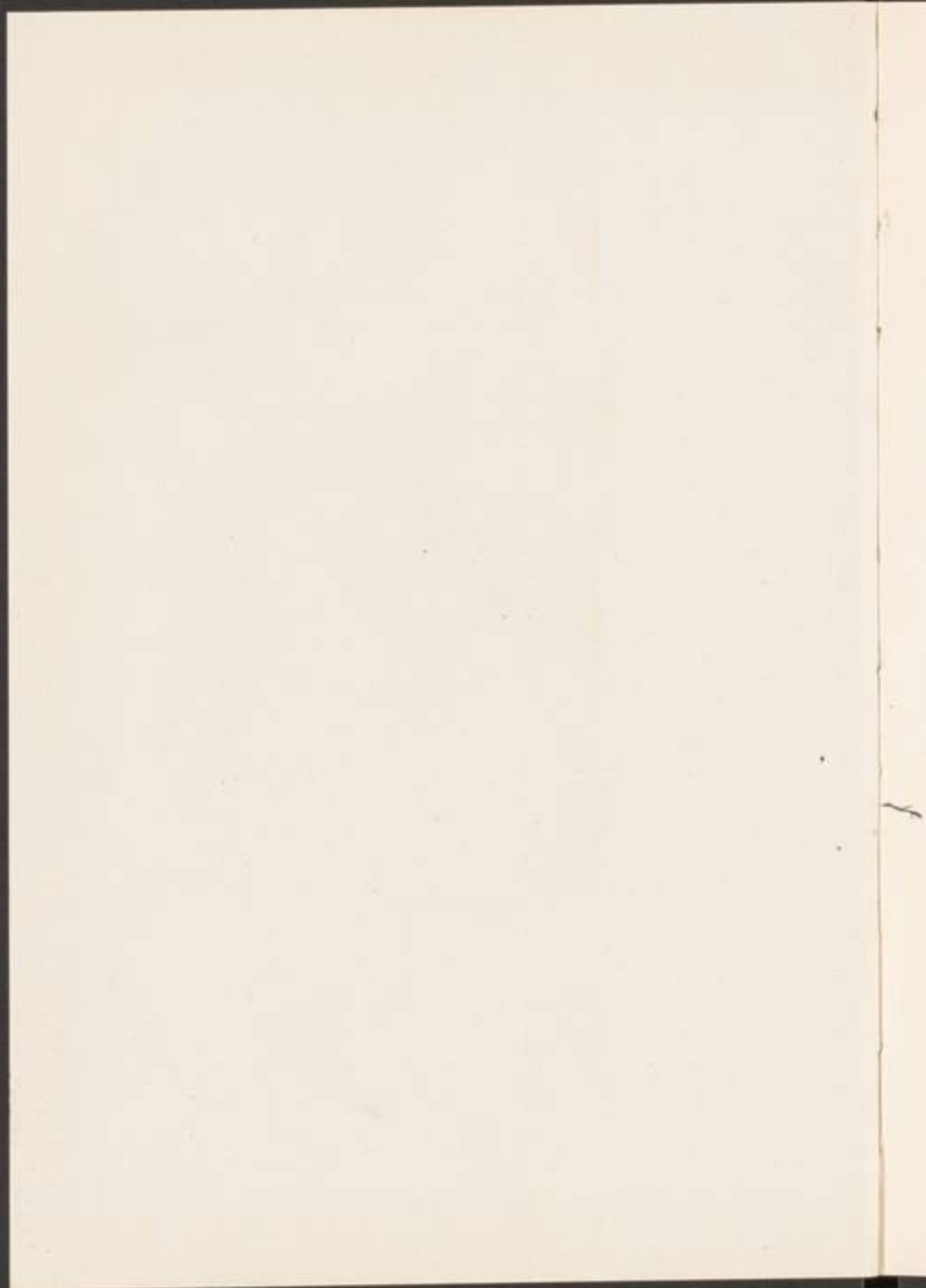
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The Political Doctrine
of
Al - Baqillani

By
YUSUF IBISH

Beirut
1966

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Preface

This is a study of al-Bāqillānī's theory of the imāmate as expounded in his Tamhīd. Through it, we hope to shed some light on some of the factors that shaped the political thinking of Islamic Society in the 4th century Hijra.

Investigation of an era seemingly so remote is justified on the premise that the present is, in many significant aspects, the product of the past, and, at the same time, a tension toward the future. It follows that in order to understand something of the present and future of Islamic society a thorough investigation of its past is a prerequisite. History teaches that social change comes very slowly and that profound transformations are not abrupt. To arrive at an understanding of Islamic Society we must attempt to unroll — generation by generation, period by period, and century by century — the past which led to its present.

There are difficulties inherent in such an investigation. Any society, at any given period, is a dynamically

PREFACE

changing and living whole. It is an extremely complex synthesis of forces that the student of history must attempt to reconstruct, often from scanty and biased sources. Reconstruction of these forces obliges the student to arrest their movement, their perpetual action and reaction. Reader as well as student must never forget the artificiality, however academically justified, of such a procedure. Historical reconstruction can only approximate, never fully correspond, to the historical reality.

This essay is an examination of what constituted political legitimacy to Sunī Muslims of the 4th century Hijra. We intend it as a contribution to the general study of Islamic Society. We look to future students in the field to carry the investigation further and to rectify the many shortcomings of our own effort.

INTRODUCTION

On the death of the Prophet of Allah Muḥammad (A.D. 632) the Young Islamic Society (the *umma*) was faced with a constitutional crisis¹. There were no specific instructions as to the forms and institutions by means of which the *umma* was to maintain its unity. Neither the Qur'an nor the traditions of Muḥammad provided such instructions. Confronted with this crisis the *umma* had to devise its own means to solve the tension. The implicit consensus of opinion (*ijmā'*) inherent in the composition of the *umma* was decisively exercised and Abu Bakr was selected as the successor (*Khaliifa*) of Muḥammad and the temporal head (*imām*) of the muslims.

This decisive move, however, did not solve all the tension because it had to be justified on moral grounds. *Shari'a*, being the expression of God's will, supplies the only moral basis for any

Islamic action. Therefore, the selection of the Khalifa-imām had to be justified on *shar'ī* grounds. The historical process was thus introduced into Islamic constitutional theory, and attempts were made to justify it by moral law, or at least to reconcile it with the principles of moral law.

Of the attempts made by the jurists to justify the *ijmā'* of the *umma* on *shar'ī* basis the theory of Al-Bāqillānī (d. 403/1013) is the most detailed and the most comprehensive account we have on record. As far as we can determine, it is also the earliest and the most precise formulation of the *sunnī* theory of the imāmate drawn on the Ash'arite line.

So it is perhaps safe to assume that Al-Bāqillānī had a great impact on the legal arguments of the Ash'arite and *sunnī* jurists that followed him in the fifth century A.H. Of these we mention 'Abd al-Qāhir al-Baghdādī² (d. 429/1037-8), Al-Māwardī³ (d. 450/1058), and Abū Ya'lā⁴ (d. 458/1067).

Questions begin to arise at once. Why this sudden concentration of jurists attempting to justify their position on the problem of the Caliphate-imāmate? Why did the discussion of the issues, and the formulation of theories come up in the 4th and 5th centuries A.H.? What happened? If Al-Ash'arī

has paved the ground for the arguments, why was there, as far as we can determine, almost a century of silence between him and Al-Bāqillānī⁵?

Part of our task is, therefore, to investigate the basic reasons for the sudden appearance of a galaxy of exponents of the *sunni* theory of the Caliphate-imāmate. Then we shall try to determine, if it is at all possible, the reasons as to why there was a relatively long period of silence between Al-Ash'arī and his followers on this particular issue.

Chapter One

LIFE AND WORKS OF AL - BAQILLANI

The political breakdown of the 'Abbasid Empire in the A.H. 3rd-4th centuries — A.D. 9th-10th centuries, resulting in the fragmentation of its centralized power, had immediate ill effects on the position of the *Sunni* muslims. Military Shi'ism was in control of most of the provinces. The Buwaihids in the East, the Hamdanids in Northern Syria and Northern Mesopotamia, the Qarmatians in Bahrain and Southern Arabia and the Fātimids in North Africa and Egypt⁶.

The endemic disorders and upheavals of the late 9th and early 10th centuries brought about strains of great magnitude⁷. The *sunnis* were forced to assume a defensive position not only against the encroachments and ravages of militant *shi'ism* but also against the subtle and very effective criticism of *shi'i* moralists, mystics and the-

ologians⁸. The elaboration of shi'ite theology during this period constituted the most serious challenge to sunnism, not as a mere reaction of the conquered people's spirit against Islam but as a challenge from within⁹.

Into this milieu of grave challenges al-Bāqillānī was born.

Birth, Name, Family and Education:

His name was Abū Bakr Muḥammad b. al-Ṭayyīb b. Muḥammad b. Ja'far b. al-Qāsim al-Bāqillānī al-Baṣrī¹⁰, also generally known as al-Qāḍī abū Bakr. He was born at Basra of an obscure background¹¹. The date of his birth is not known to any of his biographers. However, Sarkīs maintains that he was born in A.H. 338, but we were not able to find the date in either of the two references he gave us¹². Ibn Khallikan discusses the kunyah «Al-Bāqillānī» and its correct spelling at some length and concludes that it must have been derived from «Bāqlā»¹³. Although al-Hariri maintains that the derivation must have been from «Bāqlī» yet we found no reason to dispute Ibn Khallikan's interpretation¹⁴.

Nothing in particular is known about al-

Bāqillānī's early life in Baṣra. He moved to Baghdād and studied *uṣūl* under the Ash'arite Ibn Mujāhid al-Ṭā'i (d. 370/980-1)¹⁵, and *fiqh* under Abū Bakr al-Abharī (d. 375/985), the leading Malikite at Baghdād¹⁶. Therefore al-Bāqillānī was not, as Brockelmann maintains, a direct student of al-Ash'ari himself but rather of disciples of the founder of the school¹⁷. He excelled as a disciple and became the leading exponent of Ash'arism in his days and «the best of Ash'arite theologians (*mutakallimūn*), unrivalled among them by any predecessor or successor»¹⁸. He also became the leading *sheikh* of the Malikīs in 'Ukbara and Baghdād¹⁹.

Intellectual life :

His intellectual activities could be well summed up and assessed by reviewing what he has written. We do not pretend that the following list is an exhaustive one; it is what we have come across by reviewing the major works in Arabic literature which we suspected have mentioned him. Of course, it goes without saying that we have relied heavily on the account of Ibn Ḥayyūn al-Ṣadafī al-Sarqastī²⁰.

The following list is certainly very interesting for it helps us form an idea of the nature and

extent of al-Bāqillānī's intellectual activities. The titles are at times suggestive, as they are, but we have taken care not to draw any unjustified description of their contents.

I — Kitāb al-Ibāna 'an Ibtāl Maḏḥhab ahl al-Kufr wa al-Ḍalāla²¹.

«Exposition and the refutation of the school of infidels and those who departed from the religion of Islam».

II — Kitāb al-Istishhād²².

«On Appealing to experience».

— in which he dwells on how the Mu'tazila are compelled, according to their own adducing of the visible as an argument to the invisible, to affirm God's knowledge, power, and other attributes.

III — Al-Ta'dil wa al-Tajwīr²³.

«The Imputation of Justice and Injustice»
(to God).

IV — Kitāb Ikfār al-Kuffar al-Mutā'wwilūn wa Hukm al-dār²⁴.

«A book of refutation of the infidelity of infidels who follow their own interpretation and those who maintain the eternity of the word».

V — Sharḥ al-Luma'²⁵.

«The explanation of al-Luma'» (of Al-Ash'arī)²⁶.

VI — Sharḥ adab al-Jadal²⁷.

«An explanation of the «Art of Argument». Probably a commentary on Al-Ash'arī's «Adab al-Jadal»²⁸.

VII — Al-Imāma al-Kabīra²⁹.

«The Major Imāmate».

A treatise on the Imāmate-Caliphate³⁰.

VIII — Al-Uṣūl al-Kabīr fī al-Fiqh³¹.

«A Large book on the principles of Fiqh».

IX — Al-Imāma al-Ṣaghīra³².

«The minor Imāmate».

A treatise on the ordinary imāmate in distinction from the Caliphate-imāmate. See: VII.

X — Faḍl al-Jihād³³.

«On the merits of Jihād».

XI — Masa'il al-Uṣūl³⁴.

«Questions Concerning the Principles (of religion)». In which he refuted the principles of the Mu'tazila by the «splendid arguments and dazzling proofs of God».

XII — Al-Masā'il wa al-Mujālasāt³⁵.

«Questions and Debates»³⁶.

XIII — Kitāb 'ala al-Mutanāsikhīn³⁷.

«A book against the Metempsychosists»³⁸.

XIV — Kitāb al-Ḥudūd³⁹.

«A book on the fixed bounds (of Allah)»⁴⁰.

XV — Ijma' ahl al-Madīna⁴¹.

«The ijma' of the people of Madina».

A treatise in which he discoursed on the vindication of the Imāmate of Abū Bakr through ijma', and he refuted those who maintained the doctrine of designation⁴².

XVI — Al-Uṣūl al-Saghīr⁴³.

«The short (treatise on the) principles (of religion)».

XVII — Kitāb 'ala al-Mu'tazila fī Ta'wīl al-Qur'ān⁴⁴.

«A book against the Mu'tazila's interpretation of the Qur'ān».

XVIII — Kitāb al-Muqadamāt fī uṣūl al-Di-yānāt⁴⁵.

«A book on the most important in the principles of religions».

XIX — Fī ānna al-Ma'dūm laysa Bishāi⁴⁶.

«That the inexistent is not a thing».

XX — Naṣrat al-'Abbās wa Imāmat Banīh⁴⁷.

«In support of al-'Abbās and the Imāmate of his offspring».

XXI — Fī al-Mu'jizāt⁴⁸.

«On Miracles».

A treatise on the miracles of the Apostles sent by God (Mu'jizāt). See : (XXXIV)

XXII — Al-Masā'il al-Qusṭanṭīniā⁴⁹.

«The questions of Constantinople»⁵⁰.

XXIII — Hidāyat al-Mustarshidīn⁵¹.

«Guidance for those who seek guidance».

XXIV — Jawāb Ahl Falastīn⁵².

«Reply to the people of Palestine».

XXV — Al-Baghdādīyat⁵³.

«The Baghdādians».

Possibly questions and answers on some aspects of kalām.

XXVI — Al-Naysābūrīyāt⁵⁴.

«The Naysaburians».

Possibly questions and answers on some aspects of kalām.

XXVII — Al-Jurjānīyāt⁵⁵.

«The Jurjanians».

Possibly some questions and answers on some aspects of kalām.

XXVIII — Al Aṣbahānīyāt⁵⁶.

«The Aṣbahanians».

Possibly on some aspects of kalām.

XXIX — Masā'il Sa'āla 'anhā Ibn 'Abd al-Mū'min⁵⁷.

«Questions posed by Ibn 'Abd al-Mū'min»⁵⁸.

XXX — Al-Irshād fī uṣūl al-Fiḥ⁵⁹.

«Guidance in the Principles of Fiḥ».

XXXI — Al-Muqni' fī uṣūl al-Fiḥ⁶⁰.

«The convincing (book) on the Principles of Fiḥ».

XXXII — Al-Intiṣār fī al-Qur'ān⁶¹.

«Victory through al-Qur'ān».

In which he refutes those who opposed the clear arguments of the Qur'ān.

XXXIII — Daqā'iq al-Kalām⁶².

«The Fine (Subtle) points of kalām».

XXXIV — Al-Karāmāt⁶³.

«On Miracles».

A treatise on the miracles worked by holy men (karāmāt as distinguished from miracles of the Apostles of God (Mu'jizāt). See : (XXI)

XXXV — Naqđ al-Funūn Lil-Jāhidh⁶⁴.

«A Refutation of the Deviations (funūn) of al-Jāhidh».

XXXVI — Taşaruf al-'Ibād wa al-Farq baiyn al-khalq wa al-Iktisab⁶⁵.

«The behaviour of human beings and the difference between Divine action and Human Responsibility».

In which he refuted the allegations of the Mu'tazila and Qadariyya regarding the creation of acts.

XXXVII — Kitāb al-Dimā' al-Latī Jarat Baina al-Şahāba⁶⁶.

«A book on the blood which was shed between the companions of the Prophet».

Possibly a discussion of the controversies in the two Civil wars in Islam.

XXXVIII — Kitāb al-Bayān 'an Farā'đ al-Dīn wa Sharā'i' al-Islām⁶⁷.

«A book on the Exposition of the duties in the religion and moral Law of Islam».

XXXIX — Al-Ahkām wa al-'Ilal⁶⁸.

«The ordinances and the Causes».

XL — Al-Irshād al-Ṣaghīr⁶⁹.

«The slender Irshād (to the principles of Fiqh)».

XLI — Al-Awsat⁷⁰.

«The middle ground».

XLII — Kitāb Manāqib al-A'ima⁷¹.

«The Good Deeds of the Imāms».

XLIII — Kitāb al-Tabṣira⁷².

«The book of Insight».

XLIV — Kitāb Risālat al-Harra⁷³.

«The book on the Treatise of al-Harra».

XLV — Risālat al-Amīr⁷⁴.

«The message of (or to) the Prince»⁷⁵.

XLVI — Kashf al-Asrār fī al-Radd 'ala al-Bāṭiniyya⁷⁶.

«The Revealing of secrets in the Refutation of al-Bāṭiniyya».

XLVII — I'jāz al-Qur'ān⁷⁷.

«A Treatise on the miracle of the Stylistic Perfection of the Qur'ān».

XLVIII — Kitāb Imāmate Banī al-'Abbās⁷⁸.

«A book on the Imāmate of the Abbasids».

XLIX — Kitāb al-Inṣāf fī Asbāb al-Khilāf⁷⁹.

«A book on the Equity in the causes of the disagreements».

L — Kitāb al-I'jāz⁸⁰.

«The Epitome».

LI — Kitāb fī al-Imān⁸¹.

«A book on Faith».

LII — Kitāb Naqd al-Naqd⁸².

«A book on the refutation of refutation».

LIII — Al-Tamhīd⁸³.

«The Preface».

LIV — Kitāb Uṣūl al-Nazzām⁸⁴.

A book on the Uṣūl of al-Nazzām⁸⁵.

A refutation of his school.

LV — Kitāb al-Ḥiyal wa al-Makhāriq⁸⁶.

«A book on (legal) subterfuges and tricks».

Against al-Mu'tazila and their inability to verify the signs of prophecy (dalā'il al-Nubuwa)

Of al-Bāqillānī's works only six survived the ravages of time and are known to us⁸⁷. Only two have been published⁸⁸. It is very difficult to say how authentic is the list of books attributed to him for the same work sometimes appears in different works under different abbreviated titles. Fortunately, what survived is important, especially *I'jāz al-Qur'ān* and *al-Tamhīd*, because they deal with subject matters that are of great intellectual, literary and historical importance. It is, however, to be regretted that the majority of his works, which contained his position on almost all the major controversies of his day, were lost. It was impossible for us to determine the dates, order and sequence of his writings, nor was it possible as a result to determine the development of his thought. The biographical accounts and notes we have seen are fragmentary and not always clear or sufficiently instructive. However, of one thing we can almost be sure, the works of al-Bāqillānī do not suffer from being *œuvres d'occasions* addressed to a friend or patron and suited to his tastes and attainments. The extent and variety of his intellectual

activities strongly suggest that he was fully aware of the major intellectual and theological developments of his time, and that he took it upon himself to meet the challenges and to defend Sunnism.

Al-Bāqillānī's literary style exemplifies the lucidity and compactness so characteristic of the religious literature of the 4th century A.H. The pattern he uses in raising questions and answering them is the traditional «*in qāla*» (if he asks) and «*qīla lahu*» (he is answered), where the distinctive element is the refutation of a hypothetical questioner. It would be artificial to call this stylistic pattern a «dialogue» because in most cases the user does not have in mind to affect a dialogue. The pattern is in an obvious way selective, selective in the sense that statements and counterstatements are put down in a sequence without being dependently joined. It is perhaps appropriate to mention here that John of Damascus (d.A.D. 749) used this pattern and influenced Theodorus Abū Qurra (d.A.D. 820) along these lines. Abū Qurra quite frequently used this pattern of polemical discussion in his works in Arabic⁸⁹. Al-Ash'ari used this pattern extensively and al-Bāqillānī followed his example⁹⁰. Perhaps it is safe to assume that John of Damascus and Abū Qurra were the link between Antiquity and al-Ash'arī in the transmission of this pattern.

Al-Baqillani as a Teacher

It is related by al-Khaṭīb al-Baghdādī and by Ibn 'Imād that al-Bāqillānī had a great *Halaqa* at the mosque of al-Manṣūr in Baghdād⁹¹. His public lectures and classes were conducted along the line of Ash'ārism and in conformity with «ahl al-Sunna». We are informed that he taught among other works, the book of al-Luma' of al-Ash'arī⁹².

Of the people that studied under al-Bāqillānī we were able to draw the following list:

- I — Al-Qāḍī Abū Muḥammad 'Abd al-Wahhāb b. 'Alī al-Baghdādī (d. 422/1031)⁹³.
- II — Abū 'Umrān Mūsā b. 'Isa b. Abī Hajjāj al-Ghafjūmī (d. 430/1039)⁹⁴.
- III — Abū Dharr al-Harawī (d. 435/1043-4)⁹⁵.
- IV — Abū al-Ḥasan al-Sukkarī (the poet) (d. 423/1032)⁹⁶.
- V — Abū al-Ḥassan al-Ḥarbī 'Alī b. Muḥammad (d. 437/1045-46)⁹⁷.
- VI — Al-Qāḍī Abū Ja'far Muḥammad b. Aḥmad al-Samnānī (d. 444/1052-53)⁹⁸.

- VII — Abū al-Ḥasan al-Baghdādī Rāfi' b. Naṣr
(d. 422/1031)⁹⁹,
- VIII — Abū Ṭāhir Muḥammad b. 'Alī, known
as Ibn al-Anbārī (d. 449/1057)¹⁰⁰.
- IX — Abū 'Abd Allah al-Ḥussain b. Ḥātīm al-
Azdī (d. 430/1039)¹⁰¹.
- X — Abū 'Abd al-Raḥmān al-Salmī Muḥam-
mad b. al-Ḥussain al-Ṣūfī (d. 412/1021-2)¹⁰².
- XI — Abū Ḥātīm Maḥmūd b. al-Ḥasan al-
Ṭabarī, known as al-Qazwīnī (d. ?)¹⁰³.
- XII — al-Qāḍī abū Muḥammad 'Abd Allah b.
Muḥammad al-Asbahānī, known as Ibn al-Lab-
bān (d. 430/1039)¹⁰⁴.
- XIII — Abū Bakr Muḥammad b. al-Ḥusain
al-Iskāfī (d. ?)¹⁰⁵.
- XIV — Abū 'Alī al-Ḥasan b. Shādhān (d. 426/
1034-5)¹⁰⁶.
- XV — Abū al-Qāsim 'Ubaid Allah b. Aḥmad al-
Ṣayrafī (d. 435/1043-4)¹⁰⁷.
- XVI — Abū al-Faḍl 'Ubaid Allāh b. Aḥmad al-
Maqrī (d. 431/1039-40)¹⁰⁸.

Al-Bāqillānī's methods in teaching and in writing have been described by al-Qāḍī 'Iyāḍ and by al-Khaṭīb al-Baghdādī at some length¹⁰⁹. Along the side of his «*halaqa*» he conducted public and private debates with Ibn al-Mu'alim and other eloquent and sharp Shi'ite debators¹¹⁰. Out of all this he emerged as the «*sheikh of the Sunna*», the *imām of ahl al-Hadīth*», and the «(eloquent) tongue of the umma»¹¹¹.

His public life was not limited to teaching and to the public defence of Sunnism, he is also known as the Malikite Qāḍī at 'Ukbara and at Baghdād¹¹². Very little is known about his activities as a *qāḍī* save that he established himself as the unrivaled leader of Malikism at Baghdād¹¹³.

As a Diplomat

On account of his venerable position as a theologian and jurisconsult, al-Bāqillānī enjoyed a rank of high esteem not only in the eyes of the public but also with the Būwaihids. He was sent by 'Adud al-Dawla in 371/981 on a diplomatic mission to the court of the Byzantine Emperor Basil, the slayer of the Bulgarians¹¹⁴. The political and military circumstances that preceded al-Bāqillānī's mission can be summarized as follows: Emperor Basil defeated his rival Bardas Scleros

al-Pançalia in 369/979. Scleros escaped to May-yāfāriqīn, which had been captured by ʿAḍud al-Dawla from Abū Taghlib al-Ḥamdānī¹¹⁵, and had sent thence his brother Constantine as his envoy to Baghdād with an appeal for help and an offer of allegiance¹¹⁶. At the same time an envoy from Basil arrived at Baghdād with instructions to procure the extradition of Scleros, who in all probability was a valuable pawn in Basil's political game¹¹⁷. ʿAḍud al-Dawla realized the political value of Scleros and his followers and promptly held them in honorable captivity at Baghdād and the game started.

The next move in the game was to dispatch a Muslim envoy to Byzantium, and al-Bāqillānī was chosen for the mission in 371/981¹¹⁸. The Arabic chroniclers neglected to mention why al-Bāqillānī was chosen and what his instructions were. They dramatically related how al-Bāqillānī consciously and intelligently escaped from the humiliations that Basil and his courtiers had planned for him¹¹⁹. The same sources related the content of the debates that took place in the «Sacred Palace» between Christian theologians and al-Bāqillānī on matters concerning Islam and Christianity¹²⁰.

M. Schlumberger, however, gives an account of al-Bāqillānī's instructions as follows:

«Cependant les mois s'écoulaient. Déjà l'an 980 et la première moitié de 981 s'étaient passés dans ces intrigues. Tandis qu'il endormait de la sorte les appréhensions du prétendant, le rusé Bouiide expédiait aux basileis un de ses hommes de confiance, le cadî Abou Bekr Mohammed ibn el-Thayyeb el-Achary, surnommé aussi el-Baqalany. Ceci se passait dans le cours de l'année 981. le Cadî devait faire savoir au Palais Sacré que Skléros offrait au Khalife, en échange de l'aide que celui-ci lui prêterait pour rentrer en compagnie, de lui restituer aussitôt qu'il aurait triomphé, toutes les forteresses si nombreuses enlevées depuis peu aux Arabes par les Chrétiens, ce qui signifiait vraisemblablement toutes les belles conquêtes de Nicéphore Phocas et de Jean Tzimiscès en Cilicie, en Syrie et sur l'Euphrate. Skléros estimait que l'empire d'Orient valait bien une concession aussi considérable et aussi impie.

«L'envoyé du Khalife était, en conséquence, chargé de réclamer directement du Palais sacré la restitution immédiate de toutes ces places de guerre avec tous leurs territoires. En échange, Skléros serait livré aux empereurs. Sinon Adhoud Eddauleh annonçait son intention d'aider le prétendant de toutes ses forces dans la lutte nouvelle qu'il engagerait pour s'emparer du trône: «Je

l'enverrai avec de l'argent et une puissante armée contre toi», mandait le vizir au basileus Basile»¹²¹.

It is obvious that 'Aḍud al-Dawla overestimated the value of Scleros to Basil, and the mission of Al-Bāqillānī was doomed to failure before it started. Later it was followed by a second mission led by Ibn Shahrām and negotiations were resumed¹²².

Death

Al-Bāqillānī died on Saturday the 21st of Dhul Qi'da A.H. 403/June 6, 1013 at Baghdād. His son al-Ḥasan led his funeral prayers and he was buried at home. Later he was removed to the cemetery of Bāb Ḥarb. His grave was next to that of al-Imām Aḥmad b. Ḥanbal. The following lines were engraved on his mausoleum: «This is the tomb of the blessed imām, the pride of the umma, the tongue of the milla, the sword of the sunna, the pillar of religion, the protector of Islam, Abū Bakr Muḥammad b. al-Ṭayyib al-Baṣrī, may God have mercy on him»¹²³.

A Note on al-Tamhid

We have found no reasons to doubt al-Bāqillānī's author-ship of *al-Tamhid*. But we were

not able to determine the date of its composition; however, we can safely assume that it belongs to the late 4th/10th century. Everything in it tends to indicate the maturity of its author, and one can easily rule out the possibility that al-Bāqillānī was young at the time he wrote it.

The questions that arise at once are: What is *al-Tamhīd*? what kind of a book is it? Richard J. McCarthy, in the preface to his edition of *al-Tamhīd*, insists that it is the most complete manual of Ash'arite theology, and that it reminded him of *Kitāb al-Luma'* of al-Ash'arī, touching as it does on practically the same issues and points. Furthermore, he calls it a composition of «*summae*» or «*summulae*» of Ash'arīte theology¹²⁴. He also took the liberty of not indicating the part on the imāmate which is about one-third of the whole text. The reasons he gives can be summarized as follows: since the discussion of the *imāmate* is not of the *usūl*, and he quotes Imām al-Ḥaramain (d. 478/1085-6) for that purpose, then why did al-Bāqillānī dwell on it at that length? He draws the conclusion that the part on the imāmate must, therefore, belong to some other work of al-Bāqillānī.

Our position is somewhat different. We agree with McCarthy that the discussion of the *imāmate* is not of the *sunni usūl*. But, in the first place, there

is hardly a book on *uṣūl* that does not contain, a long or a short, discussion of it. Imām al-Ḥaramain himself includes it in his work¹²⁵. In the second place, is *al-Tamhīd* a book on *uṣūl*? Is it a composition of «*summae*» of Ash'arite theology?

To answer these questions we have to ask the question: is the title «*al-Tamhīd*» a complete one? The answer very obviously is negative. *Al-Tamhīd* to what? The Schefer manuscript gives us a clue: «*al-Tamhīd fī al-Radd 'ala al-Mulhida al-Mu'aṭṭila wa al-Rafiḍa wa al-Khawārij wa al-Mu'tazila*»¹²⁶. The contents and topics discussed in the text tend to support this title. Therefore, it is a work of refutation (*Radd*) of the various tendencies held by certain schools. It is very evident that al-Bāqillānī could not have refuted the arguments and positions of these schools without bringing in the position of his own Ash'arite school. So, it is logically necessary for him to touch on the major issues discussed by al-Ash'ari himself. But does that make *al-Tamhīd* «a manual of Theology»? Hardly.

Since it is basically a work of refutations, we are inclined to classify it as an «*œuvre de circonstance*» and an «*œuvre de combat*». Al-Bāqillānī, in it, proposes to denounce all innovations (*bida'*) and to condemn the position of their holders¹²⁷.

Although the Khawārij were not to be feared at the time of al-Bāqillānī, yet they were far from being out of the political arena. In the year A.H. 318/930 the Khawārij Jabal Sinjār organized a revolt which al-Qāhir was not able to subdue without seeking the help of Nāṣir al-Dawla, then prince of al-Mawṣil¹²⁸. The revolt of Kharajite Abū Yazīd in A. H. 333/944-5 in North Africa is another indication of the existence of that sect on the political scene¹²⁹.

But the principal adversaries of al-Bāqillānī are the Mu'tazila and the Rawafid¹³⁰. Although they attained their zenith at the time of al-Ma'mūn, al-Mu'taṣim and al-Wāthiq, yet they were still very active and exercised a very significant influence on a large number of theologians and juris-consults. Their rationalism was still very stimulating and irritating in the fields of politics and theology.

He refutes the position of the Rawafid so vigorously that we have no reason to doubt his awareness of the developments in his days. The Shi'ite literature and activities constituted a great challenge to Sunnism and al-Bāqillānī took up «arms» to «combat» them.

If the discussion of the imāmate was not of

the *Sunni uşûl*, it was certainly of the Shi'ite's. To refute their position and «expose» their arguments he had to cover their doctrine point by point. With this in mind, we are no longer surprised at the relative length of his discussion of the imāmate.

Chapter Two

THE POLITICAL MILIEU

I. *Background* ¹

The tribesmen of Arabia very quickly became the armies of Islam and were organized as the instrument of conquest under the first Caliphs. With astounding rapidity they conquered Syria, Iraq, Egypt and Western Persia and established themselves in garrison cities (*miṣr* pl. *amṣār*) in these lands². Their strong atavistic resistance to any form of control and their easily aroused defiance of centralized authority, when combined with dissensions between themselves and the rivalries between the Meccan ruling families, led to the assassination of 'Uthman, the third Caliph, in 35/656³. The civil war which ensued between 'Alī b. Abī Ṭālib, supported by his party (*Shī'a*), and the Umayyads ended with:

¹ — The victory of the Umayyads.

2 — The foundation of a fanatical group of seceders (Khawārij) who rejected the claims of both 'Alī and Mu'āwiya⁴.

The victory of the Umayyads led to the establishment of a new Caliphate at Damascus (A.D.661) based on hereditary succession in the house of Umaiya. The hereditary aspect of the new Caliphate constituted an offence to Muslim principles in general, but it was particularly disliked in Iraq because of the transference of the capital to Damascus and the predominance of the Syrian army⁵. Mu'āwiya, however, was well aware that the traditional way of selecting caliphs was no longer workable and, therefore, he had to resort to a hereditary form of succession to ensure the unity of the empire⁶. The nature of Mu'āwiya's victory made him realize that from then on the sole guarantee to the continuation of his Caliphate was the allegiance of the disciplined army (*muqātila*) of Syria⁷. As a result, and by necessity, new administrative organs had to be designed and set in operation to strengthen the caliph's control over the tribes⁸.

It can be easily argued that the trend of events forced the Umayyads into putting the pursuit of the interests of the state above all other considerations. As a result, their rule became sus-

pect on different levels. They were, in the first place, suspected of pursuing their own family interest. Since the state is identified, in the Arab mind, with the ruling group, then it follows logically that to pursue «the interests of the state» becomes the pursuit of the interests of the ruling family⁹. In the second place, they were suspected and accused of neglecting the interests of Islam and favoring their own¹⁰. This accusation and its implications, raised in religious circles, rests on a deep-seated crisis in Islamic society, of which the Umayyads were victims, and not on relevant historical circumstances.

In spite of the numerous revolts of the tribesmen in Iraq and the growing grievances of the *mawālī*¹¹ the Arab empire continued to expand into North Africa, Spain, Eastern Persia and Turkistan. But steadily the forces upon which the Umayyad regime rested began to get narrower and narrower. The old *muqātīla* system fell into disuse, and the Umayyads had to depend increasingly on their Syrian professional military forces. The climax of the situation was reached during the reign of Hishām (105-125/724-743)¹². It was no longer possible to expand and to conquer; the limits had been reached. Hisham was conscious of these facts and he sought to maintain what had been gained. The military task of defending such a vast empire

fell on the Syrian Arab troops¹³. At the same time, we have ample evidence to support the argument that they knew that to defend and maintain an empire an internal process had to be set in operation to make it viable. Internal development, general economic reorganizations, removal of grievances and assimilation of the vast incorporated regions and peoples are the only safe way to insure the continuity of an empire. In other words, unless the inhabitants of any empire feel a «common destiny» and a vested interest in it, it will seldom attain stability and duration. The fiscal reorganization of the empire that Hishām brought about, his treatment of the *mawālī*, his rapprochement with the religious leaders, both on a personal level through personal contacts with them and on an official level through positive measures against heresy¹⁴, are but clear indications of Hishām's insight and active effort to consolidate and to maintain the Muslim gains.

Militarily, the vastness of the Empire and responsibility of its defense exhausted the Syrian troops, whose energies were, to a large extent, dissipated, and whose unity was disrupted by severe tribal jealousies, feuds and rivalries¹⁵.

The internal structural readjustments which the Umayyad Empire had to undertake to become

viable were far more complicated than its military limitations. It was in the midst of a severe socio-ethical crisis. What was the nature of this crisis? The first step in answering this question is to refute the interpretations of the Arab medieval historians¹⁶. They viewed the history of Umayyad in terms of actions of persons without taking into account the following:

- a. The conditions under which persons acted and reacted.
- b. The circumstances by which these actions and reactions were dictated and limited.

These chroniclers failed or refused to recognize the fact that the Umayyads inherited a great many limitations and difficulties. In fact, they inherited the political organization of the Patriarchal Caliphs which was basically a military organization and improved its efficiency¹⁷. The problem was, therefore, not of their own making. As Sir Hamilton Gibb puts it: «The Umayyads were, so to speak, the victims of a dialectical process within Islamic society, a process of self-criticism by which its political ideals were gradually adumbrated; but since the society itself lacked the means or the will to define them and to articulate them in a political system, it tried to evade its own responsibilities by fastening the blame for its

failure on the Umayyads, as convenient scapegoats» 18.

We must remember here the fact that in Islamic society the basis of the body-politic is ideological and not political¹⁹. With the acceptance of the message of Islam and its implications, a new type of social order was created which was basically a subtle adaptation of pre-Islamic social institutions to the principles of Islam²⁰. The newly evolved institutions were slowly molded and put into operation by the self-exertion of successive generations of Muslims²¹. The evolution of Islamic Law (*Shari'a*) can serve as a good example of how such an adaptation took place and the various stages in the development of the process involved. Social classes and groups in Islamic Society evolved in the same way, and the educational system followed the same path of adapting existing orders to ideological principles. Since all social institutions are somehow related one to the other in a system of checks and balances and are governed by the ideological principles, it follows that «usurpation» can only arise when the system of checking and balancing is disrupted or when the governing ideological principles are defied.

The institution of government evolved under the early Caliphs was basically designed to look

after the internal and external affairs of the Umma and thereby defend it and what it stood for. Thus the office of the Caliph was at once three-fold:

1 — He was Caliph (successor or vicegerent) of Muḥammad as the temporal head of the Community «to judge righteously between men»²².

2 — He was the *imām* of the Community and the enforcer of the Law (*Shari'a*) and the keeper of morality²³.

3 — He was also the «Commander of the Faithful» (*Amīr al-Mu'minīn*) or leader of the Community²⁴.

As no one person or group of persons in Islam enjoy the right to legislate, then the only justification for the existence of the institutions of government was the observance and enforcement of the revealed law internally, and the organization of defense of the Community from external dangers. Theoretically the office of the *Caliph-imām-Amīr al-Mu'minīn* was not superior to any other institution. Yet in practice it was vested with the seeds of immense power to control and supervise²⁵. It is very difficult to determine whether these vested potential powers in the office of the Caliph were intentionally premeditated or accidental. The

fact remains that with the rapid increase of the power of Islamic Society, through expansion and conquest, the powers of the Caliph increased immensely. Since it had no rival institution or institutions, the institution of government ended by monopolizing power.

Idealists can argue that the acquired power should have become the instrument of the ideology of Islam²⁶. But it is in the nature of political institutions to be aggressively competitive and to seek always to assert their distinctiveness and to jealously keep and try to increase their gains. This dynamic rivalry is usually intensified with the increase of power in any society. Such a rivalry can express itself in many shapes and forms. In the case of early Islamic society it was expressed in terms of military power. It is not difficult to find the reason why it took that form of expression and no other. Society increased its power through military expansion and hence the increase of power in the political institution was a military one. Military power can be, in the short run, opposed, rivaled and checked only by military power. If the opposition is to be successful, the opposing group must of necessity master at least an equal, if not a superior, power²⁷.

The Umayyads were often misunderstood and maligned by historians because the above

mentioned principles were neglected. Since there was no other institution to effectively claim power, the Umayyad Caliphate enjoyed its monopoly. It goes without saying that power is seldom surrendered once it is acquired, but even if the Umayyad Caliphate wanted to give up some of its power to some other institution the problem remains as follows:

a. To what institution? we have tried hard to find such possibly «candidate» institutions and we have failed. To the best of our knowledge they did not exist.

b. Can power be conveyed? Theoretically, yes; but in practice it is extremely difficult, if not altogether impossible. The conveyance of power tends to pre-suppose that the conveyor controls and regulates the flow of it. From all this we emerge with the conclusion that the Umayyads had to choose between two alternatives. Either they took matters in hand and exercised power, or abdicated it in favor of anarchy and chaos. With this conclusion in mind we can slowly clear the confusion that anti-Umayyad historians created. The Shi'a clearly emerge as the champions of two ideals:

1 — To oppose and destroy the «exploitation» of the Muslim empire by the Umayyad «usurpers».

2 — To create a type of government in which the ideals of Islam are embodied.

To oppose and destroy the Umayyads they had to take up arms against them. But the question remains: would the success of Shī'a have meant that no other group of «usurpers» would exploit the empire? Very obvious is the fact that the destruction of the Umayyads would have meant the destruction of the Caliphate which, at that time, was the only institution to have been created by the ideology of Islam; certainly this would have been disastrous.

To create a type of government in which the ideals of Islam are embodied is fine. But as a result of the armed struggle and the necessities of war 'Alī's ideas on the type of government envisioned are not clear to us. We do not even know whether they were clear to him. However, the destruction of the Caliphate would have necessitated the emergence of a new institution based on the forces existing in Islamic Society at that time. What type of institution? We do not know. Yet it is quite conceivable that, in picking up the pieces after the Civil War II, the Shī'a would have found themselves in need of perpetuating a weaker form of the Umayyad Caliphate, which they had destroyed. Could that have been in the interest of Islam? Hardly. What were their assurances that

the very forces, the Arab tribes, which they were stirring against the Umayyads, would not have regrouped themselves against them?

Out of the Civil War II not only the Umayyads, but also the Caliphate as an institution emerged triumphant. From then on its existence was taken for granted regardless of whichever group took over. But the crisis remained throughout the Umayyad century: the Islamic ideology was not translated from the realm of potentiality into actuality in any social institution other than that of government, despite the conscious efforts of some of the Umayyad Caliphs to do something about the resultant ethico-social tensions²⁸. Yet the tribal spirit continued to exist and rivalries remained, in essence, along the old traditional lines. With the growth of «sophistication» in Islamic Society the tribal rivalries became camouflaged and masked behind rationalizations which took the form of moral and religious issues²⁹.

The Umayyad Caliphate succumbed in 132/750 under the pressure of a new civil war led by the 'Abbasids, and the members of the ruling house were hunted down and put to death mercilessly³⁰. Therefore, when the anti-Umayyad factions organized an instrument of power, the army of Khurasan, to match the Umayyads, their revolt

succeeded. A new line of Caliphs, descending from Muhammad's uncle al-'Abbās, was established in Iraq under Abu al-'Abbās al-Saffāh in 132/750³¹. Although a large number of potentially conflicting groups were able to identify themselves with the 'Abbāsīd movement³², yet at first the victory of the revolution did not mean more than the transference of the seat of the Caliphate from Damascus to Iraq.

The strength of the new dynasty was based on the following distribution of forces:

1 — Militarily, it depended on the Khurasanian Army, predominantly Arab in its composition but mixed with other Islamized people³³. This army was stationed in Iraq and locally supplied and reinforced. The potential opposing forces that existed in Syria and Egypt were rendered ineffective by their own tribal feuds, the traditional Muḍar-Yaman jealousy³⁴.

2 — Politically, it rested upon the Islamized and urban Arab population of Khurasān and Iraq. The *badawīs* of Iraq remained essentially resistant to control, which proved as usual of great importance on the ever shifting politico-religious alliances³⁵.

3 — Religiously and morally, it rested upon

the claim of the house of al-'Abbās to be the legitimate heirs of the Prophet³⁶.

The suspicious alliance and potential conflict between Iraq and Khurasān proved to be of grave consequences on the political developments in the 'Abbāsīd Empire. The army of Khurasān slowly became Iranian in its composition and command which shifted the balance in favor of the Islamized people. The civil war of 812-813 and al-Ma'mūn's victory over his brother al-Amīn was largely owed to the support given to him by the Khurasānian army, which was his instrument of power in practically re-incorporating the major provinces of his empire³⁷. Of course he had to pay for all that, and the price was virtually the independence of Khurasān under the Ṭāhirids³⁸, and Ṭāhir himself commanded the Imperial troops from Baghdad. The prestige and authority of the 'Abbāsīds was gravely shaken.

To free themselves of the grip of the Ṭāhirids, the Caliphs brought in a new element. They isolated themselves with their Turkish private guards at Samarra (built in 835). The result was that the Caliphs were completely under the control of their own slaves. This situation at the center of the empire gave the ambitious local leaders hope and license to strive for power by capitalizing

on the grievances of the oppressed and misgoverned groups³⁹. The convulsions that followed eliminated the Ṭāhirids and polarized power in the Arab provinces between the Turkish governors and the tribesmen.

In a traditional way the struggle between political forces soon acquired a moral and religious color. Under the Umayyads the tribal revolts assumed a Khārajite character in Arabia and Mesopotamia and in Kūfa they lined themselves as supporters of the house of 'Alī.

Under the 'Abbāsids, the shift was towards Shi'ism. The tribesmen became increasingly associated with the Shi'i movement in all its shades⁴⁰. The Ismā'ilis won the support of the Zanj (negroes) whose revolt (869-883) rocked lower Iraq. The Ismā'īlī Qarāmiṭah, soon after, rose up and ravaged Iraq, and Northern Syria⁴¹.

On the other hand, the Turkish governors became the defenders of Sunnism in which they had political and economic vested interests. Politically, they needed the Caliph's investiture to legitimize their rule; economically, they needed fiefs to draw revenues to maintain their regime. In return, they defended the Caliphate against the Shi'ites, and paid it allegiance⁴².

Essentially, the Sunni alliances between the Caliphs and their Turkish governors against Shi'ism was weak. Before the beginning of the 4th/10th century, Shi'ism had scored immense permanent gains in Persia and Yemen and slowly dissipated the forces of the Caliphate. Thus, by the beginning of the 4th/10th century the Ḥamdānids⁴³ were well established in Mawsil and Aleppo, the Qarāmiṭah⁴⁴ in Baḥrain, the Ikhshidis⁴⁵ in Egypt, the Fāṭimids⁴⁶ in North Africa and the Būwaihids⁴⁷ in Eastern Persia. With the exception of the Ikhshidis, they were all Shi'ites.

This brings us to al-Bāqillānī's immediate political milieu.

II. *The Immediate Political Milieu of al-Bāqillānī.* *The Būwaihids*⁴⁸

One of the most significant aspects of the rise of the Būwaihids to power was a geo-political one. They formed a chain of principalities extending from the Caspian Sea to the Persian Gulf, thus isolating the Caliphate in Baghdād from its only major potential source of power, i.e. the Samānids of Khurasān and Transoxiana. The Būwaihids were also destined to play an important role in the struggle between the different principalities to establish their control over the weak Caliphate

in Baghdād. The struggle for power was won when Mu'izz al-Dawlah took over Baghdād and annexed Iraq in 335/946. Although almost all of the temporal powers of the Caliphate were lost to the Amirs before the Būwaihids, yet the historians and students of that period agree that it was a «new» and a «dark» chapter in the history of the Caliphate⁴⁹.

The Būwaihids were Shi'ites and as such did not consider the 'Abbāsīd Caliphate legitimate⁵⁰. This constituted a marked difference between the Būwaihids and their predecessors⁵¹. The question that arises here is: why did they keep the 'Abbāsīd Caliph⁵²? why did they not «dethrone» the Sunni Caliph and put a Shi'ite in his place⁵³? The probable reasons are many, but we will only list the most important ones:

a. Politically, they did not want to take the risk of a possible revolt of the Sunnis. Baghdād was occupied peacefully and there was no reason to provoke the majority of its inhabitants⁵⁴. At the same time, the Ḥamdānīds presented them with a serious challenge⁵⁵. The Barīdis and the Qarāmiṭah had to be dealt with also⁵⁶.

b. Administratively, they were afraid of alienating the sympathies of the bureaucracy which was largely Sunni in its composition⁵⁷.

c. Economically, the revenue of the Crown estates were retained by the Būwaihids and the Caliph received a modest pension for his household needs⁵⁸. They probably would not have been able to do that to a Shi'ite Caliph.

d. Religiously, to dethrone the Sunni Caliph would have meant the establishment of a Shi'ite Caliphate. This would have presented at least two problems:

1 — In the first place, it was risky for the above mentioned reasons.

2 — In the second place, a new Shi'ite Caliph would have been by necessity a descendant of the house of 'Ali and not a Būwaihid⁵⁹. In other words, they would have created a rival to their own power which would have been at best hazardous because of the existence of other rival Shi'ite neighbouring principalities⁶⁰. The Sunni Caliphate was at their mercy and there was no reason to change the situation⁶¹. We can, therefore, safely assume that the Būwaihids were expediently inhibited and proceeded in emptying the Caliphate of what remained of its temporal powers.

The Caliphs no longer had viziers, lived on very modest pensions, and had, in practice, nothing to say about the administration of affairs

in their domain. The already corrupt administration with all of its financial and political bankruptcy was inherited by the Būwaihids, who proved themselves quickly as unskilled administrators⁶². The general situation was further aggravated by the struggle for power between the younger princes and the enmity between the Dailamite and the Turkish armed forces⁶³.

Miskawayh indicates that even the Friday sermon (*Khuṭbah*) was not free from the encroachment of the Būwaihids. They insisted on having their names mentioned with that of the Caliph in the *khuṭbahs*, thereby sharing with him even his religious prerogative⁶⁴. Ibn al-Athir gives examples on how the inclusion and exclusion of the name of an Amīr in the *Khuṭbah* meant, in practice, his appointment or dismissal from office⁶⁵. However, the zenith of the Būwaihids' utter disrespect for the 'Abbāsīd Caliphate was reached under 'Aḍud al-Dawla when the name of Ṭai' was not recognized in the *Khuṭbah* for two solid months⁶⁶. Another sign of Shi'ite insult to the Sunni Caliphate was the omission of the Caliph's title of «Amīr al-Mū'minīn» not only from the *Khuṭbahs*, but also from the coins minted in that period⁶⁷.

The coinage of the Būwaihīd period clearly illustrates the level of disgrace and loss of prestige

that the Caliphate suffered. The coins bear, on the «head» side, the names of the different Būwaihīd Amīr al-Umarā, their real and assumed titles⁶⁸, and sometimes even the names of their apparent heirs⁶⁹. On the «tail» side, the coins bear the name of the Caliph stripped of his title of Amīr al-Mū'minīn⁷⁰.

However, the Caliphate was still a very important institution and its sovereignty from a legal point of view was maintained. The public considered it the only source of legitimate authority and hence the deed of investiture for them was important⁷¹. Miskawayh describes in details the formalities involved in bestowing a deed of investiture on Amīrs who appeared before the Caliph and the dignitaries of the court in a humble way⁷². Since we do not have on record, so far as we can determine, an instance where an Amīr ruled without such a deed of investiture, we can safely assume that the public considered it of great importance⁷³. Yet we are well aware that the inside story was different, because the Caliph was under the complete control of the Būwaihīds and such investitures were imposed on him. In general, the Caliph became a rubber stamp in the hands of the Būwaihīds.

With the deed of investiture the Amīr usually obtained honors and titles, and we have ample

evidence that the Būwaihids had a special weakness for sonorous and impressive titles and usually secured them from the Caliph⁷⁴.

The signature and seal of the Caliph was also important for other official matters like correspondence with the governors of the provinces. The Būwaihids had only to send these documents to the Caliph to have him sign and seal them⁷⁵.

Miskawayh relates a number of incidents where the Caliphs, out of utter despondency, protested against their political and administrative impotence. But their protests seldom materialized in positive action and were only articulated in pathetic and subservient monologues⁷⁶.

Since the Būwaihids ruled in the name of the Caliphate, it was only in their interest to keep to it a façade of prestige to control public opinion. Political expediency on the part of the Būwaihids and the pressure of public opinion kept the name of the Caliph in the *Khuṭbah* and on the coins. However, in spite of the humiliating position of the Caliphate, certain very important functions were retained by the Caliphs.

The administration of justice was carried out by *qāḍīs* who were directly appointed by the Caliph. No Qāḍī could hold office and perform his duties

without the Caliph's appointment⁷⁷. We have on record attempts made by the Būwaihids to usurp this prerogative from the Caliphs, but their efforts were frustrated⁷⁸.

The Shi'ites had their own *qāḍīs* administering law according to their own code and under the general supervision of a *Naqīb*⁷⁹. Unsuccessful attempts were made by the Būwaihids to put the whole judicial system under the *Naqīb*⁸⁰.

The literature relating the events of the 4th/10th century clearly indicate that the *qāḍīs*, in general, enjoyed a high degree of integrity and freedom. They received little or no government salary and did not seek the office⁸¹. They resisted political pressure and had no fear of Caliphs or Būwaihīd Amīrs; they feared God and carried out their duties accordingly⁸². Perhaps their situation is well summarized in the following illustration: 'Aḍud al-Dawla asked the Caliph to put pressure on the *qāḍī* to include a name in the list of Attestors⁸³. The Caliph replied: «The inclusion of names in the list of Attestors is the *qāḍī's* business. Neither you nor I have any voice in the matter»⁸⁴. This clearly indicates the high degree of independence that the *qāḍī* enjoyed, but in practice the Amīrs could exert considerable pressure and thereby render the situation of *qāḍīs* rather diffi-

cult⁸⁵. In such a case the qāḍī had to resort either to the suspension of his office or to resignation⁸⁶.

The pride with the qāḍīs took their office is clearly illustrated by the fact that they did not rise to receive Amīrs or governors⁸⁷. A good example of their seriousness in court is related to us by Subkī: «When someone once laughed, during the hearing of a case, the qāḍī called him to order in a voice which filled the room: What art thou laughing at in the court of God where the matter against thee is proceeding? Laughest thou where the qāḍī trembles between heaven and hell?»⁸⁸

Most of the jurists, however, did not look favorably upon the office of the judge, but there was no unanimity of opinion on the matter among the different schools⁸⁹. Some held tenaciously that it should not be accepted under any condition because they feared «the denunciations of the Prophet even against a righteous judge»⁹⁰. Others said that it might be accepted «but should not be sought»⁹¹.

If the Būwaihids held the sword and were supported by their troops, the qāḍīs held Sharī'a and were supported by the masses.

The Caliphate also retained full powers over the Imāms in the mosques. Public opinion was

so strong regarding this matter that the Amīrs found it expedient not to interfere⁹². However, we have on record instances where the Shi'ites resisted the Caliph's appointments of imāms, but invariably through the pressure of public opinion and mass agitations these incidents were turned in favor of the authority of the Caliphate⁹³.

As we have already seen, the Caliphate's temporal authority was completely taken over by the Shi'ite Amīrs. It was during this period (about 950-1050) of the weakness of the Caliphate that al-Bāqillānī, al-Baghdādī, and al-Mawardī and Abū Ya'lā composed their systematic expositions of the theoretical position of the Caliphate. These expositions stand in sharp contrast with the political realities of the Caliphate to the point that at first sight the researcher is dismayed. Could these jurists have been living in «ivory towers» and theorizing? Were they completely blind to political realities of their times? A quick review of their biographies clearly indicates that these men were active and responsible members of their society⁹⁴. Without hesitation we can rule out the possibility that they were not aware of the contemporary events. On the other hand, they were realistic enough to feel that not only the Shi'ites had no respect for the Caliphate and did their best to undermine it, but also the Sunni independent

rulers were contributing to its weakness and degradation by ignoring the Caliphs in Baghdād⁹⁵. Thus their theories carried a double purpose:

1 — In the first place, they boldly attempted to defend the Caliphate against the Shi'ite Amīr's irresponsible encroachments and a reminder that it was, whether they liked it or not, the highest type of political organization since it was an expression of the Islamic ideology⁹⁶.

2 — In the second place, they were warning the Sunni independent rulers against their failure to pay the Caliphate allegiance and support, which were morally binding⁹⁷. They were warning them against abandoning their unity and thereby exposing themselves to destruction. If the Caliphate was neglected it should not be forgotten.

«Right is right, though might may gain a temporary triumph»⁹⁸.

However, their attempt to restore the dignity and authority of the Caliphate through systematic expositions of its theoretical position had a deeper meaning. Their efforts were no doubt aimed at the restoration of law and order. Since through the Caliphate law is translated from the realm of potentiality to actuality, then the resto-

ration of its authority is tantamount to the restoration of law.

The prolonged discontent with the prevailing misrule⁹⁹, endemic disorder, repeated cruelties¹⁰⁰, excess bloodshed and ravages¹⁰¹ no doubt appalled pious citizens and responsible intellectual leaders. To restore law order, the Caliphate had to be restored to its ideal position of dignity and authority, hence it was logically necessary to return to the root of its legitimacy. In consistency with the ideal they stood for and with themselves, the Sunni jurists had to go back to the Qur'ān, the source of sources, to the Prophet's traditions (Ḥadith), to his *sunna* to the precedents of his companions, to the divine guidance (*irshād*) and to the infallible consensus of opinion (*ijmā'*) of the Community¹⁰². Therefore, it is not idealism which was behind their political theory, nor utopianism, but indignation and an attempt to indicate a way to the restoration of the full legitimate powers of the Caliphate and thereby to law and order¹⁰³.

Perhaps in a partial way the question raised in the introduction has been answered. The appearance of a galaxy of exponents of the Sunni theory of the *imāmate* had its political and social reasons. The relatively long period of silence between al-Ash'arī and al-Bāqillānī could partially be attribu-

ted to the violence that convulsed Iraq early in the 4th/10th century and to the impact of the Būwaihid occupation. Reactions usually take time to be articulated in juristic expositions and perhaps they begin to appear when the pressure is relaxed. Our assumption that *al-Tamhīd* was composed late in the fourth century, if correct, historically coincides with the appearance of grave signs of weakness and dissensions among the Būwaihids¹⁰⁴. During the time of al-Māwardī it was clear to all concerned that they were their way out¹⁰⁵.

Before examining in detail the views of al-Bāqillānī on the imāmate, it would be well to examine briefly his intellectual milieu and to distinguish the main factors in the development of «theological» thought in 4th/10th century.

Chapter Three

THE INTELLECTUAL MILIEU

THE LAW AND THE DOGMA

The study of the *imāmate* is impossible without an inquiry into the traditions that have been closely knit with the history of Islamic theology¹.

On the extreme left we have the Shi'ites laying strong emphasis on the *imāmate* of 'Alī b. Abī Ṭālib and basing it on an appointment by the Prophet². This doctrine is central in the *uṣūl* of the Shi'ites and it forms an integral part of their religious teachings³. They maintain that since Muḥammad appointed 'Alī as his successor and addressed the believers with the following words: «Whoever recognizes me as his *mawlā* (trustee, helper) will know 'Alī as his *mawlā*»⁴, then logically and theologically 'Alī is the only *imām*, the only «Commander of the Faithful (*Amīr al-Mū*'

minin) and the only possible successor (*Khalīfah*) of Muḥammad. The Community should have recognized 'Alī's *Wilāyah* without question because of the explicit designation (*naṣṣ*)⁵ and because his function was to interpret the True Religion to men⁶. The *ijmā'* of the Community was a violation of the Apostle's will and as such constituted a sin, and hence the first three Caliphs were usurpers and sinners⁷. They maintained also: «Whosoever dies without knowing the true *Imām* dies the death of an unbeliever.» The *imāmate* is in the house of 'Alī because they are the family of the Prophet (*ahl al-bayt*).

On the extreme right we have the Khawārij (seceders) holding an egalitarian view of the *imāmate*. Any believer who is morally and religiously irreproachable can, through *ijmā'*, be raised to the *imāmate* «even if he were a black slave»⁸. They «seceded» from the army of 'Alī during the battle of Ṣiffīn (37/657) when he accepted arbitration between Mu'āwiya and himself⁹. They strongly protested against a «human tribunal» declaring that «judgement belongs to God alone»¹⁰. On the *imāmate*, they refuted 'Alī's claims and maintained that the Community has the right not only to elect the *imām* but also to examine his fitness after electing him. Should he deviate from the principles of Islam, the Community should take

up arms against him and depose him by force if necessary¹¹. They also opposed the Umayyad's claims and did their best to undermine the regime. The puritan anarchical egalitarianism of the Khawārij played a considerable role in dissipating the forces of the Muslims through frequent fanatical revolts¹². Moreover, as a consequence of their views and actions, the *sunni* jurists were forced to take the side of the *imām* and to depreciate the value of social resistance to tyranny¹³. As we shall see later, the impact of the Khawārij on the political theory of the *sunni* jurists was to have grave consequences.

In the middle we have the *sunni* majority maintaining that there were no instructions either in the Qur'an or from the Prophet as to his successor. Therefore, the *Khilāfah* is selective through the consensus of the Community of believers (*ijmā'*), but it is limited to a man from Quraysh. Their argument was based on the words of the Prophet: «The *imāms* are of Quraysh». Once the consensus is established, no regard is to be paid to the «disagreement of those who disagree» with it.

The *ijmā'* of the Community, however, had to be justified on moral grounds and reconciled with the moral principles of Islam¹⁴. The need for an *imām* was rationalized by the same basic reasons

that necessitate law in Community life. Man, being man, is easily led astray from the «right path» and therefore he needs not only law or limits (*Hudūd*) but also an *imām* to «compel and restrain» him to observe the law when necessary. But since law has been revealed the *imām* is subject to the law and does not embody it; he is simply to observe it and to see to it that it is observed by others.

The titles «*Khalīfah*» and «*Amīr al-Mū'minīn*» were justified by verses from the Qur'ān and also rationalized by the need for a successor of the Prophet in matters concerning the temporal affairs of the Community¹⁵. The *Khalīfah* of Muḥammad was also the vicegerent of God upon earth and responsible for the application of *sharī'a* in judging between men¹⁶. Obedience to him was incumbent on the believers in harmony with the verse: «O ye Faithful, obey God, and the Apostle and those set in Command amongst you»¹⁷.

Thus the early controversies over the *imāmate* focused attention on the legitimacy of the different claims. Legitimacy of a claim of that nature bears immediate and direct influence on the «duties» and «responsibilities» of the believer. *Taklif* (responsibilities which lie on the creatures of God to believe and act as He has revealed to them) is impossible without knowledge, on the part of the

Mukallaf, of its content¹⁸. Here we can perhaps find one of the reasons why law (*Fiqh*) developed before theology (*Kalām*).

The Qur'ān, by virtue of its character as the expression of God's will, laid down the general guiding principles of moral life. Where the Qur'ān was clear and direct its instructions were accepted «without asking How?» (*bilā kayf*)¹⁹, but where it was vague or silent the problem of interpretation and supplementation arose. Since Muḥammad in his lifetime interpreted certain parts of the Qur'ān and had supplemented it by deriving from its principles applications to the details of life, his traditions (*Ḥadīth*) and actions became of great importance. For not only did they lay down precedents but their infallibility was accepted because he was under the «inspiration» of God²⁰. As the practical needs of the Community grew, the need to collect the Prophet's traditions and the descriptions of his actions grew. Although the early Muslims were fascinated with the personality of Muḥammad, yet the collection of *Ḥadīth* was not done just for the sake of compilation but rather for legal applications²¹. It is clearly expressed by al-Bukhārī in the introduction of the 9th book of his «*Ṣaḥīḥ*» when he says the following: «How the Prophet taught his community what Allāh had taught him...»²². Thus the early religious activity

of the Muslims, after establishing a standard text of the Qur'ān²³, was the collection and transmission of details about the actions and sayings of Muḥammad, his *sunna*²⁴. In the course of time, the records of *Ḥadīth* increased more and more in number and copiousness. Each party of Muslims endeavored to support its arguments as far as possible with *Ḥadīth*. This led to forgeries in *Ḥadīth* and hence to the need for a critical investigation of it. The test was in its *isnād* (backing): a *Ḥadīth* can only be considered credible when its *isnād* offers an unbroken chain of reliable authorities. But who are the reliable authorities? Thus a branch of biographical studies developed called the «knowledge of the men» (*ma'rifat alrijāl*), to make certain which of them was «reliable» (*thiqah*) in transmission²⁵. Special works were devoted to this subject. The earliest and most famous is the *Ṭabaqāt* (Classes) of Ibn Sa'd (d. 230/844)²⁶.

Of the collections of *Ḥadīth*, six works, *muṣannaf* (arranged works) were recognized by the *Sunnīs* as authoritative²⁷. They all belong to the 3rd/9th century:

- I — al-Bukhārī (d. 256/870)
- II — Muslim (d. 261/875)
- III — Abū Dāwūd (d. 275/888)

IV — al-Timirdhī (d. 279/892)

V — al-Nasā'ī (d. 303/915)

VI — Ibn Mājā (d. 273/886)

The first two collections by al-Bukhārī and Muslim were held in special esteem and are recognized as the two most «sound» compilations (al-*Ṣaḥīḥān*). As the other four deal with *sunna* they are usually accepted as such and are classified together as the «four *sunan*» works²⁸.

To understand the words and the shades of their meaning and thereby understand the rules of the Qur'ān and *Ḥadīth* the study of Arabic philology and lexicography became of primary importance²⁹.

The problem of how to apply the Qur'ān and *Ḥadīth* to dogmatic, ritual, legal, political and social problems remained to be solved. There was great need for a new science of jurisprudence (*Uṣūl al-Fiqh*) to take care of the growing and expanding needs of the Muslims. However, we must keep in mind that the religious duties of the Muslim formed part of the legal literature, as the strict separation between the two was not clear³⁰. It was only at the end of the 3rd/9th and beginning of the 4th/10th centuries that *Fiqh* and *kalam* more or less branched out.

In legal questions where answers could not be found in the Qur'ān or in *Ḥadīth*, the jurists by and large had to deduce legal prescriptions by analogy (*qiyās*)³¹. Thus, in reality the Qur'ān and *Ḥadīth* were not the basis of legal speculation but its sources³². On this basis the jurists and theologians of the 2nd/8th and 3rd/9th centuries elaborated doctrines, rituals and the Law (*sharī'a*) which governed the life of Muslims and gave Islam its distinctive character.

In the process, however, a great many elements from foreign sources were absorbed and assimilated by Islam. This was possible through attributing them to *Ḥadīth* and thereby acquire, once accepted sanctity and immutability.

«Car non seulement le loi et la coutume, le dogme et les doctrines politique ont adopté la forme du ḥadīth, mais tout élément, soit dégagé par l'Islam en vertu de sa force propre, soit puisé à des sources étrangères, a revêtu cette même forme. Par elle, l'Islam s'assimila les matériaux étrangers et empruntés au point qu'on perdit la notion de leur origine»³³.

Therefore the narrow sources of *sharī'a* are more apparent than real.

The introduction of *ijmā'* into the sphere of law

and theology and the manner in which it was used reduced it to a source of inflexibility³⁴. *Ijmā'* of the Community was in practice the *ijmā'* of the few '*Ulamā*' (possessors of religious knowledge) and it became their instrument to fill the remaining gaps³⁵. The '*Ulamā*' became the representatives of the Community in matters pertaining to faith and law and thereby appointed themselves as the protective shield of society against the military authority of the state. The *ijmā'* of the '*Ulamā*' became rigidly binding at an early stage and they exploited it in every direction to complete what was wanting in their system.

«*Ijmā'* thus intervenes more or less decisively in every branch of Islamic doctrine, law, and statecraft; it may even set aside or supersede the strict logical conclusion regarding the authenticity, meaning and application of a given text; it may give support to a tradition which strict criticism rejects as of doubtful genuineness; and though it cannot in theory abrogate a direct text of Qur'*ān* or Tradition, it may (in the view of the jurists) indicate that the Law so prescribed has fallen into disuse»³⁶.

Thus if *Hadīth* was the process by means of which the Qur'*ān* was interpreted and put to practical use, *ijmā'* became the process by means of which

Ḥadīth was integrated³⁷. It was through *ijmā'* that the very text of the Qur'ān was authenticated; and through *ijmā'* *Ḥadīth* was guaranteed. The meaning and application of both were established through *ijmā'* in harmony with: «My community will never agree upon an error». Thus *ijmā'* was raised to the level of revelation and became infallible. Muḥammad, the last vehicle of revelation, died, but the will of God remained manifest in the will of the Community of the believers, i.e. in its *ijmā'*, because it will not agree upon an error ('*ala ḍalāla*). Where there was no *ijmā'* individual self-exertion (*ijtihād*) was used³⁸. But with the gradual filling of gaps through *ijmā'*, *ijtihād* was gradually narrowed until its «gate» was finally shut in the 3rd/9th century and never to be «opened» again.

Thus in the 2nd/8th and 3rd/9th centuries *sharī'a*, free from political interference, was finally systematized in four major schools³⁹.

The first school was founded in Baghdād by Abū Hanīfa (d. 150/767) and was known after him «the Hanīfa school»⁴⁰. The teachings of Abū Hanīfa grew out of the practices (*sunna*) maintained in Iraq and later adapted to *Ḥadīth*, and it retained *qiyās* in the form of opinions (*arā'*). Al-Qādī Abū Yusūf and al-Qādī al-Shaibānī were the two leading figures in developing the teachings of the founder of this school.

Similarly, a new school was founded in Hijāz at Madīna by Mālik ibn Anas (b. 179/795), known as the Mālikī⁴¹. Like the Iraqī school, it grew out of the *sunna* of Madīna and was strengthened by inquiries of the earlier local jurists. Mālik's teachings are found in his famous *al-Mūwāṭṭa*»⁴².

The third school was founded in Egypt by al-Shāfi'ī (d. 205/820), a disciple of Mālik. The importance of al-Shāfi'ī has been recognized by the students of Islamic Law as the formulizer of the essentials of Islamic jurisprudence (*uṣūl al-Fiqh*)⁴³.

A generation later the fourth school was established in Baghdād by Aḥmad ibn Hanbal (d/855) in reaction against the innovations (*bidā'*) current at that time and against the Mu'tazilites⁴⁴.

Despite the differences of details, there was a great deal of agreement between the four schools. All of them recognized the same sources of *sharī'a*: Qur'ān, *Ḥadīth* and *Ijmā'*, but differed on the problem of *qiyās*.

Nothing will be gained by discussing here the achievements of their juristic speculations because nothing new has been added through later periods. It is sufficient here to quote Sir Hamilton Gibb, in evaluation of the output of juristic works :

«For Muslims its proof-texts were to be found in the Koran and Prophetic Tradition; and on this assumption the jurists and theologians of the second century elaborated a structure of Law that is, from the point of view of logical perfection, one of the most brilliant essays of human reasoning⁴⁵.»

In contrast to the organized political, legal and social institutions, the religious (in the strict sense) life of the individual Muslim, the *Mukallaf*, remained highly personal for «whosoever goeth right, it is only for [the good of] his ownsoul that he goeth right, and whosoever erreth, erreth only to its hurt. No laden soul shall bear another's load»⁴⁶. Besides the five «Pillars» of Islam and piety⁴⁷, the *Mukallaf* was to accept unspeculatively what is explicitly ordained in the Qur'ān and «without asking «How?» (*bilā kawf*). But we have already pointed out that the individual *mukallaf*, being a member of the Community (*jamā'a* or *umma*), had to accept *shari'a* not only as a system of law but also as a rule of life setting for him and the Community the moral principles of the «good life». *Shari'a*, therefore, became the symbol of Islam. It is the implicit and explicit acceptance of *shari'a* and all its implications that make the *mukallaf* part of the *umma*. As such, the *mukallaf* stands before God as a slave before his master, with no rights whatsoever. His duties once performed

would become his rights, i.e. liberty, property and function. Therefore, the exercise of these duties and the recognition of the rights that insue depend upon the collective consciousness of the members of the *umma*. Thus the first problem that dogmatically arose was related to membership in the *umma*⁴⁸. The Shi'ites held that «whosoever dies without knowing the true imām die the death of an infidel». By implication the infidel is not a member of the *umma*. The Kharajites maintained that the *mukallaf* who commits a sin and does not repent ceases to be a believer and loses his membership in the *umma* on the ground of apostasy. The Sunnis confined themselves to the defense of their position against the «disagreement of those who disagree».

The problem led directly to a theological controversy over faith (*imān*) and actions (*af'āl*)⁴⁹. What is the relationship between the two? Is faith alone sufficient? Are actions or works to be separated? If so, «how»? If not, why not? The Kharajites maintained that an unrepented sin is apostasy and therefore faith alone is not sufficient⁵⁰. The Murji'a opposed the Kharajites' position on sin and maintained that faith is of an indelible character and therefore sins will do no harm⁵¹. therefore, the difference between the believer and the unbeliever is known to God alone, who has

predestined each and everyone of us to perform certain actions. On the Day of Judgment we will know His verdict. The Qur'ān, they argued, states that the actions of man are predestined. Does that mean then that God will ask man to account on the «Day of Judgement» for actions that He created in man and predestined him to perform?

A group of puritans broke away and formed a new sect known as the Qadarites (abilitarians) because they adhered to the doctrine of man's ability to freely choose his words or actions⁵². This freedom entails, as the Qur'ān proclaims, human responsibility and thereby earns punishment or recompensation of the Day of Judgment. Man's ability to chose his actions raised the question of whether man has the ability to «create» his actions (*Khalq al-Af'āl*). The Qadarites, as a result, were accused by their opponents of a dualism in their concept of creation because they gave God a partner (*sharīk*) in creating (*fi al-Khalq*).

Early in the 2nd/8th century a group from among the Qadarites separated themselves (*i'tazalu*) to take up an intermediate position (*manzila bayn al-manzilatain*) on the question of whether a Muslim who committed a sin was a believer (*mu'min*) or an unbeliever (*ghair mu'min*)⁵³. They maintained that such a Muslim is not to be des-

cribed by either term; he becomes a «reprobate» (*fāsiq*). Clearly the Mu'tazilite movement started as an ethical reaction against:

I — The Kharajite's doctrine of works (*af'āl*) as the sole criterion of faith and the excessively destructive fanaticism that accompanied their doctrine

II — The socio-ethical laxity and political conformism of the Murji'ites who maintained that faith, irrespective of works, is sufficient.

The Mu'tazilites laid strong emphasis on the Qur'ān and especially on the passages that stressed man's ability to choose his actions and on the responsibility involved⁵⁴. This again clearly indicates their strong reaction to the Murji'ites who stressed Qur'ānic passages in favor of predestination. Therefore, it is clearly visible that the Mu'tazilite movement started as a rigid puritan movement rather than a rationalist one, and its teachings were based on the Qur'ān and in full conformity with revelation. The activity and influence of the Mu'tazilites among the *Sunni* teachers and saints in Iraq remained a very sensitive point in the latter's arguments against the former.

Throughout the 2nd/8th century the movement limited itself to missionary activities against the dualists or Manichean heresies which were

widespread in Iraq⁵⁵. Probably through such missionary activities and against such heresies that the Mu'tazilites were exposed to Greek philosophy and logic. The translation movement from Greek became active in the beginning of the 3rd/9th century sponsored by the Caliph al-Ma'mūn (813-833) who was under the influence of Mu'tazilism⁵⁶.

It is not too bold to say theology (*kalām*) until that time was directed against those who maintained the eternity of the world, dualists and sceptics. All of that in an effort to maintain the Oneness of God. Also the Mu'tazilite's principle of «*al-manzila bain al-manzilatain*» seems to indicate that they aimed at bridging the gap between the Sunnis and Shi'ites⁵⁷.

Under the new impact of translations from Greek to Arabic the Mu'tazilite *kalām* drifted toward rationalism. They aimed at the following:

I — Proving by rational argument the existence and Oneness of God and His sole Creatorship. Thus the first principle in the Mu'tazilite *uṣūl* is that of monotheism (*aṣl al-tawḥīd*). They stressed the Oneness of God and denied any form of resemblance between Him and His creatures⁵⁸. His attributes were recognized but deprived of separate

existence because they are «identical with his essence»⁵⁹.

II — The Principle of Justice (*aṣl al-'adl*). God is just and has nothing to do with injustice⁶⁰. Man freely chooses his «works» and therefore is accountable.

III — The Principle of Promise and Threat (*aṣl al-wa'd wa al-wa'id*). Here principles of what is good and evil are discussed in full conformity with the Qur'ān. They divided sin (*ma'āṣī*) into grave (*kabā'ir*) and petty (*ṣaghā'ir*)⁶¹.

IV — The Principle of Persuasion to the Good and Dissuasion from the Evil (*aṣl al-amr bi al-Ma'ruf wa al-Nahy 'an al-munkar*). Muslims are charged to uphold the True Faith by instructing men in the ways of God, to persuade them to the good and to dissuade them from evil by word and deed.

V — The Principle of «a Neutral Position between two Positive ones» (*aṣl al-manzila bain al-Manzilatain*) concerning sin. They refuted the Kharijite position that a sinner is not to be considered a believer, and also refuted the Murji'a doctrine of the unimportance of actions. The neutral position they held was that a sinner becomes a reprobate (*fāsiq*). On the Imāmate they neutrally withheld (*tawaqquf*) judgement on all

the arguments as to which of the Patriarchal Caliphs had priority to that office⁶².

The Mu'tazilite position on the «creation» of the Qur'ān and on the attributes of God provoked violent reactions among the Sunnis. This reaction was further intensified by the intolerance with which the Mu'tazilites pushed their main doctrines. They used their principle of «Promise and Threat» to persecute and coerce their opponents and proved themselves fanatical in their puritanism⁶³. Their Principle of «Justice» was carried too far until it became almost a «god» over Allāh. Basically, their concept of justice lacked the essential simplicity of Islamic doctrines and certainly human feelings and charity were absent from it. As a result of these pretensions, the Sunnis rejected them and gradually attracted to their rank right-wing Mu'tazilites, who helped in turning the tables on Mu'tazilism.

The Sunni *kalām* which developed towards the end of the 3rd/9th — 4th/10th centuries used the methods of Greek dialectic to support the Qur'ān and *Hadīth*. By so doing, Mu'tazilism was defeated by its own weapon. The champions of the new movement were al-Ash'arī (d. 324/935-6) of Baghdad and al-Māturīdī (d. 333/944) of Samarqand⁶⁴. The name of al-Ash'arī, however, has

been more associated with the movement than al-Māturidī chiefly, perhaps, for geographical reasons.

The main issues on which al-Ash'arī opposed the doctrines of the Mu'tazila were, in his words:

I — «We hold that God's speech is uncreated; and that God has created nothing without having said to it «Be!», as He said: «When we will a thing, our only utterance is that we say to it «Be!», and it is.» (Qur'ān 16.40-42)⁶⁵. «We hold that the Qur'ān is the uncreated speech of God, and that he who holds the creation of the Qur'ān is an unbeliever»⁶⁶.

II — «We confess that God has a knowledge, as He said: «He has sent it down with His knowledge» (Qur'ān 4. 166-164). and: «No female conceives or bears save with His knowledge » (Qur'ān 35.11-12)⁶⁷.

«We affirm that God has hearing and sight and do not deny that, as do the Mu'tazila, the Jahmiyya and the Khawārij»⁶⁸.

«We confess that he who claims that the Names of God are other than He, is in error»⁶⁹.

III — «We profess that God will be seen by eyes in the next life as the moon is seen on the night of full moon. The believers will see Him, according

to the traditions related from the Apostle of God. And we hold that the unbelievers will be prevented from access to God when the believers see Him in the Garden, as He said:

«Out upon them! On that day will surely be prevented from access to their Lord!» (Qur'ān 83.15) And we hold that Moses asked God for the vision (of Him) in this life, and that God revealed Himself to the mountain and pulverized it, thus making it know to Moses that he would not see Him in this life»⁷⁰.

IV — «We confess that the Garden is a reality and the Fire is a reality»⁷¹.

«We confess that God is firmly seated on His Throne as He said: «The Beneficent is firmly seated on the Throne»⁷² (Qur'ān 20.4-5).

V — «We profess that we do not assign to the Garden or to the Fire any confessor of God's oneness who holds fast to faith, save him who has been assured⁷³ of the Garden by the witness of the Apostle of God. We hope for the Garden for those guilty of crimes, while fearing that they will be punished by Fire»⁷⁴.

«We hold that the Imām after God's Apostle was Abū Bakr al-Ṣiddīq, and that God glorified

Religion by him, and rendered him victorious over the Backsliders; and that the Muslims chose him for the *Imāmate*, just as the Apostle of God had chosen him to lead Prayer; and that they all called him the Caliph of the Apostle of God; and after him, 'Umar b. al-Khaṭṭāb; then 'Uthmān b. 'Affān — and we hold that those who attacked him did so unjustly and wrongfully: them 'Alī b. Abī Tālib. These, then, were the Imāms after God's Apostle, and their Caliphate was «The Caliphate of Prophecy»⁷⁵.

On the problem of predestination al-Ash'arī had the following to say:

«We hold that no one can (*yastaḥḥ'u*) do a thing before he does it, and that no one is able to evade God's knowledge, or to do a thing which God knew he would not do»⁷⁶. However, he adds to this the following:

Question: Why do you claim that the acquisitions (*aksāb*) of creatures are created by God?

Answer: We say that because God has said: «When it is God who has created you and what you make?» (Qur'ān 37.96); and: «as a reward for that they once did» (Qur'ān 46.14-13). Since the reward attaches to their works, God is the creator of their works⁷⁷.

Therefore, it is safe to assume that al-Ash'arī did not himself hold the doctrine of «acquisition» (*kasb*) which later became characteristic of his school⁷⁸.

We have already noted that Mu'tazilism proved itself mercilessly dogmatic in its daily practice. Al-Ash'arī was well aware of the implications of it and sought to remedy the situation by stressing the doctrine of «intercession» according to which Muḥammad would intercede to help a Muslim grave sinner come forth ultimately and enter paradise⁷⁹.

Through such broadmindedness, tolerance, and charity sunni scholasticism not only defeated Mu'tazilism but also made room for the activities of non-Sunni philosophers which flourished between the 3rd/9th and 6th/12th centuries⁸⁰. Thus if Mu'tazilism played an important and valuable role, as it did, in the history of Islamic thought, its defeat was equally important. The victory of Sunnism proved of immense value to the development of popular *Ṣūfī* movements destined to revitalize Islamic society⁸¹. Without this revitalization, it is doubtful whether Islam could have endured the blows of the Turko-Mongol invasions which started in the 11th century.

However, it is important to note that Ash'arism was not, in a final and definite way, recognized as

the kalām of Sunni Islam before the middle of the 11th century⁸² In general, all through the 10th century Sunnis viewed philosophy and logic with suspicion and hostility and the activities of the Hanbalites in the 4th/10th century bear witness to the resistance with which such infiltrations were met⁸³.

In turning to Shi'ism, it should be said at once that the origins of the movement were political and Arab, based on the claim of 'Alī to the Caliphate⁸⁴ Although Shi'ism was politically frustrated at an early stage, yet the intensity of its aspirations continued unabated. The tenacity with which the Shi'ites strove to restore the caliphate to the house of 'Alī gradually found expression in a doctrine. The main points in their early doctrine were:

- I — The exclusive right of the house of 'Alī to the Caliphate.
- II — The repudiation of the Caliphs, Abū Bakr, 'Umar and 'Uthmān, as usurpers⁸⁵.

Although time did not secure the gratification of the Shi'ites political aspirations, yet it did not diminish their readiness to be revived at the slightest provocation⁸⁶. However, in matters of religious practice, law and theology the Shi'ites remained, in the early stages, without a doctrine of their own⁸⁷.

In the course of time, Shi'ism became a shelter for activities that had little or nothing to do with its original aspirations⁸⁸. Disguised as Shi'ite sects, esoteric beliefs of some of the conquered people gradually accommodated themselves. By the 3rd/9th century, esoteric Shi'ism had the following characteristics:

I — They maintained that there were two interpretations of the Qur'ān:

a. An outward interpretation;

b. An occult interpretation and a body of secret knowledge known to the Apostle of God and transmitted to his son-in-law 'Ali, and by 'Ali to his descendents⁸⁹.

II — The true *Imāms*, the heirs of 'Ali, by virtue of their secret knowledge, are to interpret the Truth and define the dogma to the Muslims⁹⁰.

III — By virtue of the supernatural qualities which they possess, the *Imāms* are sinless and infallible. They are inspired by God⁹¹.

It is not, however, at all clear how the old political legitimist branch Shi'ism was related to and fused with esoteric Shi'ism. It will do us no

good here to examine in any detail the doctrines of the numerous minor Shi'ite groups that developed because by the 3rd-4th/9th-10th centuries only three major sects can be distinguished.

- 1 — On the extreme right we have the Zaidis who remained nearest akin to the old legitimists and to Sunnism, held that the *imāmate* belongs to *ahl al-Bait* but not hereditarily; a Ḥusainid and a Ḥasanid could qualify⁹². They ascribed no superhuman qualities to their *imāms*, opposed the idea of a concealed *imām* and recognized only one at a time. The Zaidis were represented by small principalities that arose in Ṭabaristan and Dailam from 250/864 and in Yemen from 284/897. The geographical separation prevented them from maintaining political unity or dogmatic harmony. However, the Zaidis of Iraq never attained independence and had to adapt themselves to their environment by practicing their doctrine of dissimulation (*taqīya*)⁹³.
- 2 — On the left we have the Ismā'īlīs, who separated themselves from the main Shi'ites over the succession to the sixth *imām*⁹⁴. After the death of Imām Muhammad b. Ismā'īl (about the year 148/765), a group of Shi'ites maintained that he was the last *imām* (the Seventh) who will appear again on the «Last Day». This group

became known as «Sevensers» (*Sab'iya*) and towards the end of the 3rd/9th century they were called, after their leader, Ḥamdān Qarmaṭ, Qarāmiṭa⁹⁵. They organized themselves in an independent state in al-Ḥasā and carried destruction and slaughter from southern Iraq to Antioch just after the Zanj (negro slaves) revolt of 869-883. The Revolution of the Qarāmiṭa was quelled temporarily in 907⁹⁶. However, the «Sevensers» were also represented by the Fāṭimid Caliphate in Egypt between 969 and 1171 almost without opposition.

- 3 — In the middle we have the Imāmī sect, known also as the «twelvers» (*Ithnā' Ashariyah*) because they recognized a chain of twelve *imāms*⁹⁷. The last was al-Muntazar who disappeared in 873 and is expected to reappear again and fill the earth with justice. In the *Imām's* absence the *Mujtahids* exercise authority in law and religion. In the 3rd-4th/9th-10th centuries, the political aspirations of the Shi'ites for a «universal empire» under the house of 'Alī, were revived. With the consolidation of the Zaidis in Dailam and Yemen, the Fātimids in North Africa and Egypt, the Qarāmiṭa in Bahrain and al-Ḥasā, the Ḥamdānids in Mosul and Aleppo and the Buwaihids in Western Persia and Iraq the Shi'ites made

long strides. But more important is the fact that to this military and political revival corresponded to an inner theological one. To the Buwaihid period (932-1055) belongs the «four» standard Shi'ite collections of traditions:

- I — Kulainī (d. 328/939): *al-Kāfī fī 'Ilm al-Dīn*⁹⁸.
 II — Ibn Babawaihī, al-Qummī (d. 381/991),
*Man lā yaḥḍuru al-Faqīh*⁹⁹.
 III — al-Tusī, Muḥammad b. Hasan (d. 460/),
*Tahdhib al-Aḥkām*¹⁰⁰ and *Istibṣār*¹⁰¹.

To the same period belongs also Mansūr ibn Haiyān (d. 363/973), nicknamed Abū Hanīfa of the Shi'a, and al-Iskāfī (d. 381/991-2). The enormous Shi'ite literature of the 4th-5th/10th-11th centuries contained almost the same traditional Shi'ite themes: refutation of the principle of *ijmā'*, the *naṣṣ* on the Imāmate of 'Alī, the sinlessness and infallibility (*'iṣma*) of the *imāms*, their concealment (*ghaiba*) and the repudiation of Abū Bakr, 'Umar and 'Uthman as usurpers. In law, the chief noticeable deviation is the permission of temporary marriage (*mut'a*)¹⁰². In religious practice, they accepted the five «Pillars» (*arkān*) of Islam with minor but exaggerated peculiarities in details, and they also practiced the doctrine of dissimulation (*taqīya*).

«C'est alors que les kottâb Shi'ites extrémistes triomphèrent. Plus entreprenants que des chrétiens, parce qu'officiellement musulmans zélés pour la famille du Prophète. Plus souples et plus cyniques, parce que du fond du cœur, ils considéraient l'Etat 'Abbasside, qu'ils servaient, comme illégitime, et donc tous les actes canoniques conclus sous le signe de son usurpation comme invalides et caducs; ce qui les autorisait, dans l'exercice de leurs fonctions officielles, à tous les détournements, à tous les faux, sans que leur conscience s'en troublât. Accepter des postes dans l'administration 'abbasside leur permettait de travailler plus efficacement au succès de la conspiration Shi'ite, et cela seul importait: application du principe Shi'ite de la dissimulation, ou taqiya: application d'autant plus stricte que leur Shi'isme extrémiste les autorisait positivement au faux témoignage (Shahâda bi'l zawr)... En réalité, la prépondérance dans un Etat Califal Sunnite de ces fonctionnaires fiscaux Shi'ites extrémistes amena assez rapidement, non seulement l'aggravation étonnante d'immoralité financière..., mais la dislocation et la ruine du régime et de l'Etat» 103.

In this formative period of Shi'ite theology the discussion of the *imâmate* became a central theme in their *uṣūl*. The enormous number of

Shi'ite works dealing with the legality of their position of the *imāmate* constituted a serious challenge to the Sunni jurists. Considerations of space make it impossible for us to enumerate them all, but we have counted no less than fifty different Shi'ite 4th/10th century expositions in al-Tusi's *Fihrist* and in the catalogue of Aghā Buzurq al-Ṭahrānī¹⁰⁴. The impact of this tremendous intellectual activity was more sharply felt by the Sunni jurist because of the grave implications of the political realities of the 4th/10th and 5th/11th century.

In concluding this chapter we will not be too bold in assuming that the views of al-Bāqillānī were a Sunni Ash'arite reaction against the fanatical and destructive revolutionary tendencies of Kharajism; against the «Manichean heresies»; against the ethical laxity of Murji'ism; against the doctrine of «the creation of the Qur'ān», the rigid puritanism, harsh dogmatism and lack of tolerance of Mu'tazilism; and last, but not least, against the Shi'ite refusal to accept the principle of *ijmā'* and the harsh denunciation of three of the most revered companions of the Apostle of God.

Against this background, *al-Tamhīd* of al-Bāqillānī can be readily understood as an *œuvre de combat* and an *œuvre de circonstance*.

The long period of silence between al-Ash'arī and al-Bāqillānī can be attributed to the following reasons:

- 1 — The split in the ranks of the Sunnis into *mutakallimūn* and *ahl al-Ḥadīth*.
- 2 — The distrust of logic and philosophy even in the Service of Sunnism.
- 3 — The Ḥanbalite fanatical activities and agitations which threatened at times the life of the *Mutakallimūn*.
- 4 — The delay in the acceptance of Ash'arism until the middle of the 5th/11th century as the official *Sunni kalām*.
- 5 — The logical incompatibility of Ash'arite theology and Ṣūfism, which were to be boldly welded by al-Ghazālī.

Chapter Four

AL-BAQILLANI'S DOCTRINE OF THE IMAMATE

Before analyzing the views expressed by al-Bāqillānī, it would be well to summarize the penetrating conclusions reached by Sir Hamilton Gibb on the main factors in the development of political thought amongst the Sunni jurists. The original basis of all juristic activity was given by the injunctions found in the Qur'ān and the Sunna¹. As a result, the early doctrine of the duties and functions of the caliph-imām was ethical, as was clearly expressed by al-Qādī Abū Yūsuf in his address to the Caliph Harūn al-Rashīd in the introduction to *Kitāb al-Kharāj*². The justification of this doctrine and its reconciliation with the principles of sharī'a was a gradual process, which «followed point by point upon the

doctrinal disputes of the first three centuries»³. The Sunni jurists, accused by their opponents, Shi'ites and Khawārij, of living in sin by giving allegiance to usurpers, were forced to defend the historical developments⁴. They firmly held that the *umma* is based upon the *Shari'a* and that its historical developments, because it «will never agree upon an error», are divinely guided⁵. Therefore, the Sunni jurists «could not admit any principle which might lead to the conclusion that the *Jamā'ah*, the community in being, had fallen into sin, with the corollary that all its religious and judicial activities were void»⁶. Since *ijmā'* was actually the consensus of the '*Ulama* and was in practice restricted to them, then it was in their interest to refuse to lay down rigid principles for situations that were without precedent. Political thought amongst the Sunni jurists is amazingly flexible and highly adaptable to the changing circumstances. To every generation the jurists could demonstrate anew the legality of its political constitution⁷. Allegiance was not to the Caliph-imām but to *Shari'a*, and the institution of the Caliphate was upheld simply because through it the *Shari'a* is translated from the sphere of potentiality to the sphere of actuality⁸. Therefore, the Caliphate-imāmate became the symbol of the supremacy of the *Shari'a*, which the jurists sought.

Almost all of these features are reflected in al-Bāqillānī's exposition. But as he is essentially an Ash'arite, his views must be interpreted as such, and therefore we shall not hesitate to compare them with the views of other Ash'arites. However, we shall limit this process to three equally authoritative Ash'arite successors of al-Bāqillānī: al-Baghdādī⁹, al-Māwardī¹⁰, and Abū Ya'la¹¹.

We shall now turn to al-Bāqillānī's views and examine his points one by one and relate them to their origin in the dogmatic controversies and to the relevant contemporary political issues.

I. *On the refutation of designation and the affirmation of selection as a method whereby the imāmate is established*¹².

The main problem that al-Bāqillānī had to face, under the impact of Shi'ite revival in the 4th/10th century, was the question of the method whereby the *imāmate* is established. He maintains that there is disagreement as to whether it is by designation (*naṣṣ*) or by election (*ikhtiyar*), but there is no disagreement that one of the two methods is sound¹³. on the assumption that the negation of one is the affirmation of the other, al-Bāqillānī proceeds to refute the Shi'ite doctrine of 'Alī's designation. His refutation is based upon the following argument:

- a — If the Prophet had actually designated 'Alī as his successor and imposed on the *umma* obedience to him, he would have announced it in the presence of his companions, who would have transmitted it to the Community. For the obligation of the *imāmate* is one of which knowledge is obligatory on every member of the Community, in exactly the same manner as knowledge of the number of prayers (*ṣalawāt*) and pilgrimage (*hajj*) and fasting (*ṣīyām*) which are publicly known and upon which there is no disagreement¹⁴.
- b — It is not logically possible for the *umma* to have recognized minor appointments made by the Prophet, like judges and commanders, and neglected the appointment of his *khalīfah*. If there was such a designation (*naṣṣ*) it would have been transmitted from predecessors (*salaf*) by their successors (*khalaf*) and thereby publicly known in such a manner that there would have been no room for disagreement¹⁵.
- c — The Traditions sponsored by the Shī'a on the designation of 'Alī, al-Bāqillānī argues, are not based on authoritative information (*khabar mutawātir*) which came down from different trustworthy companions (*aṣhāb*), but based rather on a doubtful authority (*khabar wāhid*, or,

fī manzilat al-āḥād)¹⁶. Moreover, he argues, the extent that these Traditions could have served as criteria for practice was completely negated by the polemics of their holders and the insults and accusations pinned on the Companions of the Prophet¹⁷. Unable to prove the validity of the Traditions they sponsored, the Shī'a had recourse to *taqīya* to oppose the majority which maintained selection (*ikhtiyar*) as the accepted and valid method of establishing the *imāmate*¹⁸.

- d — The Shī'ites, al-Bāqillānī argues, base their designation of 'Alī on the Prophet's address when he said, «Whoever recognises me as his *mawlā* will know 'Alī as his *mawlā*»¹⁹. But Al-Bāqillānī sees no reason why the word *mawlā* should necessarily mean *khalīfah*. He maintains that philologically, *mawlā* means: «supporter», «defender», «ally», «assistant», «neighbour», «son-in-law», «paternal cousin», «manumitter patron» and «client». Hence, he argues, the Prophet's assertion that 'Alī is the *mawlā* of the Muslims could mean the «supporter», «defender» and «ally» of every Muslim because 'Alī was explicitly and implicitly a true «believer»²⁰. For, if the Prophet really meant by *mawlā* a *khalīfah*, he would have said: «This is your *imām* after

me; obedience to him is incumbent upon you; listen to him and obey»²¹. Consequently, no grounds for disagreement would have existed. Therefore, al-Bāqillānī concludes, one cannot accept this argument as a proof for the *imāmate* of 'Alī.

- e — The Shī'a, argues al-Bāqillānī, also maintain that the Prophet has designated 'Alī when he said to him: «You are to me what Hārūn (Aaron) was to Mūsa (Moses), but there is no prophet after me»²². Again, al-Bāqillānī refutes this claim and argues that the Tradition meant that 'Alī was to be entrusted, in the absence of the Prophet, to look after the Prophet's family and to administer the affairs of al-Madīna²³. 'Alī did so during the raid of Tabūk when the Prophet was absent. Therefore, argues al-Bāqillānī, it does not necessarily follow that 'Alī was the *Khalifah* of Muḥammad; he simply deputized for him during his absence in the same way Aaron deputized for Moses when Moses was absent²⁴. As to «but there is no prophet after me», al-Bāqillānī argues that this does not mean «after the death» of the Prophet, but it means no «prophecy during or after the prophecy of Muḥammad»²⁵. Therefore, he concludes, the appointment of 'Alī was a temporary one and for specific

reasons and functions like the rest of the appointments made by the Prophet during his lifetime²⁶.

Against the Shi'ite's argument that the Prophet, after his return from Tabūk, did not dismiss 'Alī, al-Bāqillānī maintains that in the return of the Prophet to al-Madīna and in his taking over the administration of the affairs of the Muslims lies the implicit dismissal of 'Alī and the termination of his office²⁷.

- f — The Shi'a, al-Bāqillānī argues, also maintain that the Prophet has designated 'Alī when he said to him: «You are my brother (*akhī*) and successor (*khalifatī*) in the affairs of my family (*fī ahli*) and the *qāḍī* in my religion²⁸». Again, al-Bāqillānī refutes this claim and argues that there is nothing in this Tradition that leads one to assert that 'Alī was designated as the imām after the Prophet²⁹. The Prophet addressed 'Alī as his brother «out of reverence»³⁰, for him, and appointed him his successor in the affairs of his family, meaning only the affairs of Fāṭima and her children³¹; and in addressing him as the «*qāḍī*» in his religion he was referring to the previous post held by 'Alī during the Prophet's absence at Tabūk.

Al-Bāqillānī carries on the argument and cites a number of *hadīths* in favor of Abū Bakr and 'Umar and maintains that if the Shī'a refute these Traditions because they are «*fī manzilat al-āḥād*», the Shī'a would be arguing against their own case. If they accept them, they would negate the cause of their disagreement with the majority³².

II. *On the means whereby the imām is established in office.*

Since al-Bāqillānī refuted designation as the means whereby the *imām* is established in office, he argues that the only recourse left is selection or election (*ikhtiyar*)³³. He argues, on an Ash'arite line, and asserts that the method of election is accepted as valid when contracted to one person³⁴ by «*ahl al-Ḥall wa al-'Aqd*» (those who «loosen and tie»)³⁵.

III. *On the number of actual electors of the imām.*

It is validly contracted on behalf of one who is fitted for the *imāmate* by the contract of a single man qualified to be of «*ahl al-Ḥall wa al-'Aqd*»³⁶. Al-Bāqillānī argues that the number of electors is not limited in the *Sharī'a* and hence it could be validly contracted by one or more contractors or electors. He maintains that it is not logically pos-

sible that the contract of the *imāmate* is only validly made by all the fitted «electors» of the Community; it is not humanly possible to gather them in one place³⁷. Also the precedents of the *Salaf* (predecessors) indicate that there is no fixed number of electors which would be violated by additions or subtractions. Abū Bakr validly contracted the *imāmate* to 'Umar; while 'Umar referred it to six people only. Al-Bāqillānī concludes that therefore there is no fixed number of qualified electors in validating the contract of the *imāmate*³⁸.

IV. *On the Bay'a.*

Al Bāqillānī maintains that a group of Muslims must be present at the time of the making of the contract of *imāmate* for the *bay'a* (oath of allegiance)³⁹. He argues that there is disagreement on the number of people present. Some hold that their number should be at least six, which is equivalent to the number of those present at the *Shūra* of 'Umar⁴⁰. But, al-Bāqillānī maintains, this is not binding because «'Umar brought together the «best» (*āfāḍil*) men available around him, and they happened to be six in number⁴¹. Nevertheless al-Bāqillānī insists on the presence of an unlimited number of Muslims to witness the *bay'a* and to make it publicly known⁴².

It is clear that al-Bāqillānī was aware of the

theoretical and practical complications of contracting the *imāmate* in secrecy and under cover. He could well be arguing against the Kharajite practice of recognizing their leaders as *Umarā' al-Mu'minīn* and *imāms* under cover and in secrecy and later claiming validity for their contract to them.

V. *On the invalidation of the imāmate of an imām for no cause that calls for his deposition.*

Al-Bāqillānī argues that although the *umma* possesses the right to contract the *imāmate* to a fit man, yet it does not possess the right to invalidate that contract for no cause that calls for his deposition⁴³. He maintains that under *Sharī'a* breaking the contract of the *imāmate* is inadmissible and draws analogies from examples, among which are the following:

- a — A guardian of legal probity can validly contract a marriage but cannot invalidate it at whim⁴⁴.
- b — A man possesses the right to sell his goods, but once the contract of sale is validated he cannot lawfully break it⁴⁵.
- c — A man has the right to manumit a slave of his but cannot lawfully withdraw the con-

tract of manumission⁴⁶. Therefore, al-Bāqillānī concludes, the subjects cannot rise against an *imām* and remove him from office for no reasons or cause that calls for his deposition. If they do so they are rebels, and should be dealt with as such⁴⁷. It is clear that al-Bāqillānī has blended here abstract generalities deduced from the principles of Islam and concrete provisions derived from the actual experience of the Islamic state⁴⁸. For the legal arguments to support his views, he drew deductions and analogies from the rules applied to what seemed to him relevant cases, such as sale contracts (*'Uqūd bai'*) and marriage contracts (*'Uqūd nikāh*) and manumission (*'itq*)⁴⁹. However, the Kharajite revolts and the ravages caused by the Qaramiṭa left their far-reaching consequences on the Sunni jurists. Al-Bāqillānī as a defender of the *umma* has been forced to deprecate the right of rebellion against the *imām*. As we shall see later, he even deprecated the right of rebellion against an unjust and sinful *imām*⁵⁰.

VI. *On the number of the Imāms at one time*⁵¹.

Al-Bāqillānī maintains that if a contract of *imāmate* is made in favor of many persons in different countries and if all of these persons are fitted for it, then the contracts should be examined

and the prior one should be considered valid and the rest dismissed⁵². Should they refuse, they are rebels and arms should be taken up against them⁵³. But if priority cannot be established, the contract must be renewed in favor of one of them or of some other person⁵⁴. If they still refuse, then they are fought as rebels.

Here again al-Bāqillānī draws deductions and analogies from marriage contracts and says that if the guardians (*wulāt*) of a woman, each separately and validly contracted marriage for her then the prior contract is the valid one⁵⁵. But if priority cannot be established, then the contract must be renewed in favor of one of them or of some other person, and al-Bāqillānī concludes that «so is the case of the imāmate». Therefore he refutes the permissibility of two or more *imāms* at one and the same time to whom obedience is obligatory⁵⁶. Unlike al-Baghdādī, he does not endorse openly the imāmate of two imāms separated by a sea⁵⁷.

VII. *On different Imāms for different sects.*

Al-Bāqillānī asserts that the schools of Islamic Law are not «sects» but they are «ways» (*madhāhib*) in matters concerning *Shari'a*, and therefore they should be recognized as «equally orthodox» (*al-Haqq fi jam'i'ihā*)⁵⁸. The contract of the imāmate

is valid and binding regardless under which *madhhab* it is made⁵⁹. But he asserts that those who deviated from the «true religion» and committed «apostasy» have no rights to claim nor anything to say concerning the *imāmate* because they have lost their membership in the *umma*⁶⁰. Al-Bāqillānī gives the example of Mu'tazilism and Najjarism who lost their rights, according to him, on grounds of «apostacy».

Al-Bāqillānī insists that the *imāmate* belongs to the «Orthodox» (ahl al-Ḥaqq)⁶¹ alone because the rest of the sects have deviated from the «Ḥaqq» and therefore have no «Ḥaqq» on their side⁶².

It is very clear that al-Bāqillānī refuses to admit any principle that might lead to the conclusion that the Sunnis have «agreed upon an error» with the result that they are living in sin and thereby their religious and judicial activities are void.

However, al-Bāqillānī realized that in practice there were irregular situations created by force (*qahr wa ghalbah*) and maintains that such an *imāmate* is irregular and obedience to it is not obligatory⁶³. Should «ahl al-Ḥaqq» take action and establish an *imām* from amongst them, then he is the true *imām* and obedience to him is obligatory⁶⁴.

VIII — *On the qualities of the Imām*

Al-Bāqillānī asserts that the *imām* must possess the following qualities:

1 — Descent from Quraysh and must be a true Qurashite (*min al-Ṣamīm*) and not a client (*mawlā*) of Quraysh⁶⁵. The reasons for this condition, al-Bāqillānī maintains, are:

- a — The Prophet instructed his Companions that the «*imāms* are of Quraysh».
- b — The *Salaf* supported the *imāmate* of Qurashites only.

Clearly al-Bāqillānī is arguing against the Kharajite assertion that the *imāmate* might be lawfully contracted to a Muslim of any race provided he is upright and can carry out his duties fittingly. Also it is a refutation of arguments held by the Ḍirārīs who maintained that the *imāmate* of a non-Qurashite is legal⁶⁶. Al-Bāqillānī also refuses to limit the *imāmate* to a particular clan of Quraysh and thereby negates the Shi'ite claim that it is only in the House of 'Alī⁶⁷. Therefore, it is clear that al-Bāqillānī is defending the actual experience of the Islamic state.

2 — Knowledge, which entitles the *imām* to be *qādī* (al-Baghdādī says that he should be fit to be a

mujtahid)⁶⁸ and the reasons he gives for that condition are connected with the duties of the *imāmate*⁶⁹. The *imām* is to judge righteously among men and hence must know «the lawful and the unlawful»; also he must appoint judges and therefore «must know as much as they do if not more»⁷⁰.

- 3 — He must possess good judgement in matters of warfare and management of armies because he is to protect the *umma* from its enemies⁷¹.
- 4 — He must possess good judgement in matters of administration because he is to manage the affairs of the *umma*⁷².
- 5 — He must possess courage in war and resoluteness in the administration of the affairs of his subjects⁷³.

Although al-Bāqillānī maintains that in selecting an *imām* the *umma* should always look for the best possible candidate (*al-āfdal*)⁷⁴, yet it is lawfully contracted to the «best available» (*al-mafḍūl*) candidate if there is disagreement on «the best» candidate and danger of civil strife and chaos. Clearly, al-Bāqillānī is arguing for the unity of the Muslims for the maintenance of peace and order.

The *imām* does not, according to al-Bāqillānī, have to be sinless (*ma'sūm*) because his office does not require such a condition⁷⁵. The *imām* is established in office to enforce the *Sharī'a* (*Iqāmat al-Ḥudūd*) which precedes him in terms of time and to which he is subject. Also, since *Sharī'a* is known to the *umma* there is no need for a sinless *imām* because he does not embody the *Sharī'a* nor does he possess an occult meaning to it⁷⁶.

The *imām* only acts on behalf of the *umma* and is its gerent (*wakīl*). Consequently, the *umma* supports him as long as his behavior remains in accordance with *Sharī'a*⁷⁷. Should he deviate, the *umma* will turn him from his error (*Tasduh*) by reminding him (*Idhkārih*) of the right behavior⁷⁸. But when he commits acts that call for his deposition, he is deposed and allegiance is given to another. Therefore, al-Bāqillānī concludes, the *imām* does not need to be sinless nor do his officers, judges, tax collectors, consultants, assistants and guards have to be sinless⁷⁹. He also argues that the Patriarchal Caliphs did not claim sinlessness, and Abū Bakr is reported to have said: «Obey me as long as I obey God, but if I disobey God then I have no claim on your obedience to me»⁸⁰. 'Umar also is reported to have said: «God bless the man who draws our attention to our mistakes»⁸¹. Therefore, al-Bāqillānī asserts that *salaf* have

admitted the possibility of mistakes and did not claim to be immune to sin.

Clearly, al-Bāqillānī has refuted the Shī'a doctrine of the sinlessness of the *imām* as a condition to the *imāmate*. Al-Baghdādī maintains that «sinlessness is of the conditions of prophethood and the transmission of Revelation, but not one of the conditions of the *imāmate*»⁸². Therefore, the Ash'arite position is clear on this point and the Shī'ite doctrine which holds the *imām* to be «free from all sins, whether great or small, from the beginning of his life until the end, and whether intentional or accidental»⁸³, has been systematically refuted by al-Bāqillānī and al-Baghdādī. We must point out that on this issue al-Baghdādī's argument is clearer and more complete.

Al-Bāqillānī also is silent concerning the *'adālah* which invalidate the contract of the *imāmate* if it is made by an «evildoer»⁸⁴. However, al-Bāqillānī's silence on this issue is easily understood when one takes into consideration the conditions of the Caliphate under the Buwaihid regime. The Caliphate was «made» by the Emirs who in all probability were not, in al-Bāqillānī's view, the great champions of *'adālah*. Hence he was silent⁸⁵.

IX — *On the necessity of the imāmate* 86.

Al-Bāqillānī begins the discussion of the necessity of the imāmate by refuting the Shi'ite claim that the *imām*, the true *imām*, possesses a body of secret knowledge and thereby he is indispensable to the *umma*. Such an occult knowledge, asserts al-Bāqillānī, is not possible for *Sharī'a* is known to all men and no one has a monopoly of it 87.

It is very obvious again that al-Bāqillānī could not admit such a principle because it leads to the conclusion that the *umma* in selecting Abū Bakr, 'Umar and 'Uthmān had fallen into sin and has been leading a pagan (*Jāhiliyah*) life.

However, al-Bāqillānī does not mention the explicit statement of al-Ash'arī, which was recapitulated by al-Baghdādī⁸⁸ and al-Māwardī⁸⁹, that the *imāmate* is obligatory by revelation, not by reason⁹⁰. We were not able to understand why he committed such a serious and grave omission. But at the same time it is perhaps related to the suspicion and mistrust with which «ahl al-Ḥadīth» reacted to any discussion of «revelation» and «reason». Al-Bāqillānī was perhaps evading the issue because he did not want to be misquoted and thereby be subject to the anger of the Ḥanbalite-led mobs⁹¹.

The reasons that necessitate the imāmate according to al-Bāqillānī are the following:

- a — To defend the *umma* against its enemies⁹².
- b — To restrain the oppressor and to redress the grievance of the oppressed⁹³.
- c — To enforce and maintain law or the limits (*al-ḥudūd*)⁹⁴.
- d — To divide the revenues of Conquest (*Fai'*) amongst Muslims⁹⁵.
- e — To secure pilgrimage and to dispatch troops against the enemies of Muslims⁹⁶.

Therefore al-Bāqillānī has admitted the necessity of an *imām* on the same fundamental reasoning as the necessity of law. His arguments if pushed to their logical conclusions would lead to the Ash'arite principle that the *imāmate* is obligatory by revelation, not by reason.

X — *On the reasons that call for the deposition of an imām.*

Al-Bāqillānī enters on a long legalistic discussion of the conditions and circumstances that lead to the forfeiture of the *imāmate*. These can be summarized as follows:

- 1 — Loss of probity by reason of heresy⁹⁷.
- 2 — Loss of probity by reason of evil conduct, like abandoning prayer and not urging for it⁹⁸.
- 3 — Loss of probity by reason of injustice and *Fisq*⁹⁹.

He admits, however, that a group of *ahl-al-Ithbāt* and *Aṣḥāb al-Ḥadīth* deny that the above-mentioned reasons are enough to lead to forfeiture of the *imāmate* and claim that they can be redressed by persuading him to the good and dissuading him from evil and by disobeying him when he asks them to commit sins (*ma'āṣī*)¹⁰⁰. Al-Bāqillānī implicitly supports this view not only for the sake of logical consistency, but also he has fears that stem from the possibility that the Buwaihids might establish a Shi'ite Caliph in Baghdād — as they actually contemplated this possibility at the time when al-Bāqillānī wrote his *Tamhīd*.

- 4 — Physical and mental infirmities that affect his capacity to carry out the responsibilities and duties of his office, These are.
 - a — Madness and loss of mental faculties.
 - b — Deafness and muteness.
 - c — Old age, especially when the *imām* is no longer able to perform the duties for which he was established in office.

All of these infirmities call for the termination of the office of an *imām* and the election of another¹⁰¹.

- 5 — Loss of liberty through captivity or being taken prisoner by enemies¹⁰². This is clearly theoretical possibility that al-Bāqillānī is raising, but in practice he might be alluding to the possibility that the Caliph might fall captive to «rebel Muslims» and not «infidels», such as the Fāṭimīds. To defend the 'Abbasid Caliphate, al-Bāqillānī insists that the *imām* in captivity automatically forfeits the *imāmate*¹⁰³. A new *imām* is elected and thereby, although al-Bāqillānī does not say it, the continuity of the 'Abbasid Caliphate is insured even if the Fāṭimīds occupy Baghdād. However, al-Māwardī gives a more detailed account of this issue and is clearer than al-Bāqillānī because he dwells on the problem of curtailments of liberty¹⁰⁴. He frankly discussed the problems which arise when the Caliph is placed under restraint (*Ḥajr*) by his auxiliaries (*a'wān*). Al-Bāqillānī is completely silent on this issue, and al-Māwardī does not carry the discussion to its logical conclusions for fear perhaps that it might lead to the negation and rejection of the *imāmate* of the 'Abbasids during the 4th/10th century and the first half of the 5th/11th century.

Before ending the discussion of the conditions and circumstances leading to forfeiture of the *imāmate*, al-Bāqillānī dwells on the problem of forcing the *imām* to abdicate his office in favor of a «better» (*afḍal*) *imām*¹⁰⁵. He insists that finding a better *imām* is not a legitimate reason leading to the forfeiture of the *imāmate*¹⁰⁶. If there is no compelling cause that calls for his deposition, the *imām* remains in office.

Although al-Bāqillānī deprecated the right of rebellion against an unjust *imām*, yet he did not deny the right of Muslims to refuse obedience to an impious *imām*. We have seen earlier that al-Bāqillānī did not explicitly agree with «*Aṣḥāb al-Ḥadīth*» on their position concerning the first three conditions that lead to the forfeiture of the *imāmate*¹⁰⁷.

More important is the fact that al-Bāqillānī, consistent with his Sunni tradition, did not lay down any rules of procedure by means of which an *imām* may be deposed. He maintained that the *imām* who gives cause for his deposition is deposed, but neither al-Bāqillānī nor al-Baghdādī nor al-Māwardī nor Abū Ya'la provided us with a clue as to how this is achieved in practice. By force? Perhaps, for it was the usual procedure, and there is no doubt that the Sunni jurists were well aware of it. Therefore, we shall assume that they

remained silent on this issue simply because they were not fully convinced of the legality of the use of force even though it might have been accompanied by *Fatwā* justifying it on moral and religious grounds. As Sir Hamilton Gibb puts it: «While a Khalāfāh may legally be deposed, there is no legal means of deposing him¹⁰⁸.»

In conclusion to this chapter, we can safely say that al-Bāqillānī has systematically refuted:

- 1 — The Shi'ite doctrine of designation of 'Alī as *Amīr al-Mu'minīn*, *imām*, and *Khalīfāh*.
- 2 — The Shi'ite doctrine that the *imāmate* is in the house of 'Alī.
- 3 — The Shi'ite doctrine of an occult interpretation of the Qur'ān and the existence of a body of secret knowledge.
- 4 — The Shi'ite doctrine that the *imām* has interpretative functions and can define dogma.
- 5 — The Shi'ite doctrine that the *imām* is himself the only authoritative source of doctrine.
- 6 — The Shi'ite doctrine that the *imām* is sinless and infallible.

Therefore, al-Bāqillānī was a consistent Sunni jurist in his approach to political theory for his

whole endeavor was to justify the *ijmā'* of the *umma*. The only time he theorized was with regard to the possibility of an *imāmate* by force where the Sunnis would be living «*fi dār qahr wa ghulbah*»¹⁰⁹. He made quick references to this possibility in his discussion of the problems of «different *imāms* for different sects» and to the «*imām* in captivity»¹¹⁰ and he emphatically rejected the legality of such an *imāmate*. He advocated the election of a Sunni *imām* to whom obedience is obligatory. In all probability, he was warning the Shi'ites in general and the Fāṭmīds in particular that such an *imāmate* is illegal and will not go unnoticed. At the same time he must have been urging the Sunnis to prepare themselves to resist any attempt made to end the 'Abbasid Caliphate.

In al-Bāqillānī's lengthy discussion of the *imāmate*, we have found no other traces of a theory. By and large his approach was «Without history, no theory».

To justify the precedents which have been ratified by *ijmā'*, al-Bāqillānī enters on a long discussion of the *imāmate* of the Patriarchal Caliphs, the *Salaf*. To this we must now turn.

Chapter Five

THE SALAF

Next to the Qur'ān and the *sunna* the jurists turn to the pious ancestors (*al-Salaf al-Ṣāliḥ*) for guidance¹. But of the *Salaf* the Companions of Muḥammad (*al-Ṣaḥābah*) occupy a special position of eminence and merit (*faḍl*) because they were the first to believe in the message of Islam². By virtue of their closeness to the Prophet they were the best authority (*rijāl*) for the knowledge of his *sunna*³. They personally witnessed his actions and heard his words, and as such they became the most reliable and accurate source in the transmission of the texts. In *isnād* they were the reliable (*thiqat*) source, and were the very foundation of *al-tawātur* of any *ḥadīth*⁴. In the «science of classes» (*'ilm al-ṭabaqāt*) they occupied the first rank both chronologically and on the basis of merit⁵.

By virtue of the position of eminence occupied by the *Ṣaḥābah* their individual actions and words carried a weight that no *mujtahid* ever attained⁶. Although al-Bāqillānī, as we have already seen, maintains that the *Ṣaḥābah* were not immune to sin nor were they infallible, yet in practice their actions and words were not subject to rejection or modification⁷.

However, amongst the *Ṣaḥābah* «the ten to whom Paradise was promised» (*al-ʿAshara al-Mubashshara*), were the most prominent followers of Muḥammad and the closest to his person⁸. Furthermore, the elite of the ten were the first four Caliphs—Abū Bakr, ʿUmar, ʿUthman and ʿAlī — for they were the *Rashidīn* who succeeded the Prophet through the infallible *ijmāʿ* of the *umma*. The Sunnis consider the rank of merit (*tafḍīl*) amongst the *Rashidīn* Caliphs the same as their chronological order of succession⁹. But as we have already pointed out, the Shiʿites sharply differed on this issue and limited merit (*faḍl*) and the *imāmate* to ʿAlī and his house to the exclusion of the rest. The Shiʿites rejected the *ijmāʿ* of the *umma* as a means whereby the *imām* is established in office, and held that «the *imāmate* is on the authority of God and the Apostle and is not to be determined by the agreement or choice of men»¹⁰. The Shiʿites efforts to prove their point, in theory

and in practice, involved the repudiation, the insult, and the denunciation of three of the most revered Companions — Abū Bakr, ʿUmar and ʿUthmān. This has always remained the main offense of Shiʿism in the eyes of Sunni Muslims. The Muʿtazilite attempt to reconcile the Sunnis and Shiʿites on this issue failed, as we have already pointed out¹¹.

Rejecting the Shiʿite claims for the ʿAlīds, and rejecting the egalitarian anarchism of the Kha-wārij, and rejecting Muʿtazilite «neutrality» and in full conformity with his Sunni juristic tradition of justifying the *ijmāʿ* of the *umma*, al-Bāqillānī proceeds to analyze and to justify the legitimacy of the *imāmate* of Abū Bakr, ʿUmar, ʿUthmān and ʿAlī.

Abu Bakr

According to al-Bāqillānī, Abū Bakr was the most fitted man of his generation for the *imāmate* and was also the greatest of the «two *Shaykhs*»¹². The justification of Abū Bakr's *imāmate* is based on three main arguments:

First: *The means whereby he was established in office*

Al-Bāqillānī argues that Abū Bakr was freely

selected (*ikhtiyar*) at *Saqīya* by the best men (*afādil*) of « those who loosen and tie » (*ahl al-Hall wa al-'Aqd*) like 'Umar b. al-Khaṭṭab and 'Ubayda b. al-Jarrāh, who themselves were fitted for the *imāmate* 13. The contract was made in the presence of Baṣhīr b. Sa'd, 'Usaydb. Khudayr, 'Umran b. Ḥusayn and other *anṣār* and some *muhajirīn* 14. The contract was thus made by competent men and the *bay'a* was rendered to him by all the *Ṣaḥābah* 15. 'Alī, al-'abbās and Zubayr were absent, but upon their return they did not hesitate to pay Abū Bakr allegiance 16. Therefore, the time lag should not be interpreted as a hesitation on their part; it was simply excusable absence 17. Al-Bāqillānī argues also that although the *Anṣār* claimed a separate *amīr* and thereby wanted two *imāms* at one and the same time, yet they quickly realized their mistake and took the oath of allegiance to Abū Bakr 18. Therefore, there was a unanimity of votes on the establishment of Abū Bakr in the office of the *imāmate* 19.

It is very obvious that al-Bāqillānī has refuted the Shi'ite accusation that the election of Abū-Bakr was a *coup de force* arranged by 'Umar in the absence of 'Alī and al-'Abbās while they were preparing for the funeral of the Prophet 20. He insists that the men who made the contract were qualified, the different groups were represented,

the procedure was legal, and the oath of allegiance was unanimous. Therefore, he concludes, there is absolutely no reason to doubt the validity of Abū-Bakr's *imāmate* 21.

Second: *The personal qualifications of Abū Bakr*

Abū Bakr was the man best fitted for the *imāmate*, argues al Bāqillānī, because of his unique personal qualifications. These were:

a — He was the first to believe in Muhammad's message (*Taṣḍīq al-Rasūl*) and was surnamed «*al-Ṣiddīq*» on account of his *taṣḍīq* 22.

b — He was the first to «strive in the way of God» (*Jāhad fī Sabīl Allah*) with the Prophet. He did so with all his personal power and wealth 23.

c — He supported Islam and provided for the needs of the prophet by his material generosity 24.

d — The Prophet chose him, because of his qualities, to accompany him on his migration to al-Madīna 25.

e — He was the most ardent Muslim and persuaded a great number of people to convert to Islam. He was responsible for the conversion of 'Uthmān, Ṭalḥa, Zubayr and others of the *Ṣaḥābah* 26.

f — He bought and manumitted slaves who professed Islam, like Bilāl, the first *mu'adhdhin*²⁷.

g — He fought the infidels and participated with the Prophet in all the battles. He was with Muḥammad al-Badr²⁸.

h — The Prophet kept Abū Bakr on his right side (*yamīn*) because of the respect he had for him and for consultation and advice²⁹.

i — In the year 9/630 the Prophet appointed Abū Bakr to the very important office of conducting the pilgrimage³⁰.

j — At the death of the Prophet, the toughest of men lost heart or refused to believe it, but Abū Bakr was steady and level-headed. He was the man to announce the event to the Muslims and to remind them that «God is living and dieth not»³¹.

Therefore, al-Bāqillānī concludes, Abū Bakr possessed great qualities that fitted him for the *imāmate*.

Third: *The manner in which he exercised his powers.*

Al-Bāqillānī argues that the manner in which

Abū Bakr exercised his powers as an *imām* illustrates further his superiority.

Abū Bakr fought those who fell away after the death of the Prophet (*ahl al-Ridda*) and restored their allegiance to Islam³². He also lost no time in dispatching an army under Usāma toward Syria despite the *Ridda* rebellion³³. After the removal of the danger from Musaylima, he sent Khālīd towards Iraq³⁴. Although al-Bāqillānī does not say it openly, yet he seems to be arguing that Abū Bakr set the direction of the great conquests.

His life, argues al-Bāqillānī, was simple and austere. His rejection of pomp and pretensions was an inspiration to 'Umar and the rest of the Muslims³⁵. He ordered the collection of the Qur'ān (*jam' al-Qur'ān*) which indicated, according to al-Bāqillānī, his foresight and zeal³⁶.

Then al-Bāqillānī examines in great detail certain utterances attributed to Abū Bakr in which he belittled himself and which were later held against him by the Shi'ites³⁷. Al-Bāqillānī emerges from these discussions with the conclusion that Abū Bakr's words were motivated by lack of arrogance, by piety and by fear of God and concludes that they should not be taken against

him for they are a further proof of Abū Bakr's greatness³⁸.

Although al-Bāqillānī was aware of the arguments of those who maintained that Abū Bakr was designated by a text (*naṣṣ*), and although he made quick references to these arguments³⁹, yet he refrains from explicitly using arguments for reasons that are very obvious. He is a tenacious defender of the *ijmā'* of the *umma*.

'Umar

Al-Bāqillānī turns quickly to the *imāmate* of 'Umar and asserts that he was the second greatest *imām* in Islam⁴⁰. He bases his argument again on three main points. These are:

First: *The means whereby 'Umar was established in office*

Al-Bāqillānī argues that Abū Bakr bequeathed the *imāmate* to 'Umar by testament and by actually drawing the initial steps leading to it⁴¹. The *'ahd* took place in the presence of a group of Companions (*Ṣaḥābah*) and other Muslims who all accepted Abū Bakr's decision⁴². They considered his *'ahd* well motivated, logical and judicious. Ṭalḥa resisted the nomination of 'Umar explicitly but later he accepted it and was con-

vinced of Abū Bakr's wisdom in bequeathing it to 'Umar⁴³. However, al-Bāqillānī bases Abū Bakr's wise decision, as we have seen, on three main arguments:

1 — *Good motives*: al-Bāqillānī argues that Abū Bakr was always preoccupied with the interests of the *umma* and its well-being and he never lost sight of its prosperity⁴⁴. When he felt that «his days were numbered», he took precautions to insure the continuity of that trend. Therefore, concludes al-Bāqillānī, there is no reason to doubt Abū Bakr's motives⁴⁵.

Clearly al-Bāqillānī is arguing against the Shī'ite accusations that it was handed over from one usurper to another with ulterior motives⁴⁶.

2 — *Logical choice*. Al-Bāqillānī maintains that no other man was logically more fitted for the *imāmate* after Abū Bakr than 'Umar (*Ahl Lahā*)⁴⁷. For 'Umar was one of the *Ṣaḥābah* and of the *wulāt* of the Prophet⁴⁸.

3 — *The legality of Abū Bakr's action*. Al-Bāqillānī argues that Abū Bakr had the right to bequeath the *imāmate* by testament because it is lawful for an *imām* to do so but it is not obligatory⁴⁹. Furthermore, if the *imāmate* is validly

contracted on behalf of one who is fitted for it by the contract of a single pious man who is qualified to be a judge, then the *imāmate* of 'Umar is valid, for who is more qualified than Abū Bakr to be an elector (*'āqid*)?⁵⁰. And who is more fitted, after Abū Bakr, for the *imāmate* than 'Umar? ⁵¹.

Second: *The personal qualifications of 'Umar*

Al-Bāqillānī argues that 'Umar was the man fitted for the *imāmate* after Abū Bakr because of his personal qualifications. These were:

- a — 'Umar was of the *Ṣaḥābah* and of «the ten to whom Paradise was promised» ⁵².
- b — The Prophet himself was impressed by 'Umar's personal abilities and leadership and appointed him over the *Ṣadaqāt* of Quraysh ⁵³.
- c — He was with the Prophet at Badr and Uhud and took part in *Jihād* ⁵⁴.
- d — He was of high moral character and possessed great personal initiative and strength of will ⁵⁵.
- e — He was the closest to Abū Bakr and therefore had knowledge of the affairs of the *umma* ⁵⁶.

Third: *The manner in which 'Umar exercised his powers*

Al-Bāqillānī argues that the manner in which 'Umar conducted the affairs of the *umma* illustrates further his fitness for the *imāmate*. Not only did 'Umar rise to the expectations of Abū Bakr but he also exceeded them⁵⁷. He consolidated the ranks of Muslims and led them to glory⁵⁸. He organized the conquests with enthusiasm, resolution and steadfastness, and victory was the reward of Islam⁵⁹. He built the *Amṣār*, organized the armies of Islam and appointed great men to lead them⁶⁰. Al-Bāqillānī does not speak of 'Umar as a great military leader, which in reality he was not, but glorifies his political genius in controlling the different groups and in channeling their energies⁶¹. This perhaps is the indication of his talent and the extent of his authority over his men.

From al-Bāqillānī's account of 'Umar's achievements one could gather that he was aware of a transformation in the political institutions of the *umma*, but he does not specifically mention any institution. However, most of al-Bāqillānī's account indicates that 'Umar was feared and obeyed because of his high moral character⁶². Furthermore, he inspired strength and vigor and zeal⁶³.

He led a puritan life of poverty and austerity and refused, according to al-Bāqillānī, to be spoiled by the glory and «gold» that the conquests laid at his feat⁶⁴. The temptation was not great enough for 'Umar, Al-Bāqillānī quotes a *ḥadīth* indicating the Prophet's high opinion of 'Umar, in which he said: «If God wished that there should have been another prophet after me 'Umar would have been he »⁶⁵.

Although al-Bāqillānī was no doubt aware of all the mass of apocryphal details that filled 'Umar's biography, yet he was careful and moderate in his selection of details to support his arguments. He was interested more in the principles behind the legitimacy and validity of the imāmate of 'Umar rather than the discussion of pure details of achievements and glories.

However, al-Bāqillānī completely ignored the circumstances of 'Umar's assassination in a manner which indicates that he did not consider it very relevant to what he was discussing⁶⁶. It is not very difficult to agree with al-Bāqillānī that the legitimacy of 'Umar's *imāmate* and the arguments for it, which are the issues under discussion, would not be strengthened nor weakened by either the traditional interpretation of the assassin's motive nor any other speculation.

‘Uthmān

Al-Bāqillānī starts his discussion of the *imāmate* of ‘Uthmān by asserting that he was the third *imām*, after Abū Bakr and ‘Umar, and goes on to base the justification of his *imāmate* on three main arguments⁶⁷. These are:

First: *The means whereby ‘Uthmān was established in office*

Al-Bāqillānī argued that ‘Uthmān was established in office by a contract made for him by ‘Abd al-Raḥmān b. ‘Awf in the presence of the «people of consultation» (*ahl al-Shūrā*) except Ṭalḥa⁶⁸. But Ṭalḥa took the oath of allegiance soon after. Therefore, concluded al-Bāqillānī, ‘Uthmān was selected by a unanimous vote of *ahl al-Shūrā* who were appointed by ‘Umar to choose his successor⁶⁹. Al-Bāqillānī justified the action of ‘Umar in appointing a six-man council of consultation (*shūrā*) by the following argument:

- a — ‘Umar did not want to follow Abū Bakr’s precedent of bequeathing the *imāmate* to anyone by testament. Al-Bāqillānī argues that although such an *‘ahd* is legitimate it is not obligatory⁷⁰.

- b — 'Umar appointed six men to the council because they were the best (*afāḍil*) in the *umma* and hence were the best «electors». However, the number (six) is not important because it is accidental and therefore it is not a binding precedent 71.
- c — To avoid chaos and to insure the interests of the *umma* 'Umar felt that a *Shūrā* council was necessary to elect his successor 72.

Nevertheless, al-Bāqillānī insists that the justification of 'Umar's *Shūrā* has nothing to do with the validity of the *imāmate* of 'Uthmān 73. He argues that in the final analysis the *imāmate* was validly contracted on behalf of 'Uthmān (who was fitted for it) by the contract of 'Abd al-Raḥmān b. 'Awf (who is a qualified elector) and therefore it was incumbent upon the remainder to render him obedience 74.

Al-Bāqillānī argues that the Shi'ite opposition to 'Uthmān was not justified an Ṭalḥa paid allegiance «by his hand and by his heart» 75. Therefore, the accusations of the Shi'ites that 'Uthmān deviated from the Qur'ān and the *Sunna* are void 76.

Second: *The personal qualifications of 'Uthmān*

ʿUthmān was the man most fitted for the *imāmate* after Abū Bakr and ʿUmar because of his personal qualifications ⁷⁷.

- a — He was among the very early believers in the mission of Muḥammad ⁷⁸.
- b — He was of the *Ṣaḥābah* and of the «ten to whom Paradise was promised».
- c — He migrated to al-Madina and «strve in the way of God» (*Jāhad*) with the Prophet ⁷⁹.
- d — He contributed materially to the cause of Islam ⁸⁰.
- e — He was very close to the person of the Prophet and to his heart because he was a Companion and a son-in-law ⁸¹.
- f — He was one of those who had extensive knowledge of the Qurʾān ⁸².
- g — He knew the ordinances of Islamic law ⁸³.

Therefore, al-Bāqillānī concludes, ʿUthmān was fitted for the *imāmate*.

Third: *The manner in which ʿUthmān exercised his powers*

Al-Bāqillānī argues that the manner in which 'Uthmān conducted the affairs of the *umma* illustrates his fitness for the *imāmate*. He compiled the text of the Qur'ān and preserved it for the Muslims. He organized and supplied the army of 'Usrah, bought the well of Rūmah and enlarged the Mosque of the Prophet⁸⁴.

Al-Bāqillānī then turns to the accusations pinned on 'Uthmān by the Shi'ites and negates their arguments one by one⁸⁵. He asserts that: a — 'Uthmān did not punish any person who did not deserve punishment. 'Ammār and 'Abd Allah b. Mas'ūd both fully deserved punishment⁸⁶.

- b — 'Uthmān did not suspend the salary ('*aṭā'*) of any person for no reason. Ibn Mas'ūd deserved the temporary suspension of *al-'aṭā'*⁸⁷.
- c — 'Uthmān was not the first to collect the Qur'ān⁸⁸. The process started with Abū Bakr and 'Umar and then 'Uthmān took the decisive step in putting an end to confusion and enmities that arose from the different *qurrā'*⁸⁹. The accusation that 'Uthmān burned the *Suḥuf* is not true according to al-Bāqillānī. He only burned what was falsely inserted in the Qur'ān⁹⁰. This was done in the presence of

those who knew the Qur'ān and agreed with 'Uthmān on burning «what was burned» 91.

- d — 'Uthmān was exercising his rights as an *imām* when he exiled Abū Dharr to *al-Rabadhah* because he fully deserved the punishment 92.
- e — 'Uthmān did not give refuge to al-Hakam, the enemy of the Prophet 93.
- f — 'Uthmān was not guilty of favoring his kinsmen Mu'awiya, 'Abd al-Raḥmān b. 'Uthmān and Marwān b. al-Hakam by appointing them to high posts. His kinsmen were men that deserved the posts not because they were ascetic persons but because they were men of integrity, ability and vigor. Therefore, favoritism does not apply in this case 94. Furthermore, Mu'awiya was a commander during the entire duration of 'Umar's *imāmate* 95.
- g — 'Uthmān did not retreat at Hunayn because he was defeated but because the circumstances dictated a withdrawal 96.
- h — 'Uthmān was not at Badr because the Prophet ordered him to stay at al-Madina for

compelling reasons. The Prophet gave him the share of a fighter from the spoils of Badr as an indication of his approval and no one can doubt the Prophet's motives⁹⁷.

Al-Bāqillānī concludes his defense of 'Uthmān by asserting that his *imāmate* was validly contracted to him by *ahl al-Shūrā* and that there was nothing in the manner with which he conducted the affairs of the Muslims that called for his killing⁹⁸. Therefore, 'Uthmān was unjustly disobeyed and was murdered by a band of rebels (*ahl fitnah*) who had no say in matters concerning the *imāmate*⁹⁹. Even if 'Uthmān committed what would call for his deposition, it still would not have been the right of a band of rebels to take it upon itself. It is within the competence of *ahl al-Ḥall wa al-'Aqd* ¹⁰⁰.

'Alī

According to al-Bāqillānī, 'Alī is the fourth and last of the great *imāms*, and the best fitted man for the *imāmate* after Abū Bakr, 'Umar and 'Uthmān¹⁰¹. The justification of 'Alī's *imāmate* is based on the following arguments ¹⁰².

First: *The means whereby 'Alī was established in office*

When 'Uthmān was killed, maintained al-Bāqillānī, and the rebels (*ahl al-Fitnah*) led by al-Ghāfiqī controlled al-Madina, the *Ṣahābah* urged 'Alī to succeed to the *imāmate* 103. 'Alī was the person for whom the rebels had most respect, and therefore he was the best man to control the situation 104. But, says al-Bāqillānī, 'Alī refused at first; then he reluctantly accepted the *imāmate* to avoid disaster at the hands of the rebel group 105. Clearly, al-Bāqillānī tried to defend 'Alī against any suspicion of complicity in the murder of 'Uthmān. 'Alī's acceptance was, according to al-Bāqillānī, a «*maṣlahah*» measure to protect «what remained of the *umma* for many had fled away», and to preserve the «abode of migration» (*dār al-Hijrah*) 106.

A group of Muhajirīn and Anṣār validly contracted the *imāmate* for 'Alī and took the oath of allegiance 107. Among those present were Khuzaymah b. Thābit, Abū al-Haythām b. al-Tayahān, Muḥammad b. Maslamah and 'Ammar Ṭalḥa and Zubayr reluctantly recognized 'Alī's *imāmate*, and al-Bāqillānī suggests that they were afraid of the violence that the «partisans» were ready to employ against those who refused to take the oath of allegiance 108. Nevertheless, the electors were competent men, the procedure legal, and hence the *imāmate* of 'Alī was a true *imāmate* and obedience to him was incumbent upon all 109.

Al-Bāqillānī argues at some length that the rebellion of 'A'isha, Ṭalḥa and al-Zubayr was an act of mutiny and does not invalidate the legitimacy of 'Alī's *imāmate* 110. The insurgents' proclamation that the *ḥudūd* must be re-established for all alike, and that a reform must be put into effect, constituted, according to al-Bāqillānī, an act of injustice 111. No one could or should impose on the *imām* an *ijtihād* concerning the establishment of the *ḥudūd* for his own is the only valid *ijtihād*. Furthermore, the *imāmate* is not conditional on establishment of *ḥudūd* according to one school or another. Therefore, the insurgents were in the wrong in rising against 'Alī and in attempting to depose him by force 112. 'Alī did not commit any act that calls for his deposition, al-Bāqillānī maintains, and hence 'A'isha and al-Zubayr realized their error and repented 113.

Al-Bāqillānī argues also that 'Alī was not established in the *imāmate* on condition that «he kills the killers of 'Uthmān», because no one should base the *imāmate* on such a condition 114. Furthermore, the *imām* might have his own *ijtihād* concerning «matters of blood» and his *ijtihād* might not involve the «killing» of anyone to restore order 115. Al-Bāqillānī frankly insinuated that 'Alī's primary objective was to preserve the unity of the *umma* 116. Therefore, it was permissible for 'Alī,

and within his sovereign rights, to postpone the punishment of the «slayers» in order to preserve the unity of the Muslims and to prevent a situation «worse than the unjust slaying of 'Uthmān¹¹⁷. Al-Bāqillānī insists that even if 'Alī failed later to punish the slayers of 'Uthmān it would not have constituted enough reason that called for rebellion against him or depose him¹¹⁸. Therefore, concludes al-Bāqillānī, those who claimed the right of direct vengeance and made their allegiance to 'Alī conditional upon it were in the wrong¹¹⁹.

Clearly, he has refuted the Umayyad claim, as the kinsmen of 'Uthmān, that his slayers be surrendered to them regardless of 'Alī's circumstances¹²⁰.

Another point raised by al-Bāqillānī is the problem of those who did not yield to the pressure of the partisans of 'Alī and left al-Madina without paying him allegiance, like Sa'd b. Abī Waqqāṣ, Sa'īd b. Zayd, 'Amr b. Nufayl and 'Abd Allah b. 'Umar, Muḥammad b. Maslama (al-Anṣārī), Usāma b. Zayd, Salāmah b. Waqsh and others¹²¹. Al-Bāqillānī maintains that they did not take 'Alī's side because they did not want to fight their fellow Muslims¹²². It is not 'Alī that they objected to but what 'Alī's partisans stood

for. 'Alī, according to al-Bāqillānī, knew this and did not try to coerce them to his side 123.

Therefore, concludes al-Bāqillānī, the *imāmate* of 'Alī was valid despite the rebellion of 'A'isha, Ṭalḥa and al-Zubayr; despite the Umayyad reservations and despite the refusal of some eminent men to recognize the legitimacy of what the partisans of 'Alī stood for 124.

Second: *The personal qualifications of 'Alī*

Al-Baqillānī arguest that 'Alī possessed personal qualifications which qualified him for the *imāmate*. These were:

- a — He was of the early believers in the message of Islam 125.
- b — He was of the *Ṣaḥābah* and of the closest to the Prophet 126.
- c — He was the Prophet's son-in-law 127.
- d — He was a great fighter in the cause of Islam and he «strove in the way of God» 128.
- e — The Prophet appointed him his deputy in al-Madina during his absence 129.

- f — He was well versed in law and the Prophet said: «The best *Qāḍī* among you is 'Alī» 130.
- g — The Prophet had a great respect for 'Alī and called upon the Muslims to pay 'Alī respect: «Whosoever recognizes me as his *mawlā*, will know 'Alī as his *mawlā*» 131.
- h — 'Alī was a great fighter and also possessed knowledge and experience in the management of armies and the tactics of war 132.

Therefore, concluded al-Bāqillānī, 'Alī was fit for the *imāmate* by virtue of his personal qualifications 133.

Third: *The manner in which 'Alī exercised his powers*

Al-Bāqillānī asserts that 'Alī accepted the *imāmate* to save the grave situation at al-Madina when 'Uthmān was assassinated 134. Therefore, his intentions were pure for he wanted above all to protect the *umma* from disintegration 135. His efforts to play a decisive role were paralyzed by the events surrounding him and his forces were dissipated through struggling against Ṭalḥa and Zubayr and 'A'isha; against the Umayyads and against the Khawarij 136. His wars, asserts al-

Bāqillānī, were an effort to bring the conflicting groups back to the *jamā'ah* (*liyaruddahum ilā al-jamā'ah*) because they were «brothers in religion»¹³⁷. Therefore, argues al-Bāqillānī, what 'Alī stood for is completely different (*mufāriq*) from what the Shī'at of ahl al-Baṣra and Siffīn stood for¹³⁸. Al-Bāqillānī insists that 'Alī was after the unity of Islam and his *ijtihād* was to fight for it. He was not motivated by personal gains nor was he after destroying the unity of Islam. Any other interpretation, asserts al-Bāqillānī, is exaggeration and ignorance¹³⁹.

With these arguments al-Bāqillānī concludes his exposition of the *imāmates* of Abū Bakr, 'Umar, 'Uthmān and 'Alī and ends his *Tamhid*. The degree to which this exposition is an apologia for the *ijmā'* of the *umma* against the charges of the Shī'ites and the Khawārij calls for no further demonstration.

The questions that arise immediately are the following:

- 1 — Why did al-Bāqillānī end his exposition of the *imāmate* with the first four *imāms*?
- 2 — Is it because he implicitly maintained that the only real *imāms* were the first four? If so,

what was the rule of the Umayyads and the 'Abbasids?

Since al-Tamhīd does not help us answer the first question and since no other work of al-Bāqillānī dealing with the *imāmate* is available to us, we have turned to al-Ash'arī. Al-Ash'arī maintained that the Caliphate lasted thirty years and then it became «kingship»¹⁴⁰. He seems to refer to a tradition from Muḥammad. Did al-Bāqillānī maintain the same view? Why was he silent? What was he trying to evade? There is no doubt that al-Bāqillānī was acutely conscious that an agreement with al-Ash'arī on this issue would have meant:

- 1 — The rejection of the 'Abbasid Caliphate which he was trying to strengthen.
- 2 — The encouragement of the Shi'ites in general and the Buwaihids and Fāṭimīds in particular in their lack of respect for the 'Abbasid Caliphate. Perhaps also an encouragement for the Shi'ites to end the 'Abbasid Caliphate. Another equally important factor is that he was evading being mistaken for a Mu'tazilite. Hence, he was silent.

Chapter Six

METHODOLOGY

In establishing legal standards al-Bāqillānī followed the traditional methodology of Muslim jurisprudence. He started with the consideration that the universe is created (*al-'ālam muḥdath*)¹ and therefore it must have a creator (*muḥdith* and *sāni'*)² who has a purpose (*murīd*)³ in his creation. Man was created with a purpose, and the aim of his life was defined for him by God⁴. Therefore, man is not aimlessly left to himself and his actions are regulated by moral standards which were revealed through Muḥammad⁵. The knowledge of God's will and commands is both necessary and obligatory⁶. But as there cannot be a special standard for every particular case, one has to depend for the «rational derivation» (*Istidlāl 'aqli*) on proofs⁷. These proofs, according to al-

Bāqillānī, are four: The Book (al-Qur'ān), the *Sunna*, *ijmā'* and *qiyās*⁸.

I. *The Qur'ān*

Human reason, being imperfect, cannot apprehend, on its unaided level, the will of God and the aim of life on earth (*La yaqbal mā kullif bi'aqlih*)⁹. Therefore, the only way to know God's will is through divine revelation mediated by «messengers» (*La ghinā'an irsāl al-rusul*)¹⁰. God, in his infinite mercy, has revealed his will to mankind through a chain of prophets each bearing the same principles of *taklīf*¹¹. But each *rasūl* modified the revelation of the previous *rasūl* to help the *mukallafīn* attain better reward (*thawāb*)¹². This, affirms al-Bāqillānī, is but an indication of His justice ('*adl*) and mercy (*rahmah*)¹³. Muḥammad is the last Prophet and the Qur'ān is the last revelation and hence it contains the final modified and most perfect version of *taklīf*¹⁴. Moreover, the Qur'ān is «the uncreated speech of God» communicated through Gabriel directly to Muḥammad¹⁵. The Qur'ān, therefore, is the highest and the infallible source of guidance (*siraj*^{an}, *hādī*^{an}, *munīr*^{an})¹⁶.

Al-Bāqillānī maintains that the first and most important duty of *ahl al-Dīn* is to derive from the Qur'ān the principles of their religion (*uṣūl*

al-Dīn) and the ordinances of their law (*āhkām al-Sharī'a*)¹⁷. The Qur'ān, asserts al-Bāqillānī, contains *āyāt Sharī'ya* and *āyāt* of «promise and threat» (*wa'd wa wa'id*) and *āyāt* relating the histories of past generations (*āqāṣiṣ al-āwwalīn*) and the traditions of messengers (*akhbār al-Mursalīn*) to guide mankind¹⁸. Thus by implication we can safely say that al-Bāqillānī maintains that at least in theory the general principles by which the life of Muslims should be regulated are to be sought in the Qur'ān¹⁹. Where these principles are set out with clarity and detail in *al-āyāt al-Sharī'ya* there is no problem because they are binding (*yulzim al-kull*)²⁰. But where such conditions do not exist, it is necessary to derive *al-āhkām* from relevant texts²¹. It is also necessary to elaborate and interpret the texts because there are varying degrees of understanding among people (*tafāwut al-nās fī idrākīh*)²².

Al Bāqillānī holds with al-Ash'arī that the Prophet did engage in interpreting and elaborating the text of the Qur'ān²³. His Companions also followed his example and, whenever a question arose which was related to *sharī'a*, men discussed it (*takalamū fīh*), and inquired into it (*baḥthū 'anh*) and discoursed and argued over it²⁴. However, they always referred and likened it (*radduhā wa qāsūhā*) to something which had been determined

explicitly in the «Book» of God and the *Sunna* (*'alā mā fih naṣṣ min kitāb Allah wa al-Sunna*)²⁵.

II. *The Sunna*

The *Sunna* is the second source of law. Muḥammad was the vehicle through which the Qur'ān was mediated²⁶ and, as such, he logically is the best authority to interpret the text. According to al-Ash'arī, Muḥammad was faced with problems of ordinary life and had to pass judgement over disputes²⁷. Where there was no *naṣṣ*, he applied the principles of the Qur'ān to the problem brought before him for arbitration. However, neither al-Bāqillānī nor anyone to our knowledge explicitly hold that Muḥammad was among other things a *faqih*. The reason is inherent in the role of Muḥammad as a Prophet. The Qur'ān clearly indicates that Muḥammad possessed the Book (*al-Kitāb*) and wisdom (*hikma*) to purify men²⁸. His wisdom is directly related to his Prophecy and the state of inspiration that he was under. Therefore, his words and actions acquired an infallibility that no other human words and actions ever attained. The Shi'ā, however, attribute the same quality of infallibility to their *Imāms*, basing it on the «authority of God and the Apostle»²⁹. But to the Sunnīs, only Muḥammad's words and actions

are of that nature, because he was under inspiration (*wahī*) and hence a «prohibition by the Prophet of Allah is equal to a prohibition by Allah», and vice versa. Thus, the Sunna of Muḥammad became a supplement and a commentary to the Qur'ān provided the *isnād* is reliable and *mutawatir*³⁰.

The discussion of the *imāmate* in general reveals al-Bāqillānī's methodology in a somewhat clear way. For example, in discussing the means whereby the *imām* is established in office al-Bāqillānī clearly indicated that there was no text (*naṣṣ*) to instruct the *umma*³¹. The Qur'ān contains no explicit instructions of that nature. Had there been a text, we may assume that al-Bāqillānī would have concluded that no problem would have arisen. Then he examined the *ḥadīths* sponsored by the Shī'a and refuted them on the basis of being unreliable³². He maintained that they were based on one source (*fī manzilat al-āḥād*) and the condition of their *isnād* to reliable authorities (*tawātur*) was not satisfied³³. The credibility of a *ḥadīth* depends, in the final analysis, on a certain *communis opinio* regarding the reliability of the transmitters and the value of their statements³⁴. Moreover, a *ḥadīth* has to be interpreted in the right way, asserted al-Bāqillānī, because words usually have a number of shades of meaning³⁵. This he has well illustrated in examin-

ing the meaning of *mawlā* in the Arabic language and asserted that although the *ḥadīth* «whoever recognizes me as his *mawlā* will know 'Alī as his *mawlā*»³⁶ is sound (*Ṣaḥīḥ*), yet the Shī'a completely misinterpreted the word «*mawlā*»³⁷. They read it *imām* and *khalīfah* and were wrong³⁸. Therefore, al-Bāqillānī does not only insist on the «soundness» of a *ḥadīth* but he also insists on the right interpretation. But what is the right interpretation? It is not easy to answer this question because we have no clear statement in al-Bāqillānī's *Tamhīd*, but by implication from his long exposition concerning «*al-ākhbār*» and the *imāmate* we can safely assume that the right interpretation is an interpretation accepted through «consensus of opinion» (*ijmā'*).

In refuting the claim of the Shī'a that «the method of establishment of the *imāmate* was by designation of the *imām* by the Prophet», al-Bāqillānī automatically took the first and most decisive step in justifying the *ijmā'* of the community.

III. *Ijmā'*

Al-Bāqillānī based *ijmā'* on the Tradition which says: «My community will never agree upon an error»³⁹. In discussing the *imāmate* of 'Uth-

mān and in defending him against the accusation that he burned certain texts (*suhuf*) of the Qur'ān, al-Bāqillānī argued that «what was burned was burned because there was an *ijmā'* that it was fake (fāsid) 40. Carrying this argument a step further, we can say that similarly what was retained was retained because there was an *ijmā'* that it was authentic. Therefore, indirectly al-Bāqillānī asserted that the very text of the Qur'ān was made authentic by *ijmā'*, or at least its authenticity was guaranteed by *ijmā'*. We have already noted that al-Bāqillānī placed a considerable importance on the meaning of words and their pronunciation and how *ijmā'*, and only *ijmā'*, can decide between conflicting interpretations 41. Therefore, the meaning of the principles and laws in the Qur'ān can only be established by the *ijmā'* of the Community 42.

The same principle of *ijmā'* was applied to *ḥadīth*. The texts of *ḥadīth*, the way they are to be interpreted and applied was guaranteed by *ijmā'*.

In this manner, the Sunnī doctrine of the infallibility of the *ijmā'* of the *umma* intervened in every aspect of life. If the Shī'a held the *Imām* to be infallible, the Sunnis attributed infallibility to the Community of believers.

Al-Bāqillānī, however, does not make a

distinction between the *ijmā'* of the *umma* and the *ijmā'* of the 'a'imma. He discussed at some length the importance of the *ijmā'* of *ahl al-Ḥall wa al-'Aqd* in the election of the *imām*⁴³, but he never alluded to the significance of the *ijmā'* of the *umma*, even *ijmā'* by silence (*ijmā' al-sukūt*). Similarly, he dwelled on the «oath of allegiance» (*bay'a*) taken to the *imām* by the «electors» (*al-'aqidīn*), which validates the contract (*yatim bihā al-'aqd*)⁴⁴, and never referred to the significance of the general *bay'a* taken by the Community, either silently or through its representatives. These two important omissions from the argument of al-Bāqillānī lead us to the conclusion that at heart al-Bāqillānī believed in the *ijmā'* of *ahl al-Ḥall wa al-'Aqd*⁴⁵. In practice, they alone possess the «knowledge» in legal and religious matters and hence they alone can interpret and sanctify⁴⁶. The general body of the *umma* was to follow and obey. Nevertheless, the general body of the *umma* considered the class of 'ulamā' as its representative and also its protective shield against the military power of the state.

However, where points of law arose which were not covered by a clear text (*naṣṣ*) from the Qur'ān, or the *Sunna*, or *ijmā'*, the majority of jurists used analogy (*qiyās*).

IV. *Qiyās*

Qiyās as a means of deriving prescriptions from the Qur'ān and the *Sunna* is historically older than *ijmā'*. But since analogy involved human judgement (*ra'y*, *zann*) it became subject to suspicion. Human judgement is fallible and, therefore, anything based on it is fallible. Strict jurists like Dāwūd al-Zāhirī and Dārimī rejected *qiyās* on the assumption that it could lead one astray⁴⁷. They based their argument on the Qur'ānic verse in which Iblīs disobeyed the command of God by using *qiyās*.

«He said: what hindered thee that thou didst not fall prostrate when I bade thee? (Iblīs) said: I am better than him. Thou createdst me of fire while him Thou didst create of mud». (*Qur'ān* 7.12)

However, the majority of the jurists had to fall on analogy (*qiyās*) where was no text⁴⁸. The supporters of *qiyās* rely on the Tradition which describes an argument that took place between the Prophet and Mu'adh b. Jabal when Mu'adh was appointed *Qāḍī* to Yemen:

«The Prophet: How will you decide when a question arises?

Mu'adh: According to the Book of Allāh.

The Prophet: And if you do not find the answer in the Book of Allāh?

Mu'adh: Then according to the *Sunna* of the Messenger of Allāh.

The Prophet: And if you do not find the answer either in the *Sunna* or the Book?

Mu'adh: Then I shall come to a decision according to my opinion (*ājtahidu ra'yī*) without hesitation.»

Then the Messenger of Allāh slapped Mu'adh on the chest with his hand saying:

«Praise be to Allāh who has led the messenger to the Messenger of Allāh to an answer that pleased him»⁴⁹.

Although *qiyās* was admitted, nevertheless it was surrounded by a number of restrictions, all of which are traceable to the consideration that human judgement is fallible.

In the discussion of the *imāmate*, al-Bāqillānī tried to apply the principles underlying existing

decisions on marriage contracts, sale contracts and manumission contracts to justify his arguments⁵⁰.

In discussing the number of electors, al-Bāqillānī maintained that the *imāmate* is validly contracted on behalf of one who is fitted for it by the contract of a single pious man who is qualified to be of *ahl al-Ḥall wa al-'Aqd*. He justified this condition by analogy to the marriage contract which can be validly contracted by a single guardian of legal probity⁵¹.

Al-Bāqillānī asserted also that the *umma* cannot depose an *imām* for no cause that calls for his deposition. He based this condition on a *qiyās* from the following contracts:

- 1 — *Marriage contract*: The guardian after validly contracting marriage for his *waliya* cannot legally break the contract if there is no Shar'ī reasons to do so⁵².
- 2 — *Sale contract*: The man who sold his property cannot legally break the contract of sale for a whim⁵³.
- 3 — *Manumission contract*: The man who manumits his slave cannot legally break that contract⁵⁴.

In discussing the number of *imāms*, al-Bāqillānī asserted that it is not permissible that there should be more than one legitimate *imām* at one and the same time⁵⁵. His argument is based on a *qiyās* to the contract of marriage which under *Shari'a* is validly made in favor of one man only⁵⁶. Should there be more than one contract in favor of more than one person, and all of them are fitted for it, then the prior contract is valid⁵⁷. If the contracts are made simultaneously or it is not known which is the prior, the contract must be renewed in favor of one of them or of some other person. Al-Bāqillānī maintained that this was the usual procedure in contracts of marriage and this should be the valid procedure in the contract of the *imāmate* because the case is relevant⁵⁸. The *'aqd* once drawn up in accordance with the requisite conditions cannot in principle be vitiated by some fault in agreement, unless there is a question of constraint (*ikrāh*)⁵⁹.

Chapter Seven

CONCLUSION

The doctrine of the *umma* lies at the foundation of al-Bāqillānī's political concepts. The internal and external life of the *umma* are governed by the *Shari'a*. Since the *Shari'a* is translated into practice through the *imāmate*, it follows logically that the *imāmate* is the most ideal form of political organization conceivable. The most ideal in the sense that it provides the subjects with the necessary conditions to live in harmony with the will of Allah. This type of life is the «good life» according to Islamic political theory, because essentially life on earth is only a preparatory stage for the future life. Thus, by performing the ethical and religious duties and by harmonizing life to the Ordinances of the *Shari'a*, the individual Muslim would be fitting himself for participation in the future life.

The «unfolding» of the moral personality of the Muslim is possible only on the «straight Path» ordained by the Supreme Head of the *umma*, Allah. The subject can have no «rights» against the Will of Allah, and stands before Him in relation of slave to Master. All «right» is derived from Allah, which He secures the exercise to the individual, and therefore there can be no «right» against His Sovereignty. There is an identification of «I ought» with «I have no choice» for Allah claims obedience and surrender to Himself as such.

Allah confers authority and gives rule to whom He wills and withdraws it from whom He wills. Therefore, the *imām* derives his authority directly from God. The *umma* renders obedience to Allah and Muḥammad and those set in command. The right of the *imām* over the members of the *umma* is not dependent on their consent, it is a religious duty, and the subjects have no rights except such as are constituted and conferred upon them by the *Sharī'a*. They belong to them as members of the *umma* in which each member recognizes the «duties» (hence the «rights») of the other. These rights attach to the individual, but only as a member of the *umma*, as recognizing himself and recognized by others to be such a member. A right, then, to act «unsocially» (to act otherwise than as belonging to the *umma* of which each member

keeps the exercise of his powers within the limits (*hudūd*) of the *Sharī'a*) is an act of apostacy. Apostacy not only forfeits membership in the *umma* but also calls for capital punishment. Since there is no distinction between «church» and «state», «treason» and «patriotism» in the political or geographical sense are completely irrelevant.

But what exactly is meant by the member's acting «as a member of the *umma*»? What does the assertion that he can have no right to act otherwise than as a member of the *umma* amount to? Does it mean that he has no right to disobey a «sinful *imām*»? In trying to find answers to these questions in al-Bāqillānī's doctrine we have found a contradiction. This contradiction is not characteristic of al-Bāqillānī alone, but of all Sunni political thinkers. Although obedience is rendered to the *imām*, yet the ultimate loyalty of the Muslim is to the *Sharī'a*. As important as obedience «to those set in command» is the fact that Allah has charged the Believers to «instruct men in the ways of Allah» and «to persuade them to the good and to dissuade them from evil» (*al-Amr bil-ma'rūf wa al-Nahī 'an al-Munkar*). This *taklīf* is imposed on Muslims without any limitation whatsoever. To impose on the *umma* submission to the *imāmate* as postulated by al-Bāqillānī is only acceptable and logical as long as the *imāmate* remains identical

with the *Sharī'a*. In practice, the situation was quite different for not only did the *imāmate* fail to rise to the ideal position ascribed to it, but had diverged from *Sharī'a*. Al-Bāqillānī, well aware of this dilemma, admitted the possibility of withdrawing obedience from a sinful *imām*. But at the same time he refused to lay down any procedure by which an *Imām* may be deposed. Why? We suspect that in the process of defending the *ijmā'* of the *umma post eventum* he was trapped in rigid position. He was afraid to lay down such procedure for fear that it might lead to a change in the character of the *imāmate*. He was afraid that such rules might lead to the negation of *ijmā'*. Such questions are not likely to be impartially considered by a Sunni jurist like al-Bāqillānī at a time when the *imāmate* was under the Buwaihīd Amīrs.

Moreover, under the impact of the Kharajite doctrines and repeated rebellions and excesses, the Sunni jurists were systematically forced to neglect the rights of the individual against arbitrary rule. Consequently, al-Bāqillānī, and the rest of the classical Sunni jurists, «failed to build upon the foundation of moral duty a doctrine of civic duty».

We have seen at the outset that al-Bāqillānī was a Sunni Ash'arite jurist defending the *imāmate*

against the attacks of the Khawārij and the Shi'ites. Therefore, his theory remains, at best, one point of view within the framework of one School. His position was by no means authoritative, for in the Sunni Community there was no universally accepted doctrine of the *imāmate*. Actually, al-Bāqillānī himself would have objected to the acceptance of his doctrine as definite and final, because that would contradict the theory of *ijmā'* of the *umma*. We assume that he would have objected because we were struck with the remarkable consistency and tenacity with which he defended the *ijmā'* of the *umma*. We have also found no reason whatsoever to doubt his sincerity. What al-Bāqillānī was trying to lay down was a principle. The principle that the *imāmate* is that type of rule which upholds the Ordinances of *Shari'a* and translates them from theory to practice and guarantees their enforcement. Within the framework of this principle there is theoretically no limit to the diversity in the manner of its application.

In the preface we warned the reader against the artificiality of our one-sided analysis. For in the reality of things al-Bāqillānī was a jurist and as such he represented juristic thought. Between the actual substance of Islamic thought and its outer form, as expressed by the jurists, there is an aberration. This aberration renders the task of

inferring the real content of Islamic thought, if one starts with its juristic expression, a tedious venture. For in the final analysis the doctrine of al-Bāqillānī is not to give expression to the inner reality as it is. He was a jurist and, as such, he had a legal argument to serve — i.e. his Sunni Ash'arite end. But at the same time, al-Bāqillānī stands as remarkable example of the fact that Islamic thought refuses to be limited by formulae imposed outwardly. Islam dynamically refused to be restricted in a mold and kept exerting pressures which forced the jurists to reshape their theories over and over again.

The Sunni jurists in their attempt to defend the political ideals of Islam have emptied them of their moral content. The non-Sunni groups narrowed down these ideals by imposing restrictions. But underneath this outward and superficial polarity of rival schools there lies an inner reality which kept Islam a dynamically living faith.

And God knows best.

NOTES

CHAPTER ONE

1. Gibb, H.A.R., chapter in *Law in the Middle East*, ed. M. Khadduri and E. Liebesny, Washington, D.C., 1955.
2. *Uṣūl al-Dīn*, Iṣṭanbūl, 1346/1928.
3. *Al-Aḥkām al-Sulṭāniyah*, Bonn, 1853.
4. *Al-Aḥkām al-Sulṭāniyah*, Cairo, 1356/1938.
5. Al-Ash'arī died in 324/935 and Al-Bāqillānī died in 403/1013.
6. Mez, A., *The Renaissance of Islam* (trans. by Khuda Bakhsh and Margoliouth, Patna, 1937), pp. 59-75. See also, H.A.R. Gibb, «The Caliphate and the Arab States», pp. 81-98 in *The History of the Crusades*, Vol. I, ed. by K.M. Setton (University of Pennsylvania Press, 1958).
7. Ismā'īl b. Katīr, *Al-Bidāya wa al-Nihāya*, Vol. 12, pp. 4, 18, 33, 49 (Cairo, 1351-1358 / 1932-39).
8. Lewis, B., «'Abbasids», *Encyclopaedia of Islam*, N.E. (Leyden, 1954).
9. Wellhausen, J., *Die religioes-politischen Oppositionen partien im alten Islam* (Berlin, 1901), p. 91.
10. Al-Baghdādī, al-Khaṭīb, *Tārīkh Baghdād* (Cairo, 1349/1931), Vol. V, pp. 379-383; al-Qāḍī 'Iyād, *Tartīb al-Madārīk* (Cairo, 1366/1947), pp. 241-256; Ibn Khallikān, *Wafayāt al-A'yān* (Cairo, 1310/1894), Vol. I, pp. 481-482.
11. Ibn 'Imād, *Shadharāt Al-dhahab* (Cairo, 1350), Vol. III, p. 163.
12. Sarkīs, Y.I., *Mu'jam al-Maṭbū'āt* (Cairo 1346/1928), p. 247.

13. He gives Ibn Khallikān and Rawḍāt al-Jannāt. Ibn Khallikān, Vol. I, p. 480.

14. Al-Harīrī, *Kitāb Durat al-Ghawwas*. See also, Al-Samʿānī, *Kitāb al-Ansāb* (Gibb Memorial XX, Leyden, 1912), p. 62.

15. Ibn ʿAsākir, *Tabyīn Kadhib al-Muftarī* (Damascus, 1347/1928-29), pp. 217-226.

16. al-Qāḍī ʿIyād, *Tartīb al-Madārik* (Cairo, 1366/1947), p. 241; and M. Schreiner, *Z.D.M.G.*, LII (1898), p. 487.

17. Brockelmann, C., *GAL*, Vol. I, p. 197.

18. Ibn Taimiyya, *Al-ʿaqīda al-Hamawiyya al-kubra* (Cairo, 1323), p. 452.

19. Yāqūt, *Irshād al-Arib* (ed. D. S. Margoliouth, 2nd ed., London 1923-31), Vol. II, p. 105.

20. As an appendix to the Cairo edition of *Al-Tamhid*, pp. 257-259.

21. Mentioned by Ibn Taimiyya, *Al-ʿaqīda al-Hamawiyya*, p. 452; and Ibn Qayyim al-Jawziyya, *Ijtimāʿ al-Juyūsh al-Islāmiyya* (Cairo, 1351), pp. 120-121; and Ibn ʿImād, *Shadharāt al-dhahab*, Vol. III, p. 169; and al-Qāḍī ʿIyād, *Tartīb al-Madārik*, p. 257.

22. Mentioned by al-Bāqillānī himself in *al-Tamhid* (Cairo 1947), p. 40, and by al-Qāḍī ʿIyād, *Tartīb al-Madārik*, p. 257.

23. Al-Qāḍī ʿIyād, *Tartīb al-Madārik*, p. 257.

24. Al-Bāqillānī, *al-Tamhid* (Cairo, 1947), p. 186; and al-Qāḍī ʿIyād, *Tartīb al-Madārik*, p. 257.

25. Al-Qāḍī ʿIyād, *Tartīb al-Madārik*, p. 257.

26. Ibn ʿAsākir, *Tabyīn Kadhib al-Muftarī fī mā Nusiba ila al-Imām ʿAbd al-Ḥasan al-Ashʿarī* (trans. by R. J. McCarthy, Beyrouth 1953), p. 215.

27. Al-Qāḍī ʿIyād, *Tartīb al-Madārik*, p. 258.

28. Ibn ʿAsākir, *Tabyīn Kadhib al-Muftarī* (McCarthy's edition), p. 225.

29. Al-Qāḍī 'Iyād, *Tartīb al-Madārik*, p. 257, and Ibn Ḥazm, *Kitāb al-Faṣl* (Cairo 1320/1902), Vol. IV, p. 225.

30. «Al-Imāma al-Kabīra» is what Ibn Taimiyya calls, «Al-Imāma al-'udhma» and «al-Imām al-'A'dham».

31. Al-Bāqillānī, *al-Tamhīd*, p. 146, also in al-Asfarā'īnī, Abū Mudhaffar, *Kitāb al-Tabḥīr* (Cairo 1359/1940), p. 119, mentioned also by al-Qāḍī 'Iyād, *Tartīb al-Madārik*, p. 258.

32. Al-Qāḍī 'Iyād, *Tartīb al-Madārik*, p. 258.

33. *Ibid.*, p. 258.

34. *Ibid.*, p. 258.

35. *Ibid.*, p. 258.

36. Possibly about his debates with the Shi'ites in general and Ibn al-Mu'allim in particular. See Ibn Khallikān, *Wafayāt al-A'yān* (Cairo 1310/1894), pp. 481-482, and al-Sama'ānī, *Kitāb al-Ansāb* (Gibb Memorial XX), p. 62, and al-Qāḍī 'Iyād, *op. cit.*, p. 246.

37. Al-Qāḍī 'Iyād, *op. cit.*, p. 258.

38. Ibn 'Asākir, *Tabyīn Kadhib al-Muflāri* (McCarthy's edition), p. 226.

39. Al-Qāḍī 'Iyād, *op. cit.*, p. 258.

40. On «Ḥudūd Allāh» see Laoust, *Essai sur les Doctrines Sociales et Politiques de Takī-D-Dīn Aḥmad b. Taimiyya* (Le Caire, 1939), pp. 371-374.

41. Al-Qāḍī 'Iyād, *op. cit.*, p. 258.

42. A clear indication that Ibn Ḥazm was biased in his references of al-Bāqillānī, see Ibn Ḥazm, *Kitāb al-Faṣl* (Cairo 1320/1902), Vol. IV, p. 225.

43. Al-Qāḍī 'Iyād, *op. cit.*, p. 258.

44. *Ibid.*, p. 258.

45. *Ibid.*, p. 258.

46. *Ibid.*, p. 258.

47. *Ibid.*, p. 258.

48. *Ibid.*, p. 258; Brockelmann, C., *GAL*, vol. I, Supp., p. 349. See also Ibn 'Asākir, *op. cit.*, p. 225.

49. Al-Qāḍī 'Iyād, *op. cit.*, p. 258.
50. Possibly referring to al-Bāqillānīs' debates with the Christian clergy at the Court of Basil; see: Schlumberger, G., *L'épopée Byzantine à la Fin du Xe Siècle* (Paris 1896), pp. 440-442.
51. Mentioned by al-Bāqillānī in *al-Tamhid*, p. 239, also by al-Asfara'īnī, *al-Tabḥīr*, p. 119, also by Ibn Taimiyya, *Risālat al-Furqān* (Cairo 1323/1903), p. 130, and in his *al-Risāla al-Tis'i-niyya*, Vol. V of *Majmu'at Fatāwī Ibn Taimiyya* (Cairo 1329/1911), p. 241; and by al-Qāḍī 'Iyād, *op. cit.*, p. 258.
52. Al-Qāḍī 'Iyād, *op. cit.*, p. 258.
53. *Ibid.*, p. 258.
54. *Ibid.*, p. 258.
55. *Ibid.*, p. 258.
56. *Ibid.*, p. 258.
57. *Ibid.*, p. 258.
58. We doubt the authenticity of this work if Ibn 'Abd al-Mū'min is the same person known as al-Imām abū Maṣṣūr Maḥmūd b. Aḥmad b. 'Abd al-Mū'min b. Māshādhāb (d. 536/1141-2).
59. Al-Qāḍī 'Iyād, *op. cit.*, p. 258; al-Asfara'īnī, *op. cit.*, p. 119.
60. Al-Qāḍī 'Iyād, *op. cit.*, p. 258.
61. *Ibid.*, p. 258; also in Ibn Ḥazm, *Kitāb al-Faṣl*, Vol. IV, pp. 218, 221, and Brockelmann, *GAL*, Supp. Vol. I, p. 349.
62. Al-Qāḍī 'Iyād, *op. cit.*, p. 258, and Ibn Taimiyya, *Minhāj al-Sunna* (Cairo 1321/1903) Vol. I, p. 88.
63. Al-Qāḍī 'Iyād, *op. cit.*, p. 258.
64. *Ibid.*, p. 259.
65. *Ibid.*, p. 259.
66. *Ibid.*, p. 259.
67. Al-Bāqillānī, *al-Tamhid*, p. 228.
68. Al-Qāḍī 'Iyād, *op. cit.*, p. 259.
69. *Ibid.*, p. 259.
70. *Ibid.*, p. 259.

71. Al-Bāqillānī, *al-Tamhīd*, p. 229, Brockelmann, *GAL*, Vol. I, p. 349; Al-'Ush, Y., *Fihrist Makhtūfāt Dār al-Kutub al-Zāhiriyya* (Damascus 1947), pp. 84-85.

72. Al-Qāḍī 'Iyād, *op. cit.*, p. 259.

73. Ibn Ḥazm, *al-Faṣl*, Vol. IV, p. 216; Ibn Qayīm al-Jawziyya *Ijtimā' al-Juyūsh al-Islāmiyya* (Cairo 1351/1932-3), p. 120.

74. Al-Qāḍī 'Iyād, *op. cit.*, p. 259.

75. Possibly to 'Adud al-Dawla.

76. Al-Qāḍī 'Iyād, *op. cit.*, p. 259, Ibn Ḥazm, *al-Faṣl*, Vol. IV, p. 222; al-Subkī, *Ṭabaqat al-Shāfi'īyya al-Kubra*, Vol. IV, p. 192; Brockelmann, *GAL*, Vol. I, p. 349.

77. Has been published several times in Cairo; the sections on poetry in *I'jāz al-Qur'ān* were translated and annotated by Gustave E. von Grunebaum, *A Tenth-Century Document of Arabic Literary Theory and Criticism* (The University of Chicago Press, 1950).

78. Al-Qāḍī 'Iyād, *op. cit.*, p. 259.

79. Manuscript, see *Fihrist Dār al-Kutub al-Miṣriyya* Vol. I, p. 165.

80. Al-Qāḍī 'Iyād, *op. cit.*, p. 259, see also Abī 'Udhba, *al-Rawḍa al-Bahīyya fīmā bayna al-Ash'ūra wa al-Māturidiyya* (Ḥaidar Abād, 1322/1904), pp. 18, 35 and 58.

81. Al-Qāḍī 'Iyād, *op. cit.*, p. 259.

82. Al-Asfara'īnī, *op. cit.*, p. 119, and Imām al-Ḥaraman, *al-Shāmil*.

83. Published by Dār al-Fikr al-'Arabī in 1366/1947 at Cairo, eds. M.M. al-Khudairī and M. 'A. Abū Riḍa. This edition was based on the Schefer manuscript of the Bibliothèque Nationale in Paris. A second edition appeared in 1958 by Richard J. McCarthy. He used the three available manuscripts of al-Tamhīd: the Schefer manuscript, the Aya Sufiyya manuscript and the Mustafa Effendī manuscript. But unfortunately Father McCarthy left out the part on the Imāmate and hence we were not able to use his excellent edition for our purposes.

84. Al-Baghdādī, 'Abd al-Qāhir, *al-Farq baina al-Firaq* (Cairo 1328/1910), p. 115.
85. See H. S. Hyberg, «Al-Nazzām» in E.I., Vol. III, pp. 875-876.
86. Al-Baghdādī, 'Abd al-Qāhir, *op. cit.*, p. 247.
87. *Al-Inṣāf, I'jāz al-Qur'ān, Manāqib al-A'ima, al-Intiṣār fi al-Qur'ān, al-Mu'jizāt, al-Tamhid*. See list also.
88. *I'jāz al-Qur'ān* and *al-Tamhid*.
89. Graf, G. *Die Arabischen Schriften des Theodor Abū Qurra* (Paderborn, 1910), p. 94.
90. See al-Ash'arī, *al-Idāra 'an uṣūl al-Diyāna* (Haidar Abād 1321/1903), and al-Bāqillānī, *al-Tamhid* (Cairo, 1947) and al-Bāqillānī, *I'jāz al-Qur'ān* (Cairo 1954).
91. Al-Baghdādī, al-Khaṭīb, *Tārīkh Baghdād*, Vol. V, pp. 381-382; Ibn 'Imād, *Shādhārāt al-dhahab*, Vol. III, p. 168; see also al-Qāḍī 'Iyād, *op. cit.*, p. 243.
92. Ibn Farhūn, *Kitāb al-Dibāj* (Cairo 1329/1911), pp. 267-268.
93. Al-Qāḍī 'Iyād, *op. cit.*, p. 243; al-Baghdādī, *op. cit.*, Vol. V, p. 382; Ibn 'Asākir, *Tabyīn*, p. 179.
94. Al-Qāḍī 'Iyād, *op. cit.*, p. 244.
95. *Ibid.*, p. 245; also Ibn 'Asākir, p. 179.
96. Al-Qāḍī 'Iyād, p. 243; Ibn 'Asākir, p. 180; al-Baghdādī Vol. V, p. 382.
97. Al-Qāḍī 'Iyād, p. 244.
98. *Ibid.*, p. 244; Ibn 'Asākir, p. 181.
99. Ibn 'Asākir, p. 244; al-Qāḍī 'Iyād, p. 243.
100. Al-Qāḍī 'Iyād, p. 244.
101. *Ibid.*, p. 244; Ibn 'Asākir, p. 120.
102. Al-Qāḍī 'Iyād, p. 250.
103. *Ibid.*, p. 251; Ibn 'Asākir, p. 121.

104. Al-Baghdādī, Vol. V, p. 383, Ibn 'Asākir, p. 180.
105. Al-Baghdādī, Vol. V, p. 384.
106. Al-Qāḍī 'Iyād, p. 245.
107. Al-Baghdādī, Vol. V, p. 380.
108. Al-Qāḍī 'Iyād, p. 243.
109. Al-Baghdādī, al-Khaṭīb, *Tarīkh Baghdād*, Vol. V, pp. 379-383; al-Qāḍī 'Iyād, p. 245.
110. Al-Baghdādī, al-Khaṭīb, *op. cit.*, Vol. V, pp. 381-382.
111. Al-Qāḍī 'Iyād, p. 244; also al-Baghdādī, Vol. V, p. 383.
112. Yāqūt, *Irshād al-Arib* (ed. D. S. Margoliouth, 2nd ed., London, 1923-31), Vol. II, p. 105.
113. Al-Qāḍī 'Iyād, p. 243; and Ibn Farhūn, *Kitāb al-Dibāj*, pp. 267-268.
114. Al-Qāḍī 'Iyād, p. 243; and Ibn Farhūn, *op. cit.*, pp. 267-268.
115. Between Abū Taghlib and Scleros existed the tie of self-interest, and they assisted each other against their respective adversaries, and both were defeated.
116. Amedroz, H. F., «An Embassy from Baghdad to the Emperor Basil II», *JRAS*, 1914 No. 2, pp. 915-942.
117. Schlumberger, M., *L'épopée Byzantine à la Fin du Xe Siècle*, Vol. I, p. 440.
118. *Ibid.*, p. 442.
119. Al-Qāḍī 'Iyād, p. 244; al-Khaṭīb al-Baghdādī, Vol. V, pp. 379-383; Ibn al-Jawzī, *Kitāb al-Adhkiyā'* (trans. O. Rescher, Galata, 1925), pp. 164-165.
120. *Ibid.*
121. Schlumberger, Vol. I, pp. 440-441.
122. See Ibn al-Batrīq, Sa'īd (of Alexandria). His account was published by von Rosen in «Zapiski Imp. ak. Nauk», vol. xlv (1883) also in *Corp. Script. Christ. Orient.*, *Script. Arab.*, Ser. III, vol. VII from p. 91.

123. Ibn 'Asākir, p. 223.
124. Al-Bāqillānī, *Tamhīd* (ed. R. J. McCarthy), Beyrouth 1958, Préface, p. 12.
125. Imām al-Ḥaramain, *al-Irshād* (ed. Luciane, Paris, 1938) Arabic text, pp. 231-244.
126. Derendbourg Cf.H., *Les manuscrits arabes de la Collection Schefer à la Bibliothèque Nationale* (extrait du Journal des Savants. Mars-Juin, 1901), Paris, 1901, p. 10.
127. Al-Qurtubī, M., *al-Bida' wa al-Nahī 'anhā* (ed. al-Sheikh Muḥammad Aḥmad Duḥmān, Damascus 1349); also see Abū Shāma, *al-Bā'ith 'alā inkār al-bida'*; and al-Shātibī, *Kitāb al-I'tijām* (Cairo 1913, 3 vols.); and Ibn al-Jawzī, *Talbis Iblis*.
128. Ismā'īl b. Kathīr, *al-Bidāya wa al-Nihāya* (Cairo 1351/1932), Vol. XI, p. 165.
129. R. Le Tourneau, «La Révolte d'Abū Yazīd au Xe siècle», *Cahiers de Tunisie I* (1953), pp. 103-125; and S.M. Stern, E.I., I, 167; M. Canard, «Une famille de partisans, puis d'aversaires des Fatimides en Afrique du Nord», *Mélanges d'histoire et d'archéologie de l'Occident Musulman* (Alger, 1957), pp. 33-49; and Ibn Kathīr, *al-Bidāya wa al-Nihāya*, Vol. XI, pp. 210-211.
130. Ibn Taimiyya, *Minhāj al-Sunna* (Cairo 1321/1903, 4 vols.). See also Abū Ya'ālā, *al-Mu'tamad*, and al-Baghdādī, 'Abd al-Qāhir, *Uṣūl al-Dīn* and *al-Farq baina al-Firaq*.

CHAPTER TWO

1. For the background materials we are deeply indebted to the penetrating understanding of Sir Hamilton Gibb in his many publications, which we will quote extensively, and to his lectures at Harvard University, 1956-1959.
2. See al-Ṣūlī, al-Iṣṭakhri, Ibn Hawqal, Ibn Jubair, al-Buraqī.
3. For a full account, see al-Tabarī, *Annales*, ed. de Goeje and others (Leiden, 1898), Series I, Vol. 6, pp. 2980-3025.
4. Kafafī, M. «The Rise of Kharijism according to Abū Sa'īd Muḥammad Ibn Sa'īd al-Azdī al-Qalḥātī». *Bulletin of the Faculty*

of Arts, *Cairo University* 14 (1952), pp. 29-48; Thomson, W. «Khārijitism and the Khārijites», *Macdonald Presentation Vol.* (1933), pp. 371-389. See also Art. Kharijite in E.I.

5. Gibb, H. A. R. «The Caliphate and the Arab states», *A History of the Crusades*, Univ. of Penn. Press (1958), pp. 81-88.

6. Gibb, H.A.R. «The Evolution of Government in Early Islam», *S. I.* 4 (1955), pp. 5-17.

7. Lammens, H. «Etudes sur le règne du Calife Omayyade Mo'āwia Ier», *M. U. S. J.* 1 (1906), pp. 1-108; 2 (1907), pp. 1-172; 3 (1908), pp. 145-312.

8. Wellhausen, J. *The Arab Kingdom and its Fall*. Calcutta (1927) (trans). Chapter III.

9. Gibb, «The Evolution of Government in Early Islam», p. 6.

10. Kharajite and Shi'ite argument.

11. H. Lammens, «Ziād ibn Abihi, vice-roi de l'Iraq, Lieutenant de Mo'āwia I», *R. S. O.* 4 (1911-12), pp. 1-45, 199-250, 653-693.

12. Wellhausen, *The Arab Kingdom and its Fall*, pp. 341-346.

13. Gibb, «The evolution of government in early Islam», p. 6.

14. The first recorded prosecution on a charge of *zandaqa* is that of Ja'd ibn Dirham who in 125/752 was condemned to death. He is said to be a forerunner of the Mu'tazila.

15. Muḍar (Northern) and Yaman (Southern) Arab.

16. See J. Sauvaget, *Introduction à l'histoire de l'orient musulman*, Paris (1943).

17. Gibb, «The Evolution of Government in Islam», p. 5.

18. *Ibid.*, p. 8.

19. *Ibid.*, p. 8.

20. Gardet Louis, *La cité Musulmane, Vie sociale et politique*, Paris (1954), p. 149.

21. Arnold, T. W. *The Caliphate*, Oxford (1924), p. 56.
22. Adam is described as God's Khalifa on earth in the Qur'ān (II, 28-30); also David (see Qur'ān XXXVIII, 25-26).
23. To ensure the observation of Islam and to protect faith there is need for a guide to «restrain and to compel».
24. To organize and command, «*the world can never be without an imām wielding authority*».
25. Through the imām Law is translated into practice.
26. Perhaps because it was created by it.
27. Gibb, «The Evolution of Government in Early Islam», pp. 5-17; see also al-Shahrestānī, *Kitāb Nihāyatul-Iqdām Fi'Ilmi'l-Kalām*, Oxford (1934), p. 151.
28. Gibb, «The evolution of Government in Early Islam», pp. 5-17; also H.A.R. Gibb, «The fiscal rescript of 'Umar II», *Arabica* 2 (1955), pp. 1-16.
29. Bedouin revolts under the Umayyad regime took Khara-jism for a banner.
30. Wellhausen, *The Arab Kingdom and its Fall*, also see S. Moscati, «Le massacre des Umayyades dans l'histoire et dans les fragments poétiques», *Arch. Or.* 18 IV (1950), pp. 88-115.
31. Amedroz, H.F. «On the meaning of the Laqab al-Saffāh», *JRAS* (1907), pp. 660-663.
32. Gibb, «The Caliphate and the Arab States», pp. 81-98.
33. Lewis, B. Art. 'Abbasids in E.I., (N.E.); see also Tabari Vol. III, p. 47.
34. Gibb, «The Caliphate and the Arab States», p. 82.
35. *Ibid.*, pp. 82-83.
36. See genealogical tree in P. K. Hitti, *The History of the Arabs*, New York (1953), p. 289.
37. Iraq, Mesopotamia, Syria and Egypt were reconquered.
38. See Art. *Tahirids* in E. I.
39. Gibb, «The Caliphate and the Arab States», pp. 81-98.

40. Ivanow, W. *A Brief Survey of the Evolution of Ismā'ilism*, Leyden (1952); also B. Lewis, *The Origins of Ismā'ilism* (Cambridge 1940).
41. See M. J. de Goeje, *Mémoire sur les Carmathes du Bahrain et les Fatimides*, Leyden (1886); see also B. Lewis, «The Ismā'ilites and the Assassins», *A History of the Crusades*, ed. Setton, Univ. of Penn. Press (1958), pp. 99-131.
42. See H. A. R. Gibb, art. *Caliphate* in *Ency. Brit.*
43. See art. in *E. I.*
44. Ivanow, W. *A Brief Survey of the Evolution of Ismailism; de Goeje, Mémoire sur les Carmathes du Bahrain et les Fatimides; Lewis, The Origins of Ismā'ilism.*
45. See Art. in *E. I.*
46. See Art. in *E.I.*; also W. Ivanow, *The Organization of the Fatimid Propaganda*, *J.B.R.R.A.S.*, N. S. 15 (1938), pp. 1-35.
47. See Art. in *E.I.*; also A.H. Siddiqi, «Caliphate and Kingship in Medieval Persia», *Islamic Culture IX* (1935), pp. 560-579; X (1936), pp. 97-126; V. Minorsky, *La Domination des Dailamites*, Paris (1932).
48. See Art. on *Būwayhids* in *E.I.*; H. F. Amedroz, «The Vizier Abul-Fadl Ibn al-'Arnāid», *Islam* 3 (1912), pp. 323-351; Siddiqi, «Caliphate and Kingship in Medieval Persia», *Islamic Culture IX* (1935), pp. 560-579; X (1936), pp. 97-126, 260-279, 390-408; V. Minorsky, *La Domination des Dailamites.*
49. See Siddiqi, «Caliphate and Kingship in Medieval Persia», *Islamic Culture*, XI, p. 109; also see P. Hitti, *History of the Arabs*, p. 470; W. Muir, *The Caliphate, its Rise, Decline and Fall*, Chapter lxiv.
50. Ibn al-Athīr, *Al-Kāmil fī al-Tārīkh*, Leyden (1851-1876), VIII, p. 399.
51. Siddiqi, «Caliphate and Kingship in Medieval Persia», *Islamic Culture XI*, p. III.
52. For this idea see Miskawayh, *Tajārib al-Umām* (eds. Amedroz and Margoliouth) Cairo and Oxford (1920-21), Vol. II, p. 328.
53. *Ibid.*, p. 329.

54. Gibb, «The Caliphate and the Arab States», pp. 81-98.
55. Ibn Athīr, *al-Kāmil*, Vol. VIII, p. 341.
56. Siddiqi, «Caliphate and Kingship in Medieval Persia», *Islamic Culture*, X p. 109.
57. Gibb, «The Caliphate and the Arab States», pp. 86-87.
58. Miskawayh, *Tajārūb*, Vol. V (trans.), p. 399; see also Siddiqi, «Caliphate and the Arab States», *Islamic Culture*, X, p. 110.
59. Ibn al-Athīr, *al-Kāmil*, Vol. VIII, pp. 339-404.
60. Especially the Hamdānids of Mosul.
61. Siddiqi, «Caliphate and Kingship in Medieval Persia», *Islamic Culture*, X, p. 110.
62. Gibb, Art. on *Caliphate* in the Encyclopaedia Britannica.
63. Minorsky, *La Domination des Dailamites*, pp. 20-21; Miskawayh, *Tajārūb*, Vol. II, pp. 234-235.
64. Miskawayh, *Tajārūb*, Vol. II, p. 396; Ibn al-Athīr, *al-Kāmil*, VII, p. 507; and Arnold, *Caliphate*, p. 62.
65. Ibn al-Athīr, *al-Kāmil*, IX, pp. 288, 308-309.
66. Arnold, *Caliphate*, p. 162.
67. Lane-Poole, S. *Coins of Muhammadan Dynasties* (London 1876), II, pp. 194-220.
68. They assumed the titles of «King of Kings» (Malik al-Mulūk) and its equivalent «Shah of Shahs» (Shāhīnshāh).
69. Lane-Poole, *op. cit.*, II, pp. 194-220.
70. *Ibid.*, p. 221.
71. Miskawayh, *Tajārūb*, Vol. III, p. 141.
72. *Ibid.*, pp. 84, 141, 250.
73. Siddiqi, «Caliphate and Kingship in Medieval Persia», *Islamic Culture*, X, p. 114.
74. *Ibid.*, p. 115.

75. Miskawayh, *Tajārūb*, Vol. II, p. 344.
76. *Ibid.*, Vol. II, pp. 307-308; see also Ibn al-Athīr, *al-kāmil*, Vol. VIII, p. 456.
77. Siddiqi, «Caliphate and Kingship in Medieval Persia», *Islamic Culture*, X, p. 118.
78. Miskawayh, *Tajārūb*, Vol. II, pp. 189 and 196.
79. Ibn al-Athīr, *al-Kāmil*, IX, p. 129; see also A. Mez, *The Renaissance of Islam* (trans. by Khuda Bakhsh and Margoliouth) Petna (1937), pp. 59-75.
80. Ibn al-Athīr, *al-Kāmil*, IX, p. 129; see also Siddiqi, «Caliphate and Kingship in Medieval Persia», *Islamic Culture*, X, p. 118.
81. Al-Ṣabī, *Rasā'il*, p. 122; and Mez, *The Renaissance of Islam*, pp. 224-225.
82. *Ibid.*, p. 218.
83. Public notaries.
84. Ibn al-Athīr, *al-Kāmil*, IX, p. 15, quoted by Mez, *The Renaissance of Islam*, p. 228, and by Siddiqi, «Caliphate and Kingship in Medieval Persia», *Islamic Culture* X, pp. 119-120.
85. Miskawayh, *Tajārūb*, Vol. III, pp. 270-280.
86. *Ibid.*, III, pp. 275-276.
87. Yaqut, *Irshād al-Arīb*, ed. Margoliouth (Cairo 1907-1925), Vol. II, p. 339.
88. Subkī, *op. cit.*, II, p. 306; see also Mez, *op. cit.*, pp. 217-218.
89. Al-Samarqandī, *Bustān al-'Arifīn*, p. 38, quoted by Mez, *op. cit.*, p. 218.
90. Ibn Khallikān, *Wafiyāt al-A'yān* (Cairo 1299/1881-2), I, p. 135.
91. Amedroz, H. F. «The office of the Kāḍī in the Ahkām Sulṣāniyya», *JRAS* 1910, p. 775.
92. Siddiqi, «Caliphate and Kingship in Medieval Persia», *Islamic Culture*, X, p. 120.

93. Ibn al-Athīr, *al-Kāmil*, I, p. 278.

94. See Introduction for al-Bāqillānī's activities; see al-Khaṭīb al-Baghdādī, *Tarīkh*, Vol. IV, for al-Baghdādī's biography; see al-Māwardī's biography; see also H. A. R. Gibb, «Al-Māwardī's Theory of the Khilāfah», *Islamic Culture*, (XI), pp. 292-293; see H. Laoust, *La Profession de foi d'Ibn Baṭṭa*, Damas (1958), Introduction, for Abū Ya'ī's role.

95. The Sāmānids did not recognize the Caliph al-Muṭī' (946-974) for almost 10 years, and ignored the Caliph al-Ṭā'ī' (974-991) completely..

96. They could conceive no other form of government.

97. «O ye Faithful, obey God and the Apostle and those set in Command amongst You »(Qur'ān, IV, 62).

98. Gibb, «Constitutional Organization», *Law in the Middle East*, ed. Khadduri, Washington, D.C. (1955), p. 18.

99. Duri, A. A. *Studies on the Economic Life of Mesopotamia in the 10th Century* (in Arabic) Baghdād (1948) Chapters V-VIII and Conclusion.

100. See references in Ismā'īl ibn Kathīr, *al-Bidāya wa al-Nihāya*, Vol. XI, pp. 219, 222, 224-225, 227, 230, 232, 234, 236, 241, 243, 253, 254-255, 271-273, 275, 309-313, 355-369, covering almost the whole 4th/10th century.

101. Miskawayh, *Tajārub*, Vol. II, pp. 98-99, 384 and 405-406; see also al-Ṣulī, *Akhhār* (Cairo 1936), p. 131, and Ibn Ḥawqal, *al-Masālik wa al-Mamālik* (ed. de Goeje) Leyden 1870, p. 142.

102. «My Community will never agree upon an error».

103. Thus their political theory is not speculatively based upon derivations from the sources of Revelation, but upon the interpretation of these sources according to historical circumstances.

104. Lack of administrative skills, rivalries between young Amīrs and troubles between Dailamite infantry and Turkish cavalry troops.

105. Maḥmūd of Ghazna professing loyalty to the 'Abbāsīd House.

CHAPTER THREE

1. D. M. Donaldson, *The Shi'ite Religion* (London 1933), p. 1.
2. Abū al-Ḥasain al-Mālṭī, *Al-Tanbīh wa al-Radd* (Cairo 1949), pp. 25-39.
3. Al-Ya'qūbī, *Historiae*, ed. Houtsma (Leyden, 1883), Vol. II, p. 125; 'Abd al-Qāhir al-Baghdādī, *al-Farq Bain al-Firaq*, trans. Kate Chambers Seelye (Columbia Univ. Press, 1920), Part I, pp. 22-73; and al-Shahrastānī, *Kitāb al-Milal wa al-Nihāl* (Cairo 1951), Vol. I, pp. 227-279.
4. Aḥmad ibn Hanbal, *Musnad* (Cairo 1895), Vol. I, pp. 84, 118, 119, 152, 330; see also A. J. Wensinck, *A Handbook of Early Muḥammadan Tradition* (Leyden 1927), p. 15.
5. 'Alī b. Ḥusain al-Mas'ūdī, *Kitāb al-Tanbīh wa al-Ishrāf*, ed. de Goeje (Leyden 1894), p. 255; 'Alī b. Ḥusain al-Mas'ūdī, *Murūj al-Dhahab*, Vol. IV, p. 158; and al-Shahrastānī, *op. cit.*, Vol. I, p. 277.
6. Ḥasan b. Yūsuf al-Hillī, al-Bāb al-Hādī 'Ashar, «A Treatise on the Principles of Shi'ite Theology», trans. by William McE. Miller (London 1928), pp. 68-71; Mulla Muḥammad Baqir Majlisi, *Tadhkirat al-A'imma* (Tehran 1912), p. 56 ff.
7. Ḥajī Mirzā Aqasī, *'Aqā'id al-Shi'a* (Meshhed, 1879), Book IV, Ch. 2.
8. Al-Shahrastānī, *op. cit.*, Vol. I, pp. 195-256.
9. *Ibid.*, Vol. I, pp. 195-196; al-Baghdādī, *al-Farq Bain al-Firaq*, pp. 74-115; and al-Mālṭī, *op. cit.*, pp. 51-58.
10. Al-Shahrastānī, *op. cit.*, Vol. I, p. 201.
11. Al-Mālṭī, *op. cit.*, p. 53; al-Shahrastānī, *op. cit.*, Vol. I, p. 200.
12. Al-Mas'ūdī, *Murūj al-Dhahab*, ed. Barbier de Meynard (1861), Vols. IV-VI; J. Wellhausen, *Die religioes-politischen Oppositions partien im alten Islam* (Berlin 1901); and H. Lammens, *Le Caliphat de Mo'awia 1er* (M.F.O.B., reprint), pp. 125-140.
13. Gibb, «Constitution Development», p. 6.

14. *Ibid.*, p. 4.
15. Qur'ān 2.28-30.
16. «We have made thee a khalifa on earth, therefore judge righteously between men» (Qur'ān 38.25-26).
17. Qur'ān 4.62.
18. 'Abd al-Qāhir al-Baghdādī, *Uṣūl al-Dīn* (Istanbul 1928), Vol. I, pp. 206-217; see also *Takīf* in *Shorter Encyclopaedia of Islam* (Leiden, 1953).
19. Professor Harry A. Wolfson freely translated it as: «We know the contradiction can be reconciled, but ask us not how». See H.A. Wolfson, «Ibn Khaldūn on Attributes and Predestination», *Speculum*, Vol. XXXIV, No 4, October 1959, p. 596.
20. H. A. R. Gibb, *Mohammedanism* (Mentor Edition, 1958), Chapter 5, pp. 61-71.
21. I. Goldziher, *Vorlesungen über den Islam* (French trans.) by Arin, *Le Dogme et la Loi de l'Islam* (Paris 1920), chap. II pp. 27-60.
22. Al-Bukhārī, *Ṣaḥīḥ*, ed. Krehl and Juynbool (Leyden 1862-1868 and 1907-1908).
23. 'Uthmān's text.
24. I. Goldziher, *Muhammedanische Studien* (Halle 1890), Vol. I, p. 41; also, H. Lammens, *L'Islam, Croyances et Institution* (Beyrouth 1926), Chap. IV, pp. 74-91.
25. This criticism of authorities is called «wounding and authentication» (al-jarh wa al-ta'dīl). See Goldziher, *Muhammedanische Studien*, Vol. II, p. 143 sq.
26. All commentaries on collections of Ḥadīth contained details concerning the authorities.
27. Ṣaḥīḥ (sound).
28. See Article *Ḥadīth* in E. I.
29. See Article *'Arabīyya* in E. I. (New Edition, Leiden 1957).
30. «Characteristically, all expositions of Muslim law begin with the 'religious duties' or, acts of worship', such as ablution, p rayer, and Pilgrimage.» Gibb, *Mohammedanism*, p. 73.

31. Mawlawī Muḥammad A'la b. 'Alī, *Dictionary of Technical Terms used in the Sciences of the Muslims* (Calcutta 1862), Vol. II pp. 1189 sqq.; al-Shāfi'ī, *Risāla fī uṣūl al-Fiḥ* (Cairo 1321), pp. 65-66; and D. B. Macdonald, *Development of Muslim Theology, Jurisprudence and Constitutional Theory* (London 1903), p. 106 sq.
32. Gibb, *Mohammedanism*, p. 74.
33. I. Goldziher, *Vorlesungen über den Islam* (French trans.), p. 34.
34. Gibb, *Mohammedanism*, p. 77; see also D. Santillana, *Istituzioni di diritto musulmano malichita* (Rome 1926-38), Vol. I, p. 32.
35. Gibb, *Mohammedanism*, p. 77.
36. *Ibid.*, p. 78.
37. *Ibid.*, p. 77.
38. See Art. *Idjtihād* in Shorter E.I.
39. There are several other schools like those of al-Awzā'ī (d. 774) and Dā'ūd al-Zāhirī (d. 883).
40. Al-Baghdādī, *Tārīkh Baghdād*, Vol. XIII, pp. 323-425; also, Brockelmann, *GAL*, Vol. I, pp. 176 sqq. and Suppl. I, 284 sqq.; and A. J. Wensinck, *The Muslim Creed* (Cambridge 1932), pp. 105, 115 sq., 122, 123, 221, 244.
41. D. Santillana, *op.cit.*; Ibn Sa'd, *Ṭabaqāt*, contains the oldest biography of Mālik.
42. *Al-Muwāḥḥa'* is probably the earliest surviving Muslim law-book.
43. Schacht, *op. cit.*, pp. 311-314.
44. W. M. Patton, *Aḥmed ibn Ḥanbal and the Miḥna* (Leyden 1897); Brockelmann, *GAL*, Vol. I, 181 sq., Suppl. I, 309; and Laoust, *op. cit.*, Introduction.
45. Gibb, *Mohammedanism*, pp. 73-74.
46. Qur'ān 17, 16.
47. Piety is mixed with fear of God (*taqwā*).

48. H.A.R. Gibb, *Islam in The Concise Encyclopaedia of Living Faiths* ed. by R. C. Zaehner (London 1959).
49. Mawlawī Muḥammad A'la b. 'Alī, *op.cit.*
50. Al-Shahrastānī, *op. cit.*, Vol. I, pp. 195-256; al-Baghdādī, *al-Farq Bain al-Firaq*, pp. 74-115.
51. *Ibid.*, pp. 5, 22, 37-38, 41, 198; see also W.M. Watt, *Free will and Predestination in Early Islam* (London 1948).
52. Al-Shahrastānī, *op.cit.*, Vol. I, pp. 61-63; al-Baghdādī, *al-Farq Bain al-Firaq*, pp. 116-119; and al-Mālī, *op. cit.*, pp. 157-164.
53. Al-Shahrastānī, *op. cit.*, Vol. I, p. 61 sqq; al-Mālī, *op. cit.*, pp. 158-163; and al-Baghdādī, *al-Farq Bain al-Firaq*, pp. 116 sq.
54. Ibn Hazm, *Kitāb al-Faṣl fī al-Milal wa al-Aḥwā' wa al-Niḥal* (Cairo 1320), Vol. 4, p. 63.
55. See Nyberg's introduction to al-Khaiyāt, *Kitāb al-Intiḥār* (Cairo 1925).
56. He gave official patronage to the Mu'tazilite school of theology.
57. They withheld judgement on all the arguments as to which Caliphs had priority to the Caliphate.
58. Against anthropomorphists.
59. They regarded the Sunni doctrine of the Attributes of God as dangerous because it contradicts His Oneness.
60. Al-Shahrastānī, *op. cit.*, pp. 61-63. He calls them: aṣḥāb al-'adl wa al-Tawḥīd.
61. *Ibid.*, pp. 62-63.
62. This seems to indicate that they aimed at bridging the gap between the Sunnis and Shi'ites.
63. See Laoust's introduction to Ibn Baṭṭa, *Kitāb al-Sharḥ wa al-Ibāna 'alā uṣūl al-Sunna wa al-Diyāna* (Damas 1958); Patton; *op. cit.*; see also *Miḥna* in Shorter E. I.
64. Wensinck, *The Muslim Creed*, Chapter V, pp. 83-101.

65. *Ibāna* No. 15 trans. by R. J. McCarthy, *The Theology of Al-Ash'ari* (Beyrouth 1953), p. 238.
66. *Ibid.*, p. 241 - *Maqālāt* No. 22 and *Ibāna* No. 23.
67. *Ibid.*, p. 238 - *Maqālāt al-Islāmiyyīn* No. 12 and *Ibāna* No. 12.
68. *Ibid.*, p. 238 - *Maqālāt* No. 13 and *Ibāna* No. 13.
69. *Ibid.*, pp. 237-238 - *Maqālāt* No. II and *Ibāna* No. 11.
70. *Ibid.*, p. 242 - *Maqālāt* No. 23 and *Ibāna* No. 24.
71. *Ibid.*, p. 236 - *Maqālāt* No. 4 and *Ibāna* No. 4.
72. *Ibid.*, p. 237 - *Maqālāt* No. 7 and *Ibāna* No. 7.
73. «The promised ten» (al-'Ashara al-Mubashshara).
74. *Ibid.*, p. 245 - *Ibāna* No. 28.
75. *Ibid.*, pp. 246-7 - *Maqālāt* No. 36 and *Ibāna* No. 33.
76. *Ibid.*, p. 239 - *Maqālāt* No. 16 and *Ibāna* No. 17.
77. *Ibid.*, Chapter 5, Discussion of Qadar, pp. 53-54.
78. M. Watt, «The Origin of the Islamic Doctrine of Acquisition», *JRAS* (1943), pp. 234-247; see also J. Schacht, «New Sources for the History of Muhammadan Theology», *Studia Islamica* I (1953), pp. 23-42.
79. Robson, J., «Is the Moslem Hell eternal?» *M. W.* 28 (1938), pp. 386-396.
80. Al-Kindi (d. 873), al-Fārābī (d. 950), Ibn Sīnā (d. 1037), Ibn Bāja (d. 1138), Ibn Rushd (d. 1198).
81. Gibb, *Mohammedanism*, Chapter 8.
82. About 1065 through the influence of Niẓām al-Mulk.
83. H. Laoust, Introduction to *Kitāb al-Sharḥ wa al-Ibāna*; also Miskawaih, Vol. V, p. 413 and Ibn al-Athīr, VIII, pp. 204-6.
84. Wellhausen, *Religions-politischen Oppositions-Partien im alten Islam*, p. 91; and Mez, *Die Renaissance des Islams*, trans, Chapter V.

85. D. M. Donaldson, *The Shi'ite Religion* (London, 1933), Chapter II; Hajji Mirzā Aqāsi, *'Aqā'id al-Shi'a* (Meshhed, 1879), Book IV, chapter II.
86. Wellhausen, *Religions-politischen Opposition-Partien im alten Islam*, p. 91.
87. Donaldson, *op. cit.*, chapter XXVII.
88. E. Blochet, «Etudes sur l'esotérisme musulman», *Muséon* N. S. 7 (1906), pp. 189-212, 297-324; N. S. 8 (1907), pp. 318-342; N. S. 9 (1908), pp. 85-102, 255-276; N. S. 10 (1909), pp. 5-38, 175-205, 295-330.
89. D. B. McDonald, art. «Djafr», *Encyclopaedia of Islam*; also see al-Bukhārī, *Ṣaḥīḥ*, ed. Krehl and Juynboll (Leyden, 1862-1868), III, 39, and Tayalīsī, *Musnad* (Haidarabād 1321-1903), No. 91.
90. Mulla Muḥammad Bakir Majlisī, *Ḥayāt al-Qulūb* (lith. Persia 1909), Vol. I, pp. 11-12.
91. *Ibid.*, III, pp. 23-25; al-Hillī, *al-Bāb al-Ḥādī 'Ashar* trans. by W. McE. Miller (*A Treatise on the Principles of Shi'ite Theology*), *O. T. F.* Vol. XIX, 1928, pp. 62-74.
92. Zaid ibn 'Alī, *Majmū' al-Fiqh*, ed. by E. Griffini, «Corpus Juris di Zaid ibn 'Alī», I Vol (Milano 1919); see also al-Shahrastānī, pp. 115-121 and Ibn Ḥazm, Vol. IV, pp. 179-188.
93. I. Goldziher, «Das Prinzip der *Taḥijja* im Islam», *Z.D.M.G.* 60 (1906), pp. 213-226; Note by A. Fisher, pp. 250-253; further note, 61 (1907), pp. 243-245; see also J. Horowitz, «*Taḥijja*», *Islam* 3 (1912), pp. 63-67.
94. B. Lewis, *The Origin of Ismā'ilism* (Cambridge, 1940), pp. 23-44.
95. *Ibid.*, pp. 76-90.
96. M. J. de Goeje, *Mémoire sur les Carmathes* (Leyden, 1886).
97. Al-Malatī, *al-Tanbīh wa al-Radd* (Cairo 1369-1949), pp. 31-37, al-Baghdādī, *al-Farq bain al-Firaq*, pp. 43-73; Ibn Ḥazm, Vol. IV, pp. 179-188; and Shahrastānī, *op. cit.*, pp. 347-362.
98. Lithographed in Tehran 1889, 2 vols. See Tanukabunī, Muḥammad b. Sulaimān, *Qiyās al-'Ulama* (Lith. Persia, 1890), p.

307, and Muḥammad b. Ḥasan al-Ṭūsī, *Fihrist* (Calcutta, 1853), No. 709.

99. Lith. in Persia, 1908. See Tanukabunī, *op. cit.*, pp. 300-307 and Ṭūsī, *op. cit.*, No. 661.

100. Lith. in Persia, 1899.

101. Lith. in Lucknow (n. d.). See Tanukabunī, *op. cit.*, pp. 307-317, and Ṭūsī, *op. cit.*, Nos. 620, 685.

102. U.M. Daupota and A.A.A. Fyzee, «Notes on Mut'a or temporary marriage in Islam», *J.B.B.R.A.S.* (N.S.) 8 (1932), pp. 79-92. See also D. M. Donaldson, «Temporary Marriage in Islam», *M. W.* 26 (1936), pp. 358-364.

103. L. Massignon, «Recherches sur les Shi'ites extrémistes à Bagdad à la fin du troisième siècle de l'Hégire», *Z.D.M.G.* 92 (N.F. 17), 1938, pp. 378-82.

104. Aghā Buzurq al-Ṭahrānī, *al-Dharī'a ila Taẓānif al-Shi'a* (al-Najaf 1355), Vol. II, pp. 320-343.

CHAPTER FOUR

1. H.A.R. Gibb, «al-Māwardī's Theory of the Khilāfah», *Islamic Culture* XI (1937), pp. 292-302.

2. Abū Yūsuf, *Kitāb al-Kharāj* (Cairo, 1346), p. 6. See also Gibb, «Constitutional Organization», p. 6.

3. Gibb, «al-Māwardī's Theory of the Khilāfah», p. 294.

4. *Ibid.*, p. 294.

5. H.A.R. Gibb, «Some Considerations on the Sunni Theory of the Caliphate», *Archives d'histoire du Droit Oriental*, Vol. III (1947), pp. 26-27.

6. Gibb, «al-Māwardī's Theory of the Khilāfah», pp. 294-95.

7. Gibb, «Some Considerations on the Sunni Theory of the Caliphate», p. 26.

8. Gibb, «Constitutional Organization», p. 4.

9. 'Abd al-Qāhir al-Baghdādī, *Uṣūl al-Dīn* (Istanbul, 1928), Vol. I.
10. Al-Māwardī, *al-Aḥkām al-Sulṭāniyah* (Cairo, n. d.).
11. Abū Ya'la, *al-Aḥkām al-Sulṭāniyah* (Cairo 1356/1938).
12. Al-Bāqillānī, *al-Tamhīd* (Cairo, 1366/1943), pp. 164-178.
13. Al-Bāqillānī, *al-Tamhīd*, pp. 164-165. See al-Baghdādī, *Uṣūl al-Dīn*, p. 273; al-Māwardī, *al-Aḥkām*, p. 3; and Abū Ya'la, *al-Aḥkām*, pp. 3-4.
14. Al-Bāqillānī, *al-Tamhīd*, p. 165. For approximately the same view, see al-Baghdādī, *Uṣūl al-Dīn*, p. 281.
15. Al-Bāqillānī, *al-Tamhīd*, pp. 166-67. See also al-Baghdādī p. 281.
16. Al-Bāqillānī, *al-Tamhīd*, p. 168.
17. Especially Abū Bakr and 'Umar.
18. Al-Bāqillānī, *al-Tamhīd*, pp. 167-68.
19. *Ibid.*, p. 169. This tradition is given by Ibn Ḥanbal, *Musnad* (Cairo, 1895), Vol. I, pp. 84, 118, 119, 152, 330. See also Wensinck *A Handbook of Early Muhammadan Tradition* (Leyden, 1927), p. 15. The Shī'a claim that this Tradition is a valid *Mutawātir* appointment. See al-Ḥillī, *al-Bāb al-Ḥādī 'Ashar*, trans., p. 75.
20. Al-Bāqillānī, *al-Tamhīd*, pp. 169-172. Also see Art. Mawlā in *E. I.*. For a Shī'ite interpretation, see al-Ḥillī, *al-Bāb al-Ḥādī 'Ashar*, p. 76.
21. Al-Bāqillānī, *al-Tamhīd*, p. 173.
22. *Ibid.*, p. 173; al-Ḥillī, p. 76.
23. Al-Bāqillānī, *al-Tamhīd*, p. 175.
24. *Ibid.*, p. 176.
25. *Ibid.*, p. 175.
26. Al-Bāqillānī gives: Abū Bakr, 'Umar, Zaid ibn Ḥārithah, Usāma b. Saīd, 'Umar b. al-'ās, Abū 'ubayda, Khālid b. al-Walīd, Mu'ādh, Abū Mūsa al-Ash'arī and 'Amr b. Ḥazm, as examples of such temporary appointments.

27. Al-Bāqillānī, *al-Tamhid*, p. 175.
28. *Ibid.*, p. 175.
29. *Ibid.*, p. 177.
30. *Ibid.*, p. 175.
31. *Ibid.*, p. 175.
32. *Ibid.*, p. 178.
33. *Ibid.*, p. 178. See also al-Baghdādī, p. 280; al-Māwardī, p. 4; Abū Ya'la p. 8.
34. Al-Baghdādī accepts the existence of two imāms simultaneously if their domains are separated by sea. See *Uṣūl al-Dīn*, p. 274.
35. Al-Bāqillānī, p. 178.
36. This line of thought is held by al-Ash'arī and his followers (see al-Baghdādī, p. 273). Against the position held by the Mu'tazilites who insist on at least two electors. Al-Ash'arī bases his decision on *qiyas* to the marriage contract which is validly contracted by a single person.
37. Al-Bāqillānī, p. 178. See al-Baghdādī, pp. 281-282. Al-Qalānisi is quoted to maintain that «the contract of the imāmate is validly made by the 'ulamā' of the Community who are present at the residence of the imām, irrespective of their number» (al-Baghdādī, p. 281).
38. Al-Bāqillānī, p. 178; al-Baghdādī, p. 280; al-Māwardī, pp. 4-5; Abū Ya'la, pp. 7-8.
39. Al-Bāqillānī, p. 179.
40. *Ibid.*, p. 179.
41. *Ibid.*, p. 179.
42. *Ibid.*, p. 179; al-Baghdādī, p. 281; Abū Ya'la, p. 3.
43. Al-Bāqillānī, p. 179; al-Baghdādī, p. 274.
44. Al-Bāqillānī, p. 179.
45. *Ibid.*, p. 179.

46. *Ibid.*, p. 179.

47. *Ibid.*, p. 180.

48. Al-Bāqillānī here is contributing to the admission of the historical process into constitutional theory.

49. Al-Bāqillānī, p. 179, The Mu'tazilites held that the least number of those who may make the contract of the imamate is two persons, just as the contract of marriage is not established by less than two witnesses. See al-Baghdādī, p. 281.

50. Al-Bāqillānī, pp. 180-181.

51. Al-Bāqillānī, p. 180; al-Baghdādī, pp. 274-75.

52. Al-Bāqillānī, p. 180; al-Baghdādī, p. 281.

53. Al-Bāqillānī, p. 180.

54. *Ibid.*, p. 180.

55. *Ibid.*, p. 181.

56. The Karrāmiyya maintain the lawfulness of two or more imāms at one time. The Shī'a maintain that there can be two imāms at the same time but one should be a «speaking» imām, the other, «silent»; there cannot be two «speaking» imāms.

57. Al-Baghdādī, pp. 274-5, perhaps referring to the Umayyad Caliphate in Spain. Obedience to it is incumbent on the inhabitants of that region.

58. Al-Bāqillānī, p. 181.

59. *Ibid.*, p. 181.

60. *Ibid.*, p. 181.

61. To be distinguished from «ahl-il Ḥaqq», the Shī'ite sect.

62. Al-Bāqillānī, p. 181.

63. *Ibid.*, p. 181.

64. *Ibid.*, p. 181.

65. *Ibid.*, p. 181; al-Baghdādī, p. 275; al-Māwardī, p. 4; and Abū Ya'la, p. 6.
66. See al-Baghdādī, p. 275.
67. Al-Bāqillānī, p. 184. He argues that the imāmate is in Quraysh and not limited to the Hashimites.
68. Al-Baghdādī, p. 277. The term *mujtahid* was, by the time of al-Baghdādī, limited to the Shi'ite theologians.
69. Al-Bāqillānī, p. 183. See also al-Māwardī p. 4.
70. Al-Bāqillānī, p. 183.
71. *Ibid.*, p. 183; al-Baghdādī, p. 277.
72. Al-Bāqillānī, p. 183; al-Baghdādī, p. 277.
73. Al-Bāqillānī, p. 183; al-Baghdādī, p. 277.
74. Al-Bāqillānī, p. 184.
75. *Ibid.*, p. 184.
76. *Ibid.*, p. 184; al-Baghdādī, pp. 277-279.
77. Al-Bāqillānī, p. 184.
78. *Ibid.*, p. 184.
79. *Ibid.*, p. 184.
80. *Ibid.*, p. 185.
81. *Ibid.*, p. 185.
82. Al-Baghdādī, pp. 277-278.
83. Majlisī, Mulla Muḥammad Bāqu, *Hayāt al-Qulūb* (Persia, 1867) vol. III, p. 23.
84. Al-Baghdādī, p. 281.
85. Al-Māwardī was also silent on this very issue.
86. Almost all schools of thought in Islam hold the imāmate to be necessary except some Qadarites (abilitarians) like Abū Bakr al-Aṣamm and Hishām al-Fuwatī (see al-Baghdādī, p. 271).

87. Al-Bāqillānī, p. 185.
88. Al-Baghdādī, pp. 271-272.
89. Al-Māwardī, p. 3.
90. Based on the verse «O ye Faithful, obey God and the Apostle and those set in Command amongst you» (Qur'ān 4.62).
91. See H. Laoust, Introduction to Ibn Baṭṭa's *Kitāb al-Sharḥ wa al-Ibānah* (Damascus, 1958).
92. Al-Bāqillānī, p. 185; see also al-Baghdādī, pp. 271-272; al-Māwardī, p. 4; Abū Ya'la, pp. 4-5.
93. Al-Bāqillānī, p. 185; see also al-Baghdādī, pp. 271-272; al-Māwardī, p. 4; Abū Ya'la, pp. 4-5.
94. Al-Bāqillānī, p. 185; see also al-Baghdādī, pp. 271-272; al-Māwardī, p. 4; Abū Ya'la, pp. 4-5.
95. Al-Bāqillānī, p. 185 and al-Baghdādī, pp. 271-272.
96. Al-Bāqillānī, p. 186.
97. Al-Bāqillānī, pp. 186-187; see al-Māwardī, pp. 15-19. Al-Baghdādī considers evil conduct or heresy as the only cause of forfeiture (p. 278).
98. Al-Bāqillānī, p. 186; al-Māwardī, p. 15; al-Baghdādī, p. 278; Abū Ya'la, p. 4.
99. Al-Bāqillānī, p. 186; al-Māwardī, p. 15; al-Baghdādī, p. 278; Abū Ya'la, p. 4.
100. Al-Bāqillānī, p. 186; Abū Ya'la is of ahl al-Ḥadīth's opinion that the above-mentioned conditions are not enough cause for forfeiture (p. 4).
101. Al-Bāqillānī, p. 186; al-Māwardī, pp. 16-18; Abū Ya'la gives as detailed description of infirmities as al-Māwardī (pp. 5-6).
102. Al-Bāqillānī, p. 186; see also al-Māwardī, pp. 18-19; Abū Ya'la, pp. 6-7.
103. Al-Bāqillānī, 186; see al-Māwardī, pp. 18-19 and Abū Ya'la, pp. 6-7.

104. Al-Māwardī, p. 18; Abū Ya'la, p. 6.
105. Al-Bāqillānī, pp. 186-187.
106. *Ibid.*, p. 187. Al-Bāqillānī was probably referring to the deposition of al-Qāhir (932-934), al-Muttaqī (940-944), al-Mustakfī (944-946), al-Muṭī' (946-974), and al-Ta'ī' (974-991).
107. *Ibid.*, p. 186.
108. Gibb, «Al-Māwardī's Theory of the Khalifah», p. 300.
109. Al-Bāqillānī, p. 181.
110. *Ibid.*, p. 186.

CHAPTER FIVE

1. I. Goldziher, *Muhamm. Stud.*, I, p. 41.
2. Ibn al-Athīr, *Usūd al-ghābah fī ma'rifat al-ṣaḥābah* (Cairo, 1286). See also Ibn Hajar al-'Asqalānī, *al-Iṣābah fī tamyiz al-ṣaḥābah* (Calcutta, 1853).
3. I. Goldziher, *op. cit.*, II, 143 sq.
4. «A *mutawātīr* is a communication handed down from many sides, which was generally known from very early times and to which no objections have been raised».
5. O. Loth, «Ursprung und bedeutung der Tabakāt», *Z.D.M.G.*, XXIII, pp. 593-614.
6. H. Laoust, *Essai sur les Doctrines Sociales et Politiques de Takī-D-Dīn AHMAD B. TALMIYA* (Cairo, 1939), Chap. III.
7. Al-Bāqillānī, *Tamhid*, pp. 184-185.
8. Abū Bakr, 'Umar, 'Uthmān, 'Alī, Talha, Zubayr, 'Abd al-Raḥmān b. 'Awf, Sa'd b. Abī Waqqās, Sa'id b. Zayd, Abū 'Ubaida b. al-Jarrāh.
9. L. Massignon, *La passion d'al-Hosayn Ibn Mansour al-Hallāj...* (Paris, 1922), p. 729.
10. Donaldson, *The Shi'ite Religion* (London, 1933), p. 314.

11. Al-Ash'arī rejected their *manzilah bayn al-manzilatayn*.
12. Al-Bāqillānī, *Tamhīd*, pp. 187-197.
13. *Ibid.*, p. 187.
14. *Ibid.*, p. 187.
15. *Ibid.*, p. 189.
16. *Ibid.*, p. 189.
17. *Ibid.*, p. 189.
18. *Ibid.*, p. 187.
19. *Ibid.*, p. 188.
20. Donaldson, *The Shi'ite Religion*, Chap. II
21. Al-Bāqillānī, *Tamhīd*, p. 189.
22. *Ibid.*, p. 189. See Ibn Sa'd, III, p. 121.
23. Al-Bāqillānī, *Tamhīd*, p. 189.
24. *Ibid.*, p. 189. See also Lammens, *La Mecque à la veille de l'Hégire* (Beirut, 1924), pp. 226-228.
25. Al-Bāqillānī, *Tamhīd*, p. 189. See also Qur'ān 9.40.
26. Al-Bāqillānī, *Tamhīd*, p. 189.
27. *Ibid.*, p. 189. See also Ṭabarī, I, pp. 1326, 2525, 2594.
28. Al-Bāqillānī, *Tamhīd*, p. 189.
29. *Ibid.*, p. 189.
30. *Ibid.*, p. 175.
31. *Ibid.*, pp. 190-192.
32. *Ibid.*, p. 193.
33. *Ibid.*, p. 193.
34. *Ibid.*, p. 194.
35. *Ibid.*, p. 194.

36. *Ibid.*, p. 193.
37. *Ibid.*, pp. 194-196.
38. *Ibid.*, pp. 194-196.
39. *Ibid.*, p. 196.
40. *Ibid.* pp. 197-202.
41. *Ibid.*, p. 197.
42. *Ibid.*, p. 198.
43. *Ibid.*, pp. 197-198.
44. *Ibid.*, pp. 198, 201.
45. *Ibid.*, pp. 201-202.
46. Donaldson, *The Shi'ite Religion*, Chap. II.
47. Al-Bāqillānī, *Tamhīd*, p. 198.
48. *Ibid.*, p. 198.
49. *Ibid.*, pp. 201-202. See also al-Baghdādī, *Uṣūl*, pp. 284-286.
50. Al-Bāqillānī, *Tamhīd* p. 201.
51. *Ibid.*, p. 202.
52. *Ibid.*, p. 200.
53. *Ibid.*, p. 175.
54. *Ibid.*, p. 198.
55. *Ibid.*, p. 199.
56. *Ibid.*, pp. 196-197.
57. *Ibid.*, p. 198.
58. *Ibid.*, p. 198.
59. *Ibid.*, p. 199.
60. *Ibid.*, p. 198.

61. *Ibid.*, p. 198.
62. *Ibid.*, p. 199.
63. *Ibid.*, pp. 199-200.
64. *Ibid.*, p. 198.
65. *Ibid.*, p. 200.
66. Al-Bāqillānī ignored the assassination.
67. Al-Bāqillānī, *Tamhid*, pp. 202-227.
68. *Ibid.*, p. 202.
69. *Ibid.*, p. 203.
70. *Ibid.*, p. 204.
71. *Ibid.*, p. 203
72. *Ibid.*, p. 205. Al-Bāqillānī maintained that it was a *maṣ-
lahah* measure.
73. *Ibid.*, p. 203.
74. *Ibid.*, pp. 208-212.
75. *Ibid.*, p. 211.
76. *Ibid.*, pp. 220-227.
77. *Ibid.*, p. 202.
78. *Ibid.*, p. 202.
79. *Ibid.*, p. 203.
80. *Ibid.*, p. 202.
81. *Ibid.*, pp. 202-203.
82. *Ibid.*, p. 202.
83. *Ibid.*, p. 202.
84. *Ibid.*, p. 202.
85. *Ibid.*, pp. 220-227.
86. *Ibid.*, pp. 220-221.

87. *Ibid.*, p. 221.
88. *Ibid.*, pp. 221-222.
89. *Ibid.*, p. 222.
90. *Ibid.*, p. 223.
91. *Ibid.*, p. 222.
92. *Ibid.*, pp. 222-223.
93. *Ibid.*, p. 223.
94. *Ibid.*, p. 224.
95. *Ibid.*, p. 224.
96. *Ibid.*, p. 226.
97. *Ibid.*, pp. 226-227.
98. *Ibid.*, pp. 213-220.
99. *Ibid.*, pp. 213-214.
100. *Ibid.*, p. 213. Al-Bāqillānī does not develop this assertion which could have served as a solution to the problem of how an imām may legally be deposed.
101. *Ibid.* pp. 227-239.
102. *Ibid.*, pp. 227-239.
103. *Ibid.*, pp. 229-230.
104. *Ibid.*, p. 229.
105. *Ibid.*, p. 230.
106. *Ibid.*, p. 230.
107. *Ibid.*, pp. 230-231.
108. *Ibid.*, pp. 232-233.
109. *Ibid.*, p. 230.
110. *Ibid.*, p. 232.

111. *Ibid.*, pp. 232-233.
112. *Ibid.*, p. 231.
113. *Ibid.*, p. 232.
114. *Ibid.*, pp. 232-233.
115. *Ibid.*, p. 232.
116. *Ibid.*, pp. 232-233.
117. *Ibid.*, p. 231.
118. *Ibid.*, p. 234.
119. *Ibid.*, pp. 235-236.
120. *Ibid.*, p. 235.
121. *Ibid.*, pp. 233-234.
122. *Ibid.*, p. 234.
123. *Ibid.*, pp. 234-235.
124. *Ibid.*, pp. 237-238.
125. *Ibid.*, p. 227.
126. *Ibid.*, pp. 227-228.
127. *Ibid.*, p. 227.
128. *Ibid.*, p. 229.
129. *Ibid.*, p. 228.
130. *Ibid.*, p. 227.
131. *Ibid.*, pp. 169-173, 227.
132. *Ibid.*, p. 229.
133. *Ibid.*, pp. 228-229.
134. *Ibid.*, p. 230.
135. *Ibid.*, pp. 230-231.

136. *Ibid.*, pp. 230-239.
137. *Ibid.*, p. 238.
138. *Ibid.*, p. 238.
139. *Ibid.*, p. 239.
140. Al-Ash'arī, *al-Ibānah* (Ḥaydarabād, 1321), p. 95.

CHAPTER SIX

1. Al-Bāqillānī, *Tamhīd*, pp. 41-45.
2. *Ibid.*, pp. 44-45.
3. *Ibid.*, pp. 47-48.
4. Al-Bāqillānī, *al-Insāf*, pp. 17-20.
5. *Ibid.*, p. 53.
6. Al-Bāqillānī, *Insāf*, pp. 23-24; al-Bāqillānī, *Tamhīd*, pp. 38-39.
7. Al-Bāqillānī, *Insāf*, pp. 39.
8. *Ibid.*, pp. 39-40.
9. *Ibid.*, p. 37.
10. *Ibid.*, pp. 105-114.
11. Al-Bāqillānī, *Tamhīd*, pp. 112-113.
12. Al-Bāqillānī, *Insāf*, pp. 43-44.
13. *Ibid.*, pp. 54-55.
14. *Ibid.*, pp. 53-55.
15. *Ibid.*, pp. 33, 54.
16. Al-Bāqillānī, *I'jāz*, p. 3.
17. *Ibid.*, p. 4.

18. Al-Bāqillānī, *Tamhīd*, p. 39; Al-Bāqillānī, *I'jāz*, p. 63.
19. Al-Bāqillānī, *I'jāz*, pp. 10-20.
20. *Ibid.*, p. 15.
21. Al-Bāqillānī, *Tamhīd*, p. 39.
22. Al-Bāqillānī, *I'jāz*, pp. 5-6.
23. Al-Ash'arī, *Istiḥsān al-Khawḍ fī 'Ilm al-Kalām*, ed. McCarthy (Beirut, 1952), pp. 94-95.
24. *Ibid.*, p. 95.
25. Al-Bāqillānī, *Inṣāf*, p. 60.
26. Al-Bāqillānī, *Tamhīd*, p. 114.
27. Al-Ash'arī, *Istiḥsān al-Khawḍ*, pp. 94-95.
28. Qur'ān, 2.129.
29. Donaldson, *The Shi'ite Religion*, pp. 314-315.
30. Al-Bāqillānī, *Tamhīd*, pp. 160-162.
31. *Ibid.*, p. 178.
32. *Ibid.*, pp. 164-178.
33. *Ibid.*, pp. 164-168.
34. *Ibid.*, p. 166.
35. *Ibid.*, p. 170.
36. *Ibid.*, p. 169. See also Ahmad ibn Ḥanbal, *Musnad* I, 84, 118, 119, 152, 330 and Wensinck, *H. E. M. T.*, p. 15.
37. Al-Bāqillānī, *Tamhīd*, pp. 169-170.
38. *Ibid.*, pp. 170-173.
39. *Ibid.*, p. 201.
40. *Ibid.*, p. 222.
41. *Ibid.*, p. 201.

42. *Ibid.*, pp. 168-178.
43. *Ibid.*, pp. 178-187.
44. *Ibid.*, pp. 178-179.
45. Al-Bāqillānī also calls them « *Fuḍalā' al-Umma* ».
46. Al-Bāqillānī, *Tamhid*, p. 181.
47. Dāwūd al-Zāhirī, *Aqdiya*, b. II; Dārimī, *al-Musnad al-Jāmi'*, b. 19.
48. Nasā'ī, *Adāb al-Quḍāt*, b. II.
49. Tirmidhī, *Aḥkām*, b. 3.
50. Al-Bāqillānī, *Tamhid*, pp. 179, 180, 186-187.
51. *Ibid.*, pp. 178-179⁶.
52. *Ibid.*, p. 179.
53. *Ibid.*, p. 180.
54. *Ibid.*, p. 180.
55. *Ibid.*, pp. 180-181.
56. *Ibid.*, p. 180.
57. *Ibid.*, p. 180.
58. *Ibid.*, p. 180.
59. *Ibid.*, pp. 180-181.

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The rest of the bibliography will be listed in alphabetic order. The reason we are following this arrangement has been eloquently expressed in the following quotation from Ibn Qutayba:

«God has not limited learning and poetry and eloquence to one age rather than another, nor distinguished one people thereby above another, but hath made it a joint heritage among His servants in every age, and hath made every ancient thing new in its time and every honour parvenu at its beginning.»

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