

al-Mawardi

THE ORDINANCES OF
GOVERNMENT

A TRANSLATION OF

*Al-Aḥkām al-Sultāniyya wa' al-Wilāyāt
al-Dīniyya*

Translated by

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CENTER FOR MUSLIM
CONTRIBUTION TO CIVILIZATION

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The Ordinances of Government

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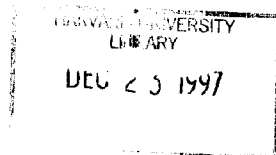
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AUTHOR'S PREFACE

“And that if you judge among men, you should judge justly,” (Qurʾān 4:58).
In the name of Allah, the Beneficent, the Merciful.
May God bless our master Muḥammad, his family and companions, and grant them salvation.

Shaikh and Imām Abū al-Ḥasan al-Mawardī has said: “Praise the Lord, who has clarified the faith and favoured us with the comprehensive Book, who has issued us His commands and so delineated the boundaries of right and wrong that they have become the ultimate ordinance in this world, whereby the welfare of men is assured and the foundations of truth are firmly established. It is He who has entrusted leaders with the implementation of His just rules and with the conduct of affairs in the manner He has so magnificently planned. Praise Him for what He has decreed and planned, and may His blessings and peace be upon His Messenger, who obeyed His command and defended His right, the Prophet Muḥammad, as well as on his family and companions.”

Since the ordinances of government are of special interest to those in authority, as their entanglement with all other ordinances makes it hard for such persons, preoccupied as they are with the business of policy-making and administration, to study them carefully, I have – in compliance with the wishes of one to whom obedience is incumbent on me – devoted a separate book to them. Thus, he may familiarise himself with the views of scholars regarding his rights so that he may exact them in full, and his duties so that he may undertake them completely, observing justice in all his acts and decisions, and striving for equity in whatever he receives or gives. I ask God Almighty for help and pray Him for guidance and success. His support is all I need.

Now, God, exalted is His might, has appointed for the community of believers a leader to succeed the Prophet and protect the creed. To him He has entrusted the conduct of policy so that the management of affairs may be undertaken in the light of the true faith and a consensus may be reached on the right course to pursue. The *Imāmate* is, therefore, a main point laid down by the principles of the creed whereby the welfare of the community is maintained, such

addressed as "Vicar of God's Messenger," or simply as "Caliph" [i.e. Vicar]. There has been a difference of opinion whether he may be addressed as "God's Vicar," some allowing it on the ground that he oversees what is owed God by His creation, in accordance with His words, glorified and exalted is His name: "He it is Who has placed you viceroys of the earth, and has exalted some of you in rank above others" (Qurʾān 6:165). The majority of scholars, however, object to this view regarding it as sinful to hold it. Only someone who is absent or mortal, they argue, may be represented by another, but God is neither. When Abū Bakr the Upright heard himself addressed as "God's Caliph," he responded, "I am not God's Caliph, but the Caliph of God's Messenger, may God bless him and grant him salvation."

Ten public duties are required of him. First, he must guard the faith, upholding its established sources and the consensus of the nation's ancestors, arguing with emerging heretics or suspicious dissenters, demonstrating the truth to them, and administering to them the legal penalties, so that the faith should remain pristine and the nation free from error. Second, he must enforce law between disputing parties and end disagreement among antagonists until justice prevails and there are no more oppressors or oppressed people. Third, he must protect the country and the household, so that all may go about the business of living and travel anywhere unworried by deception or loss of life or property. Fourth, he must dispense the legal punishments so that God's prohibitions are observed and His worshippers' rights may be protected from vandalism or misappropriation. Fifth, he must strengthen border posts by deterrent equipment and fighting force so that the enemies may not gain the chance to violate what is sanctified or shed a Muslim's or protected non-Muslim's blood. Sixth, he must fight those who resist the supremacy of Islam after being invited to embrace it, until they convert or sign a treaty of subjection, so that God's claim to have the faith superior to any other is established. Seventh, he must collect the legal taxes and alms imposed by jurisprudence, on the basis of explicit text and the exercise of judgement, intrepidly but without tyranny. Eighth, he has to estimate the payments and allocations that must be made by the treasury without extravagance or niggardliness, and pay them neither before nor after the appointed time. Ninth, he must appoint men who are reliable and sincere and of good counsel to perform the functions or take care of the funds he charges them with in order to ensure efficiency and honest management. Tenth, he has personally to oversee matters and study the conditions of the people in order to manage public policy and guard the faith instead of relying on delegation of authority while he is preoccupied with pleasure or worship, for those deemed honest do sometimes betray the trust, and counsellors may deceive. As God, exalted be His name, says: "O David! We have made you viceroy in the earth; so, judge among men rightly, and do not follow desire lest it beguile you away from the path of God" (Qurʾān 38:26). Here, the Almighty,

praise Him, has neither delegated without overseeing nor excused submission to desire, which He has condemned as going astray. Even though this behaviour is imposed upon the Caliph by requirements of the faith and by his office, it is indeed necessary policy for each person in his respective domain of authority. "You are all shepherds and all responsible for your herds," said the Prophet, God bless and grant him salvation. The following poetic depiction of a statesman (in the *basīṭ* metre) is, therefore, quite apt:

Let your affairs be run by a man
Competent and artful in war,
Unpretentious in good times, unsubdued in adversity,
Who has learned the vicissitudes of time, leading and led,
Takes hardships in his stride, and is free of pomp and servility.

In a similar vein, al-Maʿmūn was told by his minister Muḥammad ibn Yazdān (also in the *basīṭ* metre):

A man in charge never sleeps when other men do,
How could he when he must always decide to do or undo!

Section

By doing what is due to the Community in the manner outlined, the sovereign accomplishes also what is due to God in relation to their rights and duties, and they owe him in return two things so long as his policy has not changed: obedience and support. Two changes of policy disqualify him for leadership: lack of justice and physical disability. Lack of justice or probity is classified into submission to desire and suspicious acts. The former has to do with sinfulness, committing forbidden deeds and venturing on violations of decency in pursuit of pleasure. This kind excludes from candidacy in the first place, and disqualifies from continuation in office. An incumbent so disqualified must step down, and may not be reinstated upon regaining probity without a new appointment. Certain theologians contend, however, that reinstatement is possible after reform of character without resuming the election or obtaining a new vote of allegiance owing to the universal nature of his jurisdiction and the inconvenience of going through the election process all over again. The second has to do with suspected unorthodoxy, which would preempt investiture and continuation in office in the opinion of some scholars, on the ground that mere suspicion is sufficient as in the case of utter disbelief. Many Baṣran authorities, on the other hand, maintain that it does not disqualify from leadership as it does not disqualify from judgeships or rendering of testimony.