CHAPTER FOUR

CONCEPT OF AN ISLAMIC STATE: A COMPARATIVE STUDY OF MUHAMMAD ASAD AND TAQĪ AL-DĪN NABAHĀNĪ

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4.1 Introduction

Islamic State as a concept in the contemporary Islamic thought has been discussed at the very outset of the current work. The claim of Islamic scholars and movements that Islam provides guidelines for the formation and propagation of an Islamic State was/is most contested in the contemporary Islamic thought. The notion of establishing an Islamic State was propagated and influenced by the prominent scholars of the twentieth century like Muhammad Rashīd Riḍā, Ḥasan al-Banna, Sayyid Quṭb, Mawlānā Mawdūdī and Ayatollah Khomeini. These scholars advocated the nature and importance of an Islamic State as per their respective approaches and understanding of Islam. Islamic movements (representing the diverse sectarian divides) emerged with the aspiration of creating an Islamic State. Besides, the countries, like Saudi Arabia, Pakistan, Iran and Malaysia qualified themselves as Islamic; however, the Islamic character of such countries and movements is still contested. Recently, in 2014, the ISIS (Islamic State of Iraq and Sham), announced the formation of Khilāfah¹ (now commonly known as Islamic State) with Abu Bakr al-Baghdādī (now referred as Khalīfah Ibrāhīm) as its leader.² However, the legitimacy of ISIS as an Islamic State is contested in the Muslim world and none of the Islamic countries or mainstream Islamic movements offer them a concrete support or official acknowledgement.³ In this context, the present chapter aims at identifying the Islamic character of a State in light of the comparative study of Muhammad Asad and Taqī al-Dīn al-Nabhānī.

The previous chapters substantiate the era and circumstances in which Muhammad Asad and Taqī al-Dīn al-Nabhānī were grown up. Where al-Nabhānī was closely observing the political decadence of the Ottoman Caliphate, Asad, on the other hand, was worried about the pathetic state of Muslims. Both the scholars were the eyewitnesses to the major events that took place during the twentieth century. Besides the events like World War I, abolition of the Khilāfah, and World War II followed by decolonization of the countries, the period observed the emergence of different Muslim ideologues and movements meant for the Muslim renaissance and establishment of world order based on peace and justice. It was during this period that a tremendous increase in Islamic literature supporting the Sharī‘ah based government, formation of movements and other endeavors appeared to respond against
the intellectual and political challenge of Western hegemony.4 The Islamic scholars sought to rejuvenate and restore the pride, identity, and strength of a debilitated Islamic community with reinterpreting Islam to deal with the new questions and issues faced by humanity in the contemporary ‘Modern’ scenario.5

Coming from different family backgrounds, Asad and al-Nabhānī were unique in their approaches to Islam and in discerning the laws from the basic sources of Islam. Regarding Asad, Pipip Ahmad Rifā‘ī Hasan maintained that he was neither affected by his social and geographical background nor did he formulate his thoughts to please the rulers of the time or to legitimize their rule in the eyes of the general masses.6 He further maintained that his thoughts have, among others, followed three main distinctive features that differentiate him from others:

1. His political thought emerged in the milieu that enjoyed freedom of speech, assembly and action;
2. He formulated his political view in isolation from related disciplines like jurisprudence and theology;
3. He expressed his ideas in the language of Islamic sciences and sometimes using Western institutions and ideas in the terms, familiar to or within Islamic nomenclature.7

Likewise, al-Nabhānī gave his thoughts a purely Islamic colour and formulated his ideas not in isolation from jurisprudence and theology like that of Asad. Unlike Muhammad Asad, he was closer to the policies of the Ottoman Caliphate and used to discuss with his maternal grandfather, Shaykh Yūsuf al-Nabhānī, the on-going political debate in the Caliphate.8 The dissolution of the Caliphate and the British occupation of the Palestine helped him to understand the ill policies of the West towards Islam. Identifying the causes of corrupt educational system, he alerted the students regarding the ill-policies of Imperialists and the West.9 Muhammad Asad, on the other hand, being a Westerner was able to identify the policies of the West against Islam. Interestingly, being a Jew (before embracing Islam) he objected the conspiracy of Zionists to the Muslim inhabitants of Palestine and their plan of shifting the Muslim majority into minority.10 Thus, both these scholars, after due assessment
of circumstances of the time in relation to the Islamic injunctions and the early history of Islam, devoted themselves for the renaissance of the Muslims which they believed could be attained by the implementation of uncompromising Islamic tenets through an Islamic State.\textsuperscript{11}

It is pertinent to note that it was on the wish of Dr. Sir Muhammad Iqbal, the primary ideologue of Pakistan, Asad abandoned his travels and stayed in India to formulate a theoretical framework and a ground for a separate Muslim state. He accordingly penned down his political ideas and helped in framing the ideological principles of Pakistan.\textsuperscript{12} The stay of Asad in India since 1932, on one hand, played an important role in framing his political ideas, while as on the other, the socio-political environment, and developments in Palestine played a major role in maturing al-Nabhānī’s political thought.

\section{4.2 Position of the Duo in Islamic Political Thought}

In the contemporary period, academicians and political thinkers attempted to categorize the scholars who have been engaged in exploring the character of an Islamic State and its viability in the modern times. In this regard, Prof. Leonard Binder (b. 1927), an American political scientist, maintains that four viewpoints occurred for creating a new Islamic State: Traditionalists\textsuperscript{13}, Modernists\textsuperscript{14}, Fundamentalists\textsuperscript{15} and Secularists.\textsuperscript{16} Dr. Manzūr al-Din Aḥmad (1929-2012), a former vice-chancellor of the University of Karachi and a political scientist, counted fundamentalist into Traditionalist class, modernists as Liberals and Secularist as the opponents of Islamic State.\textsuperscript{17} Pippip Hasan Rifā‘ī made a simple but broader classification as the Proponents of \textit{Sharī‘ah} state and Proponents of Secular state.\textsuperscript{18} However, John L. Esposito\textsuperscript{19} made the classification of such scholars into “secularists”\textsuperscript{20}, “rejectionists”\textsuperscript{21}, “extremists”\textsuperscript{22}, “conservatives”\textsuperscript{23}, and “reformers”/reformists.\textsuperscript{24}

Unnecessary to mention, such classifications are not unanimous in nature for having no universal definitions as such. However, it can be inferred that Asad and al-Nabhānī are the proponents of the \textit{Sharī‘ah} and rejected the contemporary secular forms of government for not having the absolute universal principles to judge between the ‘right’ and ‘wrong’\textsuperscript{25} and are, thus, incompatible with the Islamic ruling system which is based on absolute universal
principles. Thus, a social order or a state based on such principles is necessary for “the creation and maintenance of such social conditions as would enable the greatest possible number of human beings to live in harmony, freedom, and dignity.”

4.3 Concept of an Islamic State—A Comparison

The “Concept of an Islamic State” is a debatable idea more often used by its proponents as the authority responsible for the implementation of *Sharī’ah* (Islamic law) in the newly changing world politics. Like their contemporary Islamic scholars, Mawdūdī, and Sayyid Quṭb, Asad and al-Nabhānī also believed that Islam provides a definite scheme of life based on universal principles mentioned in the clear-cut injunctions of Islam, present in the form of *Qur’ān* and *Sunnah*. Al-Nabhānī terms the ‘State’ as the general and overall leadership of all the Muslims living in the world to establish and safeguard *Sharī’ah* and for Asad it is an “indispensable condition for a true Islamic life”, the absence of which makes Islam largely a theory having no practical fruition. According to Muhammad Asad:

[T]he growing of a community of people who stand up for equality and justice, for right and against wrong—or, to put it more precisely, a community of people who work for the creation and maintenance of such social conditions as would enable the greatest possible number of human beings to live, morally as well as physically, in accordance with the natural Law of God, Islam.

Al-Nabhānī argued that Islamic State is neither a dream nor a figment rather it is a reality which as per the Prophetic prediction will prevail sooner or later. An Islamic State, he added, is not a desire that one aims to satisfy but an obligation that Allah has decreed for the Muslims and commanded them to fulfill. Here, al-Nabhānī went against the arguments of ‘Alī ‘Abd Rāziq who rejected the religious obligation of creating a state. Asad agreed with the calculations of al-Nabhānī but put the issue differently. According to him, the impartial examination of the political ordinances of *Qur’ān* and *Sunnah* reveal both the nonappearance of any specific form of state as well as any detailed elaboration of a constitutional theory in *Sharī’ah*. Nevertheless, the political law emerging from the context of *Qur’ān* and *Sunnah* is not an illusion. It is vivid enough and concrete inasmuch as it gives us the clear outline of a political scheme of universal application. This implies, maintained Asad, that there is no specific form of the Islamic State, but many, and it is up to the Muslims
of every age to find one that suits them on the condition that the form of government they choose must be in conformity with the principles provided in Qur‘ān and Sunnah. However, in the contemporary times when the political thought and its forms reached to its zenith, Asad believed that among the existing forms of government, the presidential form of government is best suited for an Islamic State as it corresponds to the Islamic concept of Caliph (Khalīfah).

Al-Nabhānī called the Islamic State as the vicegerent of Allah (ﷻ), a political and executive body entrusted with the duty of implementing and executing (Sharī‘ah) the laws of Islam and of conveying the message to the world by means of Da’wah and Jihād. In addition, he considered it as a soul of existence without which Islam would completely recede from being an ideology and a system of life. Asad, on the other hand, presented it as a coordinating agency with the powers of command and prohibition and a tool by which the ideals of Islam can be brought to practical fruition. By and large, both the scholars consider the establishment of truly Islamic State an imperative task if the Muslims truly demand a vehicle through which they can translate the tenets of Islam into action.

4.4 Rejection of Secular Forms of Government

While countering the contemporary forms of government, both the scholars differ in terms of tune and approach. Al-Nabhānī never hesitated to claim the non-Islamic forms of government as “kufriyyah” (of infidels) and the country ruled by other than Islam as “Dār al-Kufr” while as Asad is addressing in a moderate tune. Amid rejecting the contemporary forms of government, Asad presented his arguments on logical basis. Demystifying the truth behind modern nation-states, Asad argued that these do not submit to universal principles but to the interests of a nation, class, race, or some other divisive category; consequently lack stable norms to judge between vice and virtue/good and evil/ right and wrong. He also argued that the contemporary Western political systems failed to provide a universal order because none of them ever made a serious attempt to consider political and social problems in the light of absolute moral principles. While exploring his ideas, it becomes evident that he believes that a state built on the foundations of religion offers an infinitely better prospect of national happiness than a state founded on the concept of a secular political organism. The
reasons for this is that the authority derived from the religious doctrine not only aims at fulfilling the man’s biological and social needs but also makes full allowance for the law of historical and intellectual evolution to which human society as a whole is subjected.\textsuperscript{37} Al-Nabhānī called for a ruling system purely based on the injunctions of Islam and also argued that \textit{Sharī'ah} has made it obligatory upon Muslims.\textsuperscript{38} Similarly, Asad argues that Islam really expect the Muslims to strive, at all times and under all circumstances, for the establishment of an Islamic state because the basic teachings of Islam not only circumscribe man’s relation to Allah (ﷻ) but also lays down a definite scheme of social behaviour to be adopted in result of that relation.\textsuperscript{39}

\subsection*{4.5 Nature of an Islamic State}

While discussing the nature of an Islamic state, Muhammad Asad contradicted al-Nabhānī’s view of considering the classical \textit{Khilāfah} system as the only solution for the implementation of the \textit{Sharī'ah}. Al-Nabhānī advocated that the present form of state should replicate the pious caliphate\textsuperscript{40} and must rule in accordance with the principles of \textit{Sharī'ah}. Contrary to this notion, Asad argued that the outward forms and functions of an Islamic State need not necessarily correspond to any ‘historical precedent’. What is required of a State in order that it might deservedly be described as Islamic is the embodiment in its constitution and practice of those clear-cut and unambiguous ordinances of Islam, which have a direct bearing on the community’s social, political and economic life.\textsuperscript{41} Thus, Asad did not believe in the replica of any historical precedent rather in framing a constitution that would be compatible with the Islamic scriptures in the full sense and at the same time viable and relevant in the current scenario.\textsuperscript{42} He also encouraged the full use of allowance of man’s social and intellectual evolution and rejected the idea of those who held that any deviation from the model of Right-Guided Caliphs must necessarily detract from the Islamic character of a state.\textsuperscript{43} He further added that our moral obligation to emulate the Companions of the Prophet or \textit{Ṣaḥābah} relates precisely to their character and behavior and not necessarily to their procedure in matters of administration.\textsuperscript{44} Though both of the scholars supported the slogan of “back to Qur’ān and Sunnah”, yet they are not unanimous about the nature of an Islamic State to be adopted in the contemporary times. This is common to every Islamic

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organization endeavouring to establish a universal Islamic State. It is important to note that al-Nabhānī is not rigid in his approach of establishing historical Khilāfah rather he gave room to human discretion as well in framing the policies of statecraft. According to him, it is permissible to adopt any style or method unless there comes a Sharī‘ah evidence of prohibiting that style or method. To support his argument, he quoted the famous jurisprudential principle: “Originally things are permitted unless there exists an evidence of prohibition”.45 Same is the case with Asad but he, as Rosenthal maintains, has the merit of attacking the crucial question of the place and scope of Islamic law with clarity and simplicity. He uniquely and vehemently stressed the need to get back and down to fundamentals by cutting through the “many layers of conventional and frequently arbitrary interpretation”46 which is absent in al-Nabhānī’s case.

4.6 On Using the Terminology

The use of specific terms plays an important role in understanding the basic concepts of Islam. The scholars under discussion seem reserved in adopting the Western terms to denote the Islamic ones. However, in presence and usage of more than one Islamic term for a concept, these scholars showed less concern about the terminology rather emphasized the essence of the institution. Al-Nabhānī, however, used the terms “al-Dawlah al-Islāmiyyah” and “Khilāfah” frequently to describe the institution but did not deny the adoption of the term Imāmah for the state. Considering the terms “Khilāfah” and “Imāmah” as synonymous, he argues that in Sharī‘ah texts—the Qur‘ān and the Sunnah—these two terms have been used frequently with the same meaning.47 In defense of his argument, he maintained that it is not compulsory to hold to the term of Khilāfah or Imāmah, but rather it is compulsory to hold to the meaning/essence of the term.48 Similarly, he treated the terms like ruling (al-ḥukm), reign (al-mulk) and authority (al-Sulṭān) and maintained that these terms have the same meaning which is the authority that executes the rules, or it is the task of the leadership (al-Imārah) which the Sharī‘ah has made an obligation on Muslims to establish.49 Similar is the observation of Asad about the Islamic terms, denoting the different dimensions of statecraft. He criticized the use of non-Islamic terms to define Islamic concepts and considered the exploitation of such terms not only pitfall in the way of a student.
of Islamic political law but also are a great danger for the future developments. Regarding this issue, he wrote:

> It is extremely misleading to apply non-Islamic terms to Islamic concepts and institutions. The ideology of Islam has a social orientation peculiar to itself, different in many respects from that of the modern west, and can be successfully interpreted only within its own context and in its own terminology. Any departure from this principle invariably tends to obscure the attitude of Islamic Law toward many of the burning issues of our time.\(^5\)

In order to designate different posts of the Institution, al-Nabhānī recommended Islamic titles instead of using the Western ones. Muhammad Asad, on the other hand, did not recommend any particular title for the head of the state as he argued that there is no *Sharʿi* obligation for a Muslim to adopt any particular designation. However, he often used *Amīr* to denote this office, which according to him is for the sake of convenience alone. He also maintained that *Amīr* and *Imām* are the two designations used frequently by the Prophet (ﷺ) while referring to the head of the community.\(^5\)

### 4.7 Principles of an Islamic State

The proponents of *Sharīʿah* governed state, derive some principles for an Islamic State while justifying them by the *Qurʾān* and *Sunnah*. Similarly, Asad and al-Nabhānī proposed certain principles based on their understanding of Islamic texts. The following principles can be extracted from their writings that, according to them, make the Islamic state different from any other ruling systems existing in the world today:

#### 4.7.1 The Principle of *Tawḥīd*

Al-Nabhānī argues that the entire message of Islam is based on the principle of *Tawḥīd* that is to witness that “there is no God but Allah (ﷺ), Muḥammad (ﷺ) is the Messenger of Allah (ﷺ)”. Like Sayyid Quṭb and others, al-Nabhānī believed in the centrality of the concept and maintained that this belief determines the relationships of the state with society, state with other states and the private relationships among the individuals of the society. It presents a system designed for humanity, which made it obligatory on the
believers to implement and execute it in the society that takes a specific shape, represented by the system of Khilāfah.\(^{52}\) In the same line, Asad also gave importance to the principle of Tawḥīd by saying that the Qurʾān revolves round the God’s oneness, uniqueness, and omnipotence.\(^{43}\) This divine unity, claimed Asad, is responsible for the unity of all existence. It also guides an individual in reproducing the unity of idea and action both in his existence and in his consciousness.\(^{54}\) Al-Nabhānī believed that this principle is the very basis of the Islamic State and any detachment from this principle by any means is illegal and thus un-Islamic.\(^{55}\) In addition, he maintained that the concept not only constitutes the foundation of the state but it is the source of its constitution and laws as well.\(^{56}\) To support his argument he quotes the following Ḥadīth of the Prophet (ﷺ):

\[
\text{اﻣﺮت ان اﻗﺎﺗﻞ اﻟﻨّﺎ} \\
\text{اﻟﺴ ﻞﺘّﯽ} \\
\text{اﻟﺴ ﻞﺘّﯽ ﯾﺸﮭﺪوا ان  اﻟﮧ} \\
\text{اﻟﻠ払い اﻟﮧ وان ﻣﺤﻤﺪارﺳﻮل} \\
\text{اﻟﻠﮧ، وﯾﻘﯿﻤﻮااﻟﺼﻠﻮۃ،وﯾﻮﺗﻮا اﻟﺰﮐﺎة، ﻓﺎذا ﻓﻌﻠﻮا ﻋﺼﻤﻮاﻣﻨّﯽ} \\
\text{داﻣﺎئﮭﻢ} \\
\text{واﻣﻮاﻟﮭﻢ ا ﺑﺤﻘﮭﺎ وﺣﺴﺎﺑﮭﻢ ﻋﻠﯽ اﻟﻠﮧ}
\]

\[
I \text{have been ordered to fight people until they profess that there is no God but} \\
\text{Allah and that Muhammad is the Messenger of Allah, to establish the prayer} \\
\text{and give the zakāh; if they did so, their blood and their wealth would be} \\
\text{inviolable to me, except by its right, and their account will be with Allah}.\(^{57}\)
\]

### 4.7.2 Sovereignty Belongs to Allah (ﷻ)

Sovereignty is a very thorny issue in the debate of an Islamic State. On the basis of attributes given to the sovereignty by political writers such as Absoluteness, Universality, Permanence, Inalienability, Indivisibility, Originality and Infallibility, the mainstream scholars of Islam argue that such type of sovereignty belongs to none save Allah. The debate between divine sovereignty and popular/secular sovereignty is found in the writings of scholars of both trends—proponents as well as opponents of an Islamic State. Asad and al-Nabhānī advocated the divine sovereignty with giving a role to the humans’ authority of vicarious kind to manage the affairs of the world in conformity with the Will of Allah (ﷻ). Al-Nabhānī claimed, the concept of sovereignty in western political thought refers to “the one who exercises and controls the will”, which is usually ascribed to the people but in Islam
an individual is bound to the Will of Allah (ﷻ) and all his affairs are governed by His commands and prohibitions that are present in the form of Sharī‘ah.\(^{58}\) Similarly, Asad emphasized on the divine sovereignty by arguing that “the ultimate purpose of all creation is the compliance of the created with the will of the Creator” and to understand the God’s all-embracing plan of the creation, the Sharī‘ah is imperative.\(^{59}\) He believed that Sovereignty of Allah (ﷻ) is the foremost feature of an Islamic State, for Allah (ﷻ) is the Real Sovereign of the Worlds. He again held that the ultimate source of all moral and political authority is Allah (ﷺ), the Lord of all dominions.\(^{60}\) Rejecting the ‘will of people’ as the source of state sovereignty, Asad considered the sovereignty exercised by the Muslim community as vicarious\(^{61}\) that is, in other words, the powers of people to govern themselves according to the clear-cut injunctions of Islam, derives its sovereignty from Allah and not from the people. He also argued that in a conscious Islamic society the people’s consent to a particular method of government and a particular scheme of socio-political cooperation is but a result of their having accepted Islam as Divine Ordinance and there can be no question of their being endowed with sovereignty in their own right. Thus, Asad concludes that an Islamic State, which owes its existence to the will of people, derives its sovereignty from Allah.\(^{62}\)

Both Asad and al-Nabhānī also compared the “sovereignty of Allah (ﷺ)” with the “sovereignty of Sharī‘ah” and use them synonymously. While explaining the 59\(^{th}\) Ayah of Sūrah al-Nisā’ (4:59), al-Nabhānī maintains that in an Islamic State the “sovereignty is for the Sharī‘ah”.\(^{63}\) Muhammad Asad while interpreting the same verse in *The Message of the Qur’ān*, maintains that Sharī‘ah is the real source of all sovereignty.\(^{64}\)

### 4.7.3 State as the Vicegerent

Allah (ﷺ), the Absolute and Real sovereign of the Universe is unseen and He does not enforce His sovereignty directly but by assigning authority to human beings. They have to exercise it within the prescribed limits mentioned in revealed books and explained by His Messengers or Prophets. The prophets were solely responsible to utilize this authority on behalf of Allah (ﷺ). However, it is mentioned in a Ḥadīth that:
The prophets ruled over the children of Israel, whenever a prophet died another prophet succeeded him, but there will be no prophet after me. There will soon be Khulafā’ and they will number many.” They asked; “what then do you order us?” He said: “Fulfil the Bay’ah to them, one after the other and give them their dues for Allah will verily account them about what he entrusted them with.”

Prophet Muḥammad (ﷺ), is the seal of Prophethood, as per the Qur’ānic revelation that indicates him not “but the messenger of Allah (ﷺ) and the Seal of all Prophets”. Consequently, the Ummah became the trustee of the authority which they have to exercise within the limitations of the Sharī’ah. Asad also admired this by maintaining that Muslim community has been entrusted with the responsibility to exercise the worldly power in consonance with Sharī’ah. While explaining the Āyāt (verses) of the Qur’ān dealing with the ‘man’s inheritance of the earth’, Asad maintains that ‘all human beings are nominated as vicegerents of Allah on the Earth—‘Khalā’if al-’Arḍ’ which ‘denote man’s rightful supremacy on earth’. This supremacy, for Asad, does not mean that man is independent and ‘master of his fate’ for Allah has endowed him with all these specific faculties (including the abilities and power) to meet his own ends. Since, all human beings are collectively vicegerents of Allah (ﷺ) but for a smooth and undisturbed administration, they submit to or elect a wise and mature person as their leader or Amīr, who believes in the sovereignty of Allah and the divine origin of law. For this reason, the elected person is responsible to Allah (ﷺ) as well as to the citizens of the state. Asad, on these grounds, maintains that it is the Islamic State that, though regulated by an Amīr, can be termed as the vicegerent of Allah.

Al-Nabhānī also speaks of the vicarious role of Islamic State which is meant to implement the Sharī’ah on the people. While differentiating modern Islamic State from the Prophethood, al-Nabhānī claims that the Prophets were unique as they received revelation and were guided directly by Allah (ﷺ). When an-Nabhānī mentions ‘the authority belongs to
people’, it means to choose a *Khalīfah* and offer allegiance or *Bay‘ah* to him so that he could preside over the Muslims in establishing the rules of Islam.

### 4.7.4 Mutual Consultation

Mutual consultation is considered to be one of the most important principles in Islamic governance and most of the scholars prove the compatibility of Islamic State on this very principle. Consultation, thus, becomes an essential feature of Islamic polity and is described frequently in the *Qurʾān* and *Sunnah* by the term “*Shūrā*” and its derivative forms which, according to Muftī Muḥammad Shafī’, refer to “the soliciting of advice and counsel in something that needs deliberation.”

Amīn Aḥsan Iṣlāhī translates the term “*Shūrā*” as “taking deliberation from each other”. Dr. Afzal al-Raḥmān exempts the clear-cut injunctions from the scope of “*Shūrā*”. However, he maintains, in all those affairs, where there is possibility of difference of opinion and are related to the people (including governmental affairs, which all deal with or relate to public welfare or the general good of the society), mutual consultation is considered as an obligation on the people. Accordingly, for many scholars this very principle is the command of Allah (ﷻ), *Sunnah* of the Prophet (ﷺ) and the practice of the *Ṣaḥābah* (رضي الله تعالى عنهم اجمعين) and their successors. In the same line Muhammad Asad advocates in support of the Islamic injunctions that the affairs of the people should be transacted by mutual consultation i.e., on popular consent. He also considers “*Shūrā*” as a useful tool for providing solutions to the issues raised with the changing times, and caters for the “continuous temporal legislation of our social existence”. On the basis of *Quranic Ayah*, “*Amruhum Shūra Baynahum*” (*Qurʾān*, 3:159) and other prophetic traditions, Asad argues that “both the executive and the legislative organs must be established through election”. He considers the ‘popular consent’ as not only one of the guiding principles of the state policy but also claims the free choice of the people as an important factor for the existence of the government, which fully represents this free choice. He considers the non-elective representation of the government as illegal as an imposition of power by conquest from outside the Muslim community.

Al-Nabhānī also places great importance to *Shūrā* and says that it is the right of all Muslims that they should be consulted and *Khalīfah* should refer to them and consult them.
He maintained “Shūrā” means, “seeking the opinion from the one who is consulted”. The validity of Shūrā is established from the command of Allah ( تعالى) to His Prophet to consult the believers in the verse, which reads: “And do consult them in the matter...” (3:159). 81

4.7.5 Legislation not Repugnant to Sharīʿah

In explaining the principle of Mutual Consultation, Muhammad Asad advocates that the government by consent and council must be regarded as one of the fundamental clauses of all Qur'anic legislations relating to statecraft. 82 He, however, puts on the popular consent the only restriction that no legislation can be done and no decision can be taken at any level that is totally or partially repugnant to Qurʾān and Sunnah. Supporting his argument with the 36th verse of Sūrah al-Ahzāb (33:36), he maintains that “the constitution must explicitly lay down that no temporal legislation or administrative ruling, be it mandatory or permissive, shall be valid if it is found to contravene any stipulation of the Sharīʿah”. 83 Besides, he felt the need for a universal codification of Islamic Law to enforce the ordinances of the Sharīʿah in the territories under its jurisdiction which is somehow difficult in presence of many conventional schools of thought within the community of Islam. Asad while rejecting the notion of utilization of the Fiqhī teachings, to which the majority of its population adheres, argues:

[A]n Islamic state must have at its disposal a code of the Sharīʿah which (a) would be generally acceptable to all its Muslim citizens without distinction of the fiqihī schools to which they may belong, and (b) would bring out the eternal, unchangeable quality of the Divine Law in such a way as to demonstrate its applicability to all times and all stages of man’s social and intellectual development. 84

Al-Nabhānī also advocates of the constitution based on Qurʾān and Sunnah. He further maintains that neither the Ummah nor the Khalīfah has the right to legislate in an Islamic state. Sole legislator being Allah ( تعالى), al-Nabhānī asserts that Khalīfah has the only right to adopt rulings for the constitution and canons that are derived from Qurʾān and Sunnah. 85 Quoting the Verses 44th, 45th and 47th of Sūrah al-Māʿidah (5:44, 45, 47), al-Nabhānī argues that the Supreme Legislator, Allah ( تعالى) has limited the legislative role of the
Khalifah and he is permitted to deduce laws from Qur’an and Sunnah. Therefore, any law that contravenes Qur’an and Sunnah shall be treated as invalid.\textsuperscript{86}

### 4.7.6 Reservation of the Posts

The serious challenge that an Islamic State faces in the contemporary times is whether a non-Muslim be appointed as its leader or not. It is almost on this reason that the Islamic state in contemporary times fails to exist. Muḥammad Asad and Taqī al-Dīn al-Nabhānī argue that non-Muslims are not eligible for the post of leadership. Supporting his argument on Āyah 141 of Sūrah al-Nisā’ (4:141), al-Nabhānī maintains that the Āyah categorically disqualifies the non-believers for the post of Khilāfah or any other post of authority. He further goes on to say that, such post necessitates belief in Islamic fundamental principles.\textsuperscript{87} At another place, he argues the same by saying: “Non-Muslims are not allowed to be involved in ruling nor to elect the ruler because they have no authority over Muslims and have no place in the bay’ah”.\textsuperscript{88} In the same line, Asad maintains, the posts of leadership and legislature are reserved for the Muslims only. In addition, he argues that no state can be truly Islamic unless it is administered by the people who submit willingly to the divine law of Islam. He logically proves the exclusion of the status of leadership for the non-Muslim citizens. For him, a non-Muslim, though having a great personal integrity and loyalty to the state, could never work wholeheartedly for the objectives of Islam; nor in fairness could such a demand be made of him. This principle is common in every contemporary ideological organization and none can afford to entrust the direction of its affairs to persons not possessing its ideology.\textsuperscript{89}

### 4.8 Structure of an Islamic State

Since there has been a huge gap for an Islamic state to exist, therefore, the theorists of Islamic State identified a structure based on political teachings of Islam. Realizing the fact that the Islamic injunctions do not prescribe any particular form of state to be adopted by Muslims, Asad argues that the principles regarding the statecraft presented in the Qur’an and Sunnah provide a clear outline of a political scheme capable of realization at all times and under all conditions of human life.\textsuperscript{90} Al-Nabhānī, on the other hand, believes in the classical
Khilāfah system to be adopted by the Muslims. According to him, this system is endorsed by Qurʾān, Sunnah and Ijmāʿ of the Ṣaḥābah. However, at the same time he discusses the structure of Islamic state, which resembles the contemporary administrative structure of statecraft. Muhammad Asad, on the other hand, denies the rigid form of the Islamic political system considering it erroneous to stick to only one form of state. For him, there are many available forms that can be termed as “Islamic” and the Muslims need to discover the most suitable/appropriate form of government so as to satisfy their needs and enhance the social and intellectual evolution in agreement with the clear-cut injunctions of Sharīʿah.

Accordingly, he maintains that the contemporary “Presidential” form of government (as in vogue in America) is best suited for an Islamic state as it corresponds to the Islamic concept of Caliph (Khalīfah).

The main pillars that frame the structure of the Islamic state are briefly discussed below:

4.8.1 The Head of the State (Khalīfah)

Though the people are at liberty to conduct their worldly affairs in agreement with the Sharīʿah, yet it is difficult to maintain law and order without a leader or commander of the community. While quoting the traditions narrated from the Prophet (ﷺ), Asad argued that the responsibility must be vested in a qualified person who would manage the affairs of the community justly. This qualified person, for al-Nabhānī, is Khalīfah who represents the Ummah in the ruling and authority and in the implementation of the Aḥkām al-Sharīʿah (Divine Laws). Here, unlike conventional forms of government, the head of the state, though appointed and elected by the people, has to run the affairs of the government on behalf of the people but in accordance to the will of Allah. The Khalīfah is obliged to fulfil the legal demands of the people and the people in turn are obliged to obey the ruler as long as he rules in accordance with Sharīʿah.

Both the scholars are not specific regarding the title of the post rather the essence of the post is essential for them. However, al-Nabhānī preferred classical terms mentioned in Sharīʿ texts of Islam like Khalīfah, Imām or the Amīr al-Muʿminīn (Commander of the believers) to designate the post. For him, it is not obligatory to adhere to these three titles,
rather suitable other titles can be coffered upon the appointed person. He argued that Muslims are permitted to take any title for the post that does not contradict with the Islamic laws otherwise, the adoption of titles is forbidden.\(^96\) Similarly, Asad does not recommend any particular title for the designation of the post because, for him, there is no \textit{Shar‘ī} obligation for a Muslim to adopt any particular designation. However, he often uses \textit{Amīr} to denote this office, which according to him is for the sake of convenience alone. He also maintains that \textit{Amīr} and \textit{Imām} are the two designations used frequently by the Prophet (ﷺ) while referring to the head of the community.\(^97\)

4.8.1.1 Eligibility for the Post

It is obvious that everyone is not eligible to hold and manage the affairs of the state. Only able and qualified persons can deliver such responsibility effectively. Similarly, there are some conditions that are necessary for a person to become the leader of an Islamic state. The qualifications for the post have been identified by all the theorists of Islamic state—from classical until present. Like all others, both these scholars have also yielded their insights regarding the qualifications of the head of an Islamic state. Al-Nabhānī prescribes seven necessary conditions for the qualification of the post. Only these conditions make the post legitimate and the post would be considered null and void in absence of any one of these seven conditions. These conditions are:

a) \textbf{Religion (Khalīfah Must be a Muslim):} The foremost condition for the post is that the person should be a believer. Al-Nabhānī argues with reference to the \textit{Qur’ānic āyah} (4:141) that the post of leadership is never allowed for the unbeliever. Further citing the \textit{Qur’ānic āyat} (4:59) and (4:83), he maintains that the person in charge of the affairs of the Muslims must be a Muslim.\(^98\)

b) \textbf{Gender (Khalīfah Must be Male):} For al-Nabhānī only males are eligible for the ruling positions and it is forbidden for a female to act as a \textit{Khalīfah}. On the basis of the prophetic tradition: \textit{(لا يضع قوم ولو أمرهم امرأة)} \(^99\) “People who appoint a women as their leader will never succeed”, he argued that women are not eligible for any ruling position.\(^100\)
c) **Maturity (The Khalīfah Must be Mature):** Al-Nabhānī argues that Islamic injunctions make it forbidden that a pre-pubescent or immature person should be appointed for the post. He quotes the following sayings of the Prophet (ﷺ) to support his argument: ¹⁰¹

> رفع القلم عن ثلاثة: عن الصبى حتى يبلغ وعن ا لنائم حتى يستيقظ 
> وعن المعتوه حتى يبرا

Accountability is lifted off three persons: The dormant until he awakes, the boy (adolescent) until he reaches maturity and the deranged until he regains his mind. ¹⁰²

> رفع القلم عن ثلاثة: عن المجنون المغلوب على عقل حتى يفيق وعن النائم حتى يستيقظ وعن الصبى حتى يفيق وعن ا لنائم حتى ينام

The pen has been raised off three persons: The deranged in his mind till he restores his mind, the dormant till he wakes up and the adolescent till he reaches maturity. ¹⁰³

d) **Sanity (Khalīfah Must be Sane):** With reference to the above sayings of the Prophet (ﷺ), al-Nabhānī believes that Khalīfah must be a sane person. It is unlawful to appoint an insane as the Khalīfah because such a person is never logically fit for this position. ¹⁰⁴

e) **Quality [Khalīfah Must be Just (‘Ādil)]:** According to Al-Nabhānī Sharī‘ah rulings envisage that a Khalīfah must be a Just so that he could establish justice in the society. ¹⁰⁵

f) **Social Status (Khalīfah Must be Free/Independent):** Al-Nabhānī makes it an obligatory condition that a ruler must be a free man; since the slave is under his master’s sovereignty, so he cannot run his own affairs, therefore, he has no power to run other people’s affairs and be a ruler over them. ¹⁰⁶

g) **Experience (Khalīfah Must be Experienced):** Al-Nabhānī claims that the Khalīfah must be able and skilled in carrying out the task of the Khilāfah. One who is unable to do so cannot perform the duty of running the people’s affairs according to the
guidelines provided by the Book and the Sunnah upon which he took the pledge of allegiance (Bay‘ah).

After citing these seven conditions for the office of a Khalīfah, al-Nabhānī argued that these conditions alone constitute the contractual conditions as have been testified by the decisive command (Ṭalab al-Jāzim). However, he adds strength, Taqwā and kindness among the most prominent qualities for a ruler. The other conditions, which do not get evidence from the decisive command, would constitute the conditions of preference only. On such principles, Al-Nabhānī termed the qualifications like Khalīfah must be “Mujtahid”, “Brave with Vision and opinion” and “from Quraysh” as desirable not obligatory for appointing a Khalīfah.

Muhammad Asad, on the other hand, holds the view that the person, who may be entrusted with the office of the Amīr, should possess the following qualities:

a) Muslim:- Muhammad Asad, is of the opinion that only a Muslim must be entrusted with the office of the head of an Islamic state because the purpose of an Islamic state is the establishment of Islamic Law as a practical proposition in man’s affairs. He vehemently stressed that “no state can be termed truly Islamic unless it is administered by people who can be supposed to submit willingly to the Divine Law of Islam”. He also argues on psychological grounds, that a non-Muslim citizen—however great his personal integrity and his loyalty to the state— cannot be ever supposed to work wholeheartedly for the ideological objectives of Islam. To support his argument he quotes the following Qur’ānic āyah:

\[
\text{اَيُّهَا الَّذِينَ آمَنُوا أَطَيَّعُوا اَلْحَقَّ وَأَطَيَّعُوا اَلْأُسْلَمَ}
\]

\[
\text{O you Faithful! Obey God and obey the Apostle and those in authority from among you.}^{110}
\]

While explaining the above Āyah, Asad says that this “leads us inescapably to the conclusion that those who are to wield supreme authority in the Islamic state and are to be responsible for the shaping of its policies should always be Muslims” by virtue of their majority as well as by virtue of a constitutional enactment.\(^{111}\) In The Message of the Qur‘ān,
Asad maintains that the stress, in this context, on “those from among you who have been entrusted with authority” makes it clear that the holders of authority (Ulu’l-amr) in an Islamic state must be Muslims”.112

b) **Righteousness:**- The second criteria of eligibility for the post of head of the state, according to Muhammad Asad, is Taqwā (Righteousness). To substantiate his argument he quotes the following Āyah of the holy Qur’ān:

إِنﱠ أَﻛْﺮَﻣَ(88,456),(505,480)ُكمْ ﻋِﻨْﺪَ اِﺗْﻘَﺎﻛُمْ

*Behold, the noblest of you before God is the most righteous of you.*113

He says that on the basis of this Āyah that the head of the state must be chosen on merit alone. He also declares that this verse and the following Hadīth preclude any considerations of race, family origin, or previous social status for the post:

اسْمِعُوا وَاعْتَ率达到 نَعمَ اَلّهِ ﻋَلَيْكُمْ

*Hear and obey, even though your amīr be an Abyssinian slave with crinkly hair.*114

c) **Wise and Mature:**- The above mentioned two qualities, according to Muhammad Asad, imply that the Amīr must be mature, wise and superior in character.115

After specifying these qualities of the Amīr, Muhammad Asad vehemently holds that the Shari‘ah does not specify any further conditions for eligibility to this office.116

4.8.1.2 Seeking the Post of Khilāfah

Seeking the post of Khalīfah is a debatable issue and both the scholars under discussion vary in their opinions regarding the issue. Muhammad Asad claims that seeking the post is forbidden while al-Nabhānī sees it permissible. For Muhammad Asad self-canvassing is prohibited as per the Islamic injunctions.

اتَّهَا وَاللَّهُ لَا نَوْلِى عَلَى هَذَا الْعَمَلِ إِحْدَا سَالِمَ وَلَا إِحْدَا حُرْصٍ عَلِيهِ

*By God, we do not appoint to such work anyone who asks for it, nor anyone who covets it.*117

*--153--*
He further writes that such a post if taken on the basis of asking is doomed to failure for Allah (ﷻ)’s help and aid is lifted therein and the person is put to his resources. He quotes the Prophet (ﷺ) saying:

لا تسأل الأمة، فاترك أن أعطيتها عن مسألة وكُلّت إليها، وإن اعطيتها عن غير مسألة اعنت عليها

_Donot solicit an office of authority, for if it is given to you for the asking, you will be left therein to your own resources, while, if it is given to you without asking, you will be aided [by God] therein._\(^{118}\)

After citing these references Muhammad Asad maintains that the constitution would be in agreement with the spirit of Islamic Sharī’ah if it declares that “self-canvasing by any person desirous of being appointed to an administrative post (including that of head of the state) or of being elected to a representative assembly shall automatically disqualify that person from being elected or appointed”.\(^{119}\)

On the other hand, al-Nabhānī argues that the asking for the post and contending for it is permissible. While commenting on the Ḥadīth related to the issue, al-Nabhānī opines that it is specific for those who are not able and qualified for the post.\(^{120}\) He adds that there are instances in which Prophet Muḥammad (ﷺ) appointed some on their asking. He (ﷺ) did not reproach or prohibit the qualified person for asking the post. Al-Nabhānī mentions the examples of two Ṣuḥābah—Abu Dharr al-Ghifūrī (رضي الله عنه) and ‘Amr ibn al-‘Āṣ (رضي الله عنه)—wherein the former was disqualified as per his weakness and the later was appointed on the basis of his qualification and fitness to the post. Then regarding the issue of contending for the administrative post, al-Nabhānī argues that there is the consensus (Ijmā’) among the Ṣuḥābah on its permissibility. He quotes the events of _Banū Sa’dah_ and _Ḥadrat ‘Umar’s_ (اللهم رضي علله) nomination of six persons to contend for the post and argues that it is permissible to ask for the post, to seek it and to debate against each other by opinion and proof for the sake of attaining it.\(^{121}\)
4.8.1.3 Method of Selection

Al-Nabhānī argues that *Sharī‘ah* not only makes the appointment of *Khalīfah* obligatory but also defines the method by which he is to be appointed. He maintains that the *Qur‘ān*, *Sunnah* and the *IJmā* of *Ṣaḥābah* prove that the *Khalīfah* is contracted by the method of *Bay‘ah*.\(^\text{122}\) He after giving due references from *Qur‘ān* and *Sunnah*, maintains that “the only method, which Islam determined for the appointment of the *Khalīfah*, is the *Bay‘ah* with the consent and selection of the Muslims”.\(^\text{123}\) However, he talks about two kinds of *Bay‘ah*— *Bay‘ah of Contract* and *Bay‘ah of Obedience*. In the first instance, some influential people from the Muslim community known as *Ahl al-Hall wa al-‘Aqd* (literally those who loose and bind), those who represent the Muslims’ opinion in matters relating to ruling system can contract the *Khalīfah* and the *Bay‘ah* of the rest is called the *Bay‘ah of Obedience*. To quote al-Nabhānī:

\[\text{[T]he [Khilāfah] is contracted if the Bay‘ah was taken from those who represent the majority of the Islamic Ummah that lives under the authority of the (last) [Khalīfah], in whose place another [Khalīfah] is sought to be appointed, as it was the case at the time of the [Khulafā’ al-Rāshidūn]. Their Bay‘ah would constitute a Bay‘ah of contract, while for the others, once the [Khilāfah] has been contracted; their Bay‘ah would be classed as a Bay‘ah of obedience.}\(^\text{124}\)

Further, Al-Nabhānī claims that every citizen of the state is eligible to select the *Khalīfah* except the non-Muslims because *Bay‘ah* “necessitates *Īmān* (belief) in Islam, in the Book and the Sunnah.”\(^\text{125}\) For him, the selection of the *Khalīfah* is an obligation of sufficiency (*Fard al-Kifāyah*) for which the representatives of the community, known as *Ahl al-Hall wa al-‘Aqd* are sufficient to carry out the task. However, he adds, that their selection does not make the *Khalīfah* lawful until and unless the consent of the Muslims is achieved by either through their silence over the appointment, or by their allegiance and obedience to him, or by any other similar sign that indicates their approval.\(^\text{126}\)

Muhammad Asad, on the other, hand believes that the head of the state should be chosen by means of the widest possible suffrage, the method of which is discerned by the community in conformity with the requirements of the time.\(^\text{127}\) He further adds that when the *Amīr* is duly elected, he has to receive a pledge of allegiance from the whole community...
including those who casted their vote against him. This is the pledge which al-Nabhānī terms as the pledge of obedience. Like Muhammad Asad, al-Nabhānī also believes that the appointment process for the post may be completed by various styles. However, he outlined few styles as follows:

1. The representatives of the people (Ahl al-Hall wa al-‘Aqd or Majlis al-Shūrā) will meet after the termination of the Khalīfah, in the aftermath of his death, or his resignation or dismissal and nominate one or more qualified persons for the post of Khalīfah. Afterwards they can choose one of them in any style they see fitting, firstly by Bay’ah of contract followed by Bay’ah of obedience in accordance with the Qur’ān and Sunnah.

2. Another method, for al-Nabhānī is that the Khalīfah in office before his death can nominate a person for the post, that too with the consent of the reliable people. However, he adds that this nomination cannot validate his position unless the nominated person receives Bay’ah from people with their consent and choice.

3. The third method, for al-Nabhānī is that the Khalīfah recommends the names of few qualified persons in a condition to select one from amongst them by any style they agree upon. After selecting one for the post, the person would get legitimacy after receiving the Bay’ah of obedience from the Muslims.

4. Fourth method offered by al-Nabhānī is that after the death of the Khalīfah the representatives of the Ummah (Ahl al-Hall wa al-‘Aqd) would approach to a qualified person to offer him the post. Once he agrees with the consent of the majority, he would take the Bay’ah from the people and thus becomes the legitimate Khalīfah.

5. The fifth style of appointing a Khalīfah is like that of modern election system wherein the members of Majlis al-Shūrā would nominate qualified candidates for the post. The person getting the highest votes in the election would be contracted as Khalīfah who is then required to take Bay’ah of obedience from the community including those who cast their votes against him.

Al-Nabhānī also argues that these five styles are applicable in a territory dominated by Muslims or ruled by Muslims (Dār al-Islām). However, in a state dominated by the
ideology other than Islam (Dār al-Kufr), al-Nabhānī permits Muslims to seize power by removing the ruler for the purpose of resuming the Islamic way of life and restoring the Divine law. In such a situation, the group who removed the ruler would choose a qualified person who would be then endorsed by the influential people (Ahl al-Hall wa al-'Aqd) followed by the general Bay’ah of consent and obedience from rest of the people. This process would make the Khalīfah legitimate and the implementation of the rules and systems would start again, and the household in that country would be transformed from Dār al-Kufr to Dār al-Islām.  

4.8.1.4 The Tenure of the Khalīfah

Muhammad Asad writes that the ordinances of Islam are silent regarding the tenure of Amīr. Regarding this there is a wide latitude and a great flexibility inherent in the political law of Qurʾān and Sunnah. However, he gives the following three options in this regard:

a) **Fixed Period:** - The first option regarding the tenure of the office is that the Head of the state should be elected for a period of fixed years with a possibility of re-election. However, he does not mention the exact number of years for the tenure but it can be concluded, when he speaks that the modern presidential system is best suited for Islamic state, that the tenure for the office should be five years.

b) **Age limit:** - The second option according to Muhammad Asad is that the Amīr should hold office till he reaches to a certain age limit provided he discharges his duties loyally and efficiently otherwise he may be terminated earlier.

c) **Life time:** - The third option, maintains Muhammad Asad, is that the Amīr may enjoy the office for lifetime on the basis of the same conditions mentioned above. That is for Asad, “the amīr would have to relinquish his office only if and when it becomes evident that he does not loyally perform his duties or that he is no longer able to maintain efficiency owing to bodily ill-health or mental debility”.  

Al-Nabhānī on the other hand believes the tenure of the Khalīfah is not determined by a fixed period and he enjoys the office till his death. He will remain in his office till he abides by the Sharīʿah, executing its laws and able to execute the responsibilities and duties

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of the state. However, the Khalīfah would be terminated if he fails to abide by the Sharī’ah or any other circumstances that necessitate his removal.\textsuperscript{137} Al-Nabhānī argues that the following three cases are responsible for the termination of the Khalīfah:

1. Firstly: If the Khalīfah becomes a Murtad (apostate).
2. Secondly: If the Khalīfah becomes irreversibly insane.
3. Thirdly: If the Khalīfah is imprisoned by a formidable enemy, and can’t free himself from them, and there is no hope of doing so. In this case, he should be removed, for his imprisonment makes him completely unable to look after the Muslims affairs, and he would be as if he does not exist.\textsuperscript{138}

4.8.2 The Council of the Ummah

The existence of council of Ummah is necessary as far as the views of both the scholars are concerned. Muhammad Asad besides maintaining that the affairs of the government are run by the stipulation, \textit{Amruhum Shūrā Baynahum} (امرهم شورى بينهم),\textsuperscript{139} argues with reference to the same Āyah (3:159) that the government, by consent and council, must be regarded as one of the fundamental clauses of all Qur’ānic legislation relating to statecraft.\textsuperscript{140} He further explains that the transaction of all governmental activities, executive as well as legislative, must be an outcome of consultation among the accredited representatives of the community.\textsuperscript{141} This, he believed, “could be achieved by (a) restricting the membership of each committee to a very small number, and (b) according to each of the committee the function of an advisory council of the minister (or secretary of state) concerned”\textsuperscript{142}

Al-Nabhānī thinks likewise as he opines that the existence of the council of Ummah, formed of influential persons representing Ummah, is important for it holds the rulers accountable and Khalīfah could consult them on various issues. This council is in no way an innovation because al-Nabhānī maintains that the nomination of fourteen chiefs (\textit{Nuqaba’}) by the Prophet (ﷺ) in order to consult them about the matters is an example to prove its existence in the Prophetic period.\textsuperscript{143} Both the scholars agree that every mature and sane person could be the member of the council; however, Muhammad Asad puts education and
maturity as indispensable qualifications for the members of the council. Al-Nabhānī argues that every citizen of the state irrespective of gender and religious discriminations has the right to be a member of the Council of the Ummah and the right to elect the members of the Council.

4.8.3 Assistants of the Khalīfah (Al-Mu‘āwinūn)

Muhammad Asad maintains that Amīr is the sole “Dhū al-amr” (holder of authority) who is completely entrusted with the administrative powers and functions for which he is accountable to the people. However, he could appoint at his discretion some persons as his assistants (so-called ministers) to delegate certain tasks on his behalf for which they are accountable to Amīr alone. He quotes the following prophetic tradition wherein it is mentioned that the head of the state can seek the help of some assistants to bear his burden:

اذا ارادالله بالامير خيرا جعل لـ وزير صدق ان نسي ذكره وان ذكر
اعانه، وإذا اراد بـ غير ذلك جعل لـ وزير سوء ان نسي لم يذكره وان
ذكر لم يعنـ

If God means well with Amīr, He provides for Trustworthy assistant (wazīr) to remind him whenever he forgets, and to help him whenever he remembers. And if (God) does not mean it well with him, He provides for him an evil assistant, who does not remind him whenever he forgets and doesn’t help him whenever he remembers.

Similarly, al-Nabhānī talks about the necessity of the assistants for Khalīfah to perform his duties effectively and efficiently. He classifies them into two as—Delegated Assistants and Executive Assistants.

a) Delegated Assistants (Mu‘āwin al-Tafwīḍ):

A delegated assistant, for al-Nabhānī, is one whom the Khalīfah appoints to bear with him the responsibilities of ruling and authority. Al-Nabhānī quotes al-Māwardī who described Mu‘āwin al-Tafwīḍ in his book Al-Aḥkām Al-Sultāniyya as ‘Wizārah al-Tafwīḍ,
and maintains, “it means that the Imām appoints a Wazīr, for whom he delegates the running of the affairs according to his own opinion and executing them according to his own Ijtihād”. The assistant is appointed by the Khalīfah himself by saying the words like “I assigned to you what is to me so as to act on my behalf”, or “I took you as a Wazīr depending on your action on behalf of me”, or the like. However, the Khalīfah can select only that person as his delegated assistant who has all the required qualifications that of the Khalīfah i.e., to be male, free, Muslim, mature, sane, just and competent in what is assigned to him in terms of duties delegated to him.150

For the effective administration of the state, the Khalīfah can appoint the Governors over a specified geographical area to perform their duties on his behalf. With reference to the practices of the Prophet (ﷺ), al-Nabhānī classified the governorship into two types—general Governorship (Wilāyat al-ʿĀmmah) and specific Governorship (Wilāyat al-Khāṣṣah). The former includes all the ruling matters within the province and a general responsibility of the supervision whilst the later is restricted for running the armed forces, governing the citizens, protecting the territories, or defending the women and children in that country or province. He also maintains that in the classical times the specific governorship was denoted by the terms Wilāyat al-Salāh (governing all the affairs of the government except funds) and Wilāyat al-Kharāj (limited to levy of funds) and the combination of the two as the general governorship. Thus, these governors are the assistants of the Khalīfah appointed by him on the basis of the conditions same as those of assistants. However, governors can run their administration by using their own Ijtihād yet al-Nabhānī maintains that they are accountable before the Khalīfah who can inquire about their actions. He also says that Khalīfah should monitor his governors closely.151

b) The Executive Assistants (Muʿāwin al-Tanfīdh)

These are the assistants whom the Khalīfah appoints to execute the orders and administrative tasks issued by the Khalīfah. Al-Nabhānī argued that executive assistant should be male and Muslim because he is directly connected with the Khalīfah and works as an intermediary between Khalīfah and the state’s various departments, the subjects, the Ummah, the armed forces and the international affairs.152 He also makes it an obligation for
every mature Muslim (with the age group of 15+) to be trained militarily. Keeping the importance of army strength of the state in view, he recommends two types of armed forces—Reserved and Regular. The ‘regular’ forms that part of the army which is permanent and paid by the state whereas the ‘reserve’ is that part of the armed force based on voluntaries and consist of all the Muslims who are able to perform the military tasks. The Police (Sharīṭā) for al-Nabhānī is a separate force meant to keep order, supervise internal security and carry out all executive matters e.g., implementing Sharī’ah, providing security, carrying out patrols at night to chase away thieves, arrest corrupt people and other criminal portions of the society. Moreover, he argues that it is up to the Khalīfah whether he makes the police a part of army or a force separate from it. Further, al-Nabhānī discusses about the appointment of the Amīr of Jihād and this directorate consists of four departments—(1) Foreign Affairs Department; (2) War Department; (3) Internal Security Department; (4) Industrial Affairs Department.

While al-Nabhānī argues that only Muslim citizens of the state are eligible for the post of assistants, Asad, in contrast, is in favour of giving some ministerial powers to non-Muslims as well. He argued that since the head of the state is the sole authority of power and secretaries or ministers are not regarded as Ulū al-Amr in their own right, “so there could be no Sharī’ī objection whatever to appointing a non-Muslim to a cabinet post” and thus government could utilize all the best talent available in the country.

4.8.4 The Administrative Departments

According to Asad the creation and organization of various institutions either derived from the Sharī’ah or by commonsense considerations of governmental efficiency and public interest are necessary for the state administration. Al-Nabhānī also claims the organization of a well administrative system essential for the well functioning of the state and a special structure is needed in order to discharge the people’s interests. For this purpose, the state can create different offices, departments and other institutions of administration governed by certain rules and regulations. Al-Nabhānī further maintains that the every institution would have a separate officer or director appointed by the Khalīfah. Calling the people employed in different departments of administrative services as ‘state hired civil
servants’, al-Nabhānī makes every competent citizen eligible for administrative services irrespective of religious and gender discrimination except for the post of Khilāfah.\textsuperscript{159}

4.9 Main Organs of The State

4.9.1 The Legislation

The institution of legislation is a debatable issue in an Islamic State because some Muslims feel that there is no need of any legislation for all laws are present in the form of Qur’ān and Sunnah while others argue that Sharī‘ah only outlines the boundaries and discretion and deducing laws within the limits of Sharī‘ah are subjected to human exertion. The scholars under discussion favour the second opinion. Al-Nabhānī argued that Muslims are obliged and compelled to legislate in accordance with the Qur’ān and Sunnah for the Qur’ān claims: “Whoever does not rule by all that Allah revealed is among the disbelievers (5:44), the oppressors (5:45) and the transgressors (5:47)”\textsuperscript{160} Adding another Qur‘ānic statement, “It is not for the believer, male or female, when Allah and His Messenger have decreed/judged in a matter to have choice in their matter” (33:36), he argues that no one has the right to change the unequivocal divine rules.\textsuperscript{161} Moreover, he argued that the Qur’ān and Sunnah provide the broad lines of legislation dealing with, among others, the military, criminal, political, and other transactions in the society, which are revealed to be implemented and executed.\textsuperscript{162} Asad, on the other hand, maintains the divine laws (Naṣūṣ) are to be implemented and executed as they need not any interpretation whatsoever. However, the issues which the Lawgiver has left unspecified are subjected to human exertion. For him the legislative field of Muslims comprises—“(a) details in cases and situations where the Sharī‘ah provides a general principle but no detailed ruling, and (b) Principles and rulings with regard to matters which are Mubāh [the things on which the Sharī‘ah is silent]”.\textsuperscript{163} However, the Supreme legislator has permitted to exert ones effort to understand and deduce rules from the basic sources of Islam.\textsuperscript{164} To support his argument, Asad quotes the Qur‘ānic Āyah: “For every one of you we have ordained a Divine Law and an open road” (5:48) and maintains that the Divine law outlines the area wherein a Muslim life develops and “open road” permits the room for temporal legislation within the given area.\textsuperscript{165} In the same line, al-Nabhānī claims that the legislation is restricted to the Divine laws and permits Ijtihād

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(exerting one’s utmost effort in understanding and deducing laws from the Divine Laws), thus giving room to Qiyās (analogy) and Ijmā’ al-Ṣahābah (general consensus of the companions).

For him, neither the Khalīfah nor the Ummah has the right to legislate; the only right the Khalīfah has is to adopt rulings for the constitution and cannons that too are derived from the Sharī’ah.

4.9.2 The Executive

In an Islamic state, the executive powers are vested in the hands of the Amīr (head of the state). Unlike the contemporary forms of government, Islamic State is run by the integration of the executive and the legislative phases of the government through the instrumentality of the Amīr (the head of the state) maintains. Al-Nabhānī, while holding the same view, maintains that the Khalīfah has all the mandatory powers and he can also appoint the Muʿāwinūn—both delegated and executive assistants in order to help him in executing all his powers. For him, the Khalīfah is the sole ruler whose duties include ruling, execution and looking after the affairs of the people for which he could create many administrative departments headed by separate directors who are directly linked and accountable to him. It is the Khalīfah who reserves the right to adopt any administrative style he wishes and makes it a binding. Contrary to this, Asad though makes the head of the state the sole authority of power yet he argues that all governmental affairs are to be organized by mutual consultation. He, thus, emphasized that the transaction of all governmental activities, executive as well as legislative, must be an outcome of consultation among the accredited representatives of the community.

4.9.3 The Judiciary

The judiciary is considered as the guardian of the constitution. Al-Nabhānī claims judiciary responsible for delivering the verdict for the purpose of enforcing it. Asad claims the existence of the judiciary inevitable to solve the disagreement between the legislative and executive organs of the state. In reference to the verse, “if you disagree in anything, refer it to the God and his apostle” (5:59), Asad argues that “the dispute should be referred to a body of arbitrators [judiciary] who, after an impartial study of the problem, would decide which of
the two conflicting views is closer to the spirit of Qur’ān and Sunnah”. Criticizing the functions of the judiciary as being limited to mere ‘settling of the disputes between people’, al-Nabhānī opines that it is not the full description of the reality. He maintains that it is not meant only to settle disputes among people but also to convey the divine rule for the purpose of enforcing it and prevent whatever may harm the rights of the community. Consequently on the basis of wide scope of judiciary, al-Nabhānī maintains three-fold duty of the judiciary and calls the judge of each fold by the names like Qādī, Muḥtasib and Judge of Mazālim. Qādī is the judge who is meant for settling the disputes among people over transactions and penal codes. Muḥtasib is in charge of settling any breach of law that may harm the right of the community. The judge of Mazālim is recruited for settling disputes between the people and the State. Asad, on the other hand, claims the rights and duties of the judiciary as “(a) to arbitrate in all instances of disagreement between the Amīr and the Majlis al-Shūrā referred to the tribunal by either of the two sides, and (b) to veto, on its own accord, any legislative act passed by the Majlis or any administrative act on the part of the Amīr, which in the tribunal’s considered opinion, offends against a Naṣṣ ordinance of the Qur’ān or Sunnah”.

Muhammad Asad is of the view that the judiciary should be composed of best jurists from the community who are men and who are not only well versed in the Qur’ān and the science of Hadīth but are also well acquainted with the various affairs of the world. The members of the tribunal should be selected by the principle of consultation i.e. the members of judiciary might be selected by the Majlis from a panel of names submitted by the Amīr or vice versa. The members elected for the tribunal should be for lifetime though they can be removed on the basis of incapability or incompetency or any other valid reason. The tribunal members should be barred from holding any kind of post after their retirement. This would make them free from all further ambitions as well as from all temptation to collaborate with any political party or interest group. Al-Nabhānī, on the other hand, also believes that the best jurists be selected from among the community. For him the candidate should possess all qualifications as that of other assistants of the Khalīfah but in addition to those qualities a judge has to be a Faqīh (Jurisprudent), a Muṣṭahid, and should be aware of how to apply the rules to the events as well. Like Asad, al-Nabhānī claims a judge must be male, in addition to
other necessary conditions for the post. It is important to note that al-Nabhānī negates the notion that more than one judge can preside over a tribunal. He considers it forbidden by saying that the Prophet (ﷺ) never appointed two judges to deal with one matter.\textsuperscript{179} The selection of the judges, for him, is vested in the hands of the Khalīfah and accordingly, he is the sole authority of their removal, reprimanding, or transfer; however, when the case is against the Khalīfah, he has no right to remove him.\textsuperscript{180}

4.10 Citizenship

Citizens constitute an important element for the existence of any state. Usually a citizen of a state is one who enjoys the rights of citizenship and discharges its obligations under the law of the land.\textsuperscript{181} In the contemporary forms of government, say in India, a person becomes a citizen or holds a citizenship if he is born in the country, either of his parents are the citizens of the country or has resided in the country not less than five years.\textsuperscript{182} The scholars under study are not clear about the eligibility for the citizenship in an Islamic State. However, their discussion about the rights and duties of the citizens indicate that a person, Muslim or otherwise, living in an Islamic territory may be referred to as the citizen of the state. Moreover, these scholars have classified the citizens into Muslims, and Ahl al-Dhimmah (the protected minority) based on acceptance and rejection of Islam. For al-Nabhānī, the Sharī'ah considers those ruled by Islam as citizens and makes the citizenship something which they all hold in common and which qualifies them to enjoy the rights of guardianship and welfare decreed by Islam by living in the Islamic State as citizens.\textsuperscript{183} He further maintains that every person holding the citizenship of the State enjoys the full rights decreed for him by the Sharī'ah, whether he is Muslim or not\textsuperscript{184} and the state has no right to discriminate its citizens on matters like judiciary, ruling or welfare.\textsuperscript{185} He goes on to say that the state would implement the Sharī'ah upon all its citizens as follows:

(a) All Islamic laws would be implemented upon the Muslims.
(b) Non-Muslims would not be interfered with regarding their beliefs and worship.
(c) The non-Muslims would be treated according to their beliefs in matters related to diet and adornment within the general frame work of the law.

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(d) Disputes related to marriage and divorce for non-Muslims would be dealt with by appointing judges from themselves in courts set up by the State and not in private courts; similar disputes between them and the Muslims would be dealt with according to Islamic law by Muslim judges.

(e) The State will enforce all other Shari'ah matters related to economic, social, and legal transactions on every citizen Muslim and non-Muslim alike without prejudice.

(f) All those who hold the Islamic citizenship are subjects of the State, their guardianship and the management of their affairs is the duty of the State, without any discrimination.186

In the same line, Asad maintains that in an Islamic state, the citizens enjoy the same rights and duties, having equal socio-economic rights, equal standard of living, and above all, have equal share in utilising the resources of the community.187 Thus, for these scholars the citizens enjoy, among other rights, the following rights without any religious discrimination:

(a) Freedom of Opinion

Muhammad Asad maintains that the right to a free expression of one’s opinions in speech and in writing is one of the fundamental rights of the citizen—Muslim and non-Muslims alike—of an Islamic state. However, he puts some restrictions on this freedom by saying: “freedom of expression must not be used for incitement against the law of Islam or sedition against the established government, and must not be allowed to offend against common decency”.188 Al-Nabhānī, amid giving due importance to the right of speech and expression of the opinion, maintains that it is a tool to hold the rulers accountable.189 Not only the Muslims but non-Muslims can also raise their voice against any injustice committed by the ruler or against any other valid reason;190 however, they cannot raise voice against the matters of legislation.191
(b) Protection of the Citizens

Muhammad Asad counts the protection of the citizens against external and internal enemies as one of the fundamental duties of the state. He further adds that this duty of protection granted to citizens is not limited to the tangible factors of existence but extends to their dignity and honor and the privacy of their homes as well. He argues that it is the duty of Islamic State to provide socio-economic and political security to all its citizens irrespective of religious denominations. He also denies contemporary secret supervision of police, arrest on mere suspicion and imprisonment without conviction by a duly established court of law because such acts clearly run counter to this fundamental guarantee.

(c) Free and Compulsory Education

Asad asserts that it is the duty of state to make knowledge freely accessible to every man and woman, regardless of religion, in the state. In his translation of the Qur’ān, he asserts that among other aims of social legislation is to provide equal opportunities and facilities for education to every man, woman and child. Likewise, al-Nabhānī holds it the obligation of the state to teach every individual those things which are necessary for life and should be provided freely to all at every level of education. He advocates free education at higher level as well. He further says that all citizens have the right to establish research and development laboratories connected with the affairs of life the provision of which is the responsibility of the State.

(d) Socio-Economic Security

For Asad it is the duty of the state to provide food, cloth and shelter to its citizens so that no person’s standard of living should fall below an equitable level. He also argues that a comprehensive social security scheme has been laid down in many Qur’ānic verses, and has been amplified and explained by a great number of the Prophet’s commandments which include giving the needy their dues; provision of enough to eat and wear and other provisions to ensure this socio-economic security. The state could facilitate it through Zakāt and through additional taxes on property and revenue. In the same line, al-Nabhānī
argues that the state must guarantee full satisfaction of the individual’s basic needs and provide opportunities available for satisfying one’s luxuries to the highest possible level. The state should provide opportunities and look-after the trade, agriculture, and financial assistance to those who are unable to work via Zakāt and Bayt al-Māl. It is the duty of the state to guarantee employment for all its citizens and to provide good housing facilities and to maintain or take care of the disabled and handicapped. The state has also the responsibility to look after the health and care of all its citizens.

4.11 Status of Non-Muslim Citizens

To determine the status of citizens, especially the status of non-Muslim citizens, in an Islamic state is really a crucial and delicate issue and is highly debatable and hotly discussed in the discourses on modern Islamic political thought. As for the Islamic law is concerned, the non-Muslim citizens living under an Islamic state are considered as protected citizens (ahl al-Dhimmah) who are being classified as Inhabitants, aliens (Musta’min), ‘contractees and conquered’ enjoy equal rights though teachings of Islam regarding each group are slightly different. The non-Muslims in an Islamic state, if not misunderstood, are just like that of the ‘minority’ living in a modern nation-state for in an Islamic state citizens are classified on the basis of ideology while in the contemporary nation states people are classified as per quantity where the ‘majority’ are responsible for the task of guidance and policy-making. Asad believes in the ideological classification of the citizens of an Islamic state but at the same time argues that citizens of an Islamic state, in general, are the people who stand up for the equity and justice and work for the common welfare for all. Despite the ideological difference, Asad holds that there should be mutual toleration among citizens. Al-Nabhānī argues that non-Muslims citizens are equal with Muslims in terms of dealing with them fairly and justly and enjoy full rights and duties as Muslims do. He claimed that these citizens should be treated nicely and it is forbidden to harm them. To support his argument, he quotes the following Hadith narrated from the Prophet:

الامن ظلم معاهدا او انتقص، او كلف فوق طاقة او اخذ شيب غير طيب
نفسiana حاجي الاليوم القيامة

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He who harms a person under covenant, or diminishes his right, or charged him more than he can, or takes from him anything without his consent, I will argue against him on the Day of Judgment.²¹³

He also maintains that the second Khalīfah, Ḥaḍrat ʿUmar (رضی الله عنی) also advised his successors by saying that:

او اولیاء الخلافة من يعدید بذمة رسول الله ﷺ خيرا ان يوفى لهم
بعهدهم، و ان يقاتل من ورائهم، و ان لا يكلفوا فوق طاقتهم

I recommend to the Khalīfah after me to be good to those who are under the protection of the Messenger of Allah (ﷺ), he has to fulfill to them their covenant (oath), to fight for protecting them and to not be charged more than they can afford.²¹⁴

Asad not only refutes the views of those who maintain that non-Muslims are being discriminated in an Islamic state but also maintains that the discrimination between Muslims and non-Muslim citizens relates only to the theory and not to the practice of the government. He writes:

One must…frankly admit from the outset that without a certain amount of differentiation between Muslim and non-Muslim there can be no question of our ever having an Islamic state or states in the sense envisaged in Qur‘ān and Sunnah. Consequently, any prevarication on this subject is utterly dishonest with regard to both the non-Muslim world around us and the Muslim community itself.²¹⁵

Asad also holds that this discrimination never implies that non-Muslim citizens should be discriminated in the ordinary sphere of life rather ‘they must be accorded all the freedom and protection which a Muslim citizen can legitimately claim’ except the position of leadership.²¹⁶ He emphasizes that the socio-political scheme of Islam aims at justice for Muslims and non-Muslims alike²¹⁷ but declares that the post of the head of the state must be reserved for Muslims alone.²¹⁸ He provides the logical arguments for not giving the non-Muslim citizens the status of leadership. For him, a non-Muslim, though having a great personal integrity and loyalty to the state, could never work wholeheartedly for the objectives of Islam; nor in fairness could such a demand be made of him.²¹⁹ This principle is common in
The status of women in Islam, in aggregation, is equal to that of the men. However, there is a dispute regarding political rights of women in an Islamic state whether or not Islam bestows political rights on women and entitles them to take part in elections and other related aspects of politics including the elections for the head of the state. Some argue that women are entitled to the household tasks and do not enjoy political rights at all. Some others opine that they are entitled with political rights except that of head of the state. Some go on to the extent that there is not any restriction on the political rights of women for religion has nothing to do with politics. An examination of the views of the scholars under discussion on the women participation in politics reveal that their position is moderate as they argue Islam provides restricted political rights to women.

Al-Nabhanī treats the matter in a traditional way by considering man and woman equally as the servants of Allah (ﷻ) and obliged to live a life according to His will. He discusses the divine plan of creating man and woman, their respective rights and duties, their meeting, problems created by their unrestricted mixing and Islamic guidance (for both) to live a better and prosperous life. He argues that the gender equality is no issue in Islam rather it is the issue in the western culture and those who imitate the West. According to him, a woman can enjoy all socio-economic and political rights but in every sphere of life she has to remain under the limits prescribed by the Sharī‘ah. In essence, men and women have same rights and duties though exceptions are there. Some are exclusive to men while others are exclusive for Women. Al-Nabhanī, though, considers the primary duty of a woman
as a mother, a home maker, yet he argues that a woman, like that of a man, “has the right to practice trading, farming, and industry; to enter into contracts and strike deals; to possess all kinds of private ownership; to invest her funds by herself or by her proxy; and to conduct all of mundane affairs”. He does not exclude women from political rights as well. For him, a woman can participate in the election process, offer Bay’ah to the Khalīfah and is eligible to act as a member of Majlis al-Ummah. They are allowed to raise their voices against the misapplication of Islamic laws upon them. A woman, for al-Nabhānī, can also be employed by the State, however, she cannot hold the positions of the Khalīfah, Wālī, ‘Āmil.

Asad also thinks almost on the same line and argues that women like other citizens of the state have the right and it is the duty of the state to safeguard their honour and dignity and provide them with material welfare and economic facilities without discrimination. Provision of equity within the community entails that women are entitled to have enough to eat and enough to wear, shall be succored in case of illness and have a decent home in which to live like other male members of the community. Along with the provisions of material well-being for the women, it is necessary for the state to take measures to develop in them among other citizens a sense of God-Consciousness. He further maintains that the state should take necessary measures to prevent its citizens from going away from God-consciousness and from taking arms of soul-destroying materialism. Regarding the political participation of women, Asad admits that a woman is allowed to be a member of Majlis al-Shūrā and in the election process as he says:

The legislative assembly—Majlis al-Shūrā—must be truly representative of the entire community, both men and women. Such a representative character can be achieved only through free and general elections; therefore, the members of the majlis must be elected by means of the widest possible suffrage, including both men and women.

It is important to note that Rifai Hasan tried to portray that Asad is liberal enough to see a woman as a head of the state. In support of his argument, he argues that while illustrating the conditions for the post of head of state Asad counts, the person should be Muslim, wise and mature having belief in the Divine origin of the Sharī’ah yet not mention that women are eligible for this post. But contrary to the analysis of Rifai Hasan, the
methodology of Muhammad Asad evinces that he was not in agreement to those who hold that a woman can be a head of a state.\textsuperscript{237} The commandments in the form of Qur’ān and authentic traditions negate woman as a head of the state. It is mentioned in a prophetic saying that:

\begin{center}
لن يفلح قوم ولو امرهم امرأة
\end{center}

\begin{center}
A nation would not prosper which has handed over its affairs to a woman.\textsuperscript{238}
\end{center}

It is argued on the basis of this tradition that the appointment of women to the position of head of the state, membership of judiciary and parliament and command of armies is prohibited.\textsuperscript{239}

To top it all, Muhammad Asad and Taqī al-Dīn al-Nabhānī, the 20\textsuperscript{th} century Islamic political ideologues, driven by diverse forces and stimulations supplemented the theory of Islamic political thought in the modern world with their respective theories on the concept of an Islamic State. Asad worked out an Islamic \textit{modus operandi} for a separate homeland of Muslims of Indian sub-continent, who, as per him, were in a dire need of its practical operation. Al-Nabhānī’s primary concern was his homeland, the disputed land, Palestine that he wanted to liberate from the unjust occupation formerly by British and later by Zionist Israel. As such, these scholars vehemently criticized both, the Western colonization/imperialism and the Muslims’ blind imitation of the West. This approach makes them parallel to the influential scholars of the time like Rashīd Riḍā, Hasan al-Banna, Sayyid Qūṭb and Mawlānā Mawdūdī who too formulated their political ideas as a response to the colonial West. Asad’s main focus was the creation of Pakistan as an ‘Ideal Islamic State’ in the modern world. Through his formulations (during the constitutional debates of this newly born state, later revised in \textit{The Principles of State and Government in Islam}), he attempted to rationalize Islamic ideas for creating a viable and relevant political system in the modern period. Following the Islamic political theorists like Ibn al-Taymiyyah, he considers the establishment of an Islamic state as a religious obligation upon Muslims. He defines the Islamic state, its nature and characteristics and highlights the issues like form of the government, rights of non-Muslims and women and even democratic nature of the Islamic
state. Similarly, Al-Nabhānī worked out a theoretical model of an Islamic state in the contemporary times. Both these scholars tried to address the overwhelming apathy and despondent situation of the Muslim masses by looking for and working out novel, relevant and viable modes of Islamic texture for bringing renaissance in the Muslim world. A careful analysis of their word and thought unveil that both the scholars aimed at revitalizing the Muslim nation, in the contemporary challenging era, with the spirit of establishing an Islamic state which can then embrace other states into its fold, either in the form of league of nations (according to Asad) or universal Khilāfah (according to al-Nabhānī).
Notes and References

1 The full text of the announcement is available online titled, “This is the Promise of Allah”, accessed on 02/01/2016 from http://myreader.toile-libre.org/uploads/My_53b039f00cb03.pdf


5 Ibid., p. 70

6 Pipi Ahmad Rifai Hasan, The Political Thought of Muhammad Asad, (M. A. diss., Concordia University, Canada, 1998), p. 3

7 Ibid., p. 4


12 Syed Adnan Hussain, Negotiating Pakistan: A Genealogy of a Post-colonial Islamic State, (Ph.D., diss., Department for the Study of Religion University of Toronto, 2015), pp. 89-94

13 According to Leonard Binder, “Traditional view is almost exclusive that of the ‘ulama’, who are not only the upholders of the tradition but also identify the establishment of Islam

14 According to Leonard Binder, “The Modernist view is held by most of the politicians westernized businessmen and many professionals of Pakistan”. Binder, *Religion and Politics in Pakistan*, op. cit., pp. 7-8

15 Fundamentals are the ideologues of the organizations like Jamā‘at-e-Islāmī of Pakistan. Binder, *Religion and Politics in Pakistan*, op. cit., p. 8

16 Secularist view is held by those who are strongly westernized in their thought and ideology. Leonard Binder, *Religion and Politics in Pakistan*, op. cit., p. 8


18 Hasan, *The Political Thought of Muhammad Asad*, op.cit., p. 108


20 Secularists are the advocates of separation of religion and politics and thus are in favour of a wholesale adoption of Western liberal system. They “restricted the religion to the private life” and “looked to the West to rejuvenate state and society”. See John L. Esposito, and John Voll, (eds.), *Makers of Contemporary Islam*, (New York: Oxford University Press, 2001), pp. 647; 681ff.

21 Rejectionists, representing conservative and some radical religious forces that adopt a negative view of any shape or form of democratic system, stress that democracy is a Western product and as such it has to be avoided at all cost. This group regards democracy as forbidden (*harām*) and something which contradicts Divine Sovereignty; See *Ibid.*

22 In a conversation Esposito defined Extremists those who are “veering from the norm”. See [http://globetrotter.berkeley.edu/people3/Esposito/esposito-con2.html](http://globetrotter.berkeley.edu/people3/Esposito/esposito-con2.html) accessed on 30/04/2016.

23 Conservatives, for Esposito, are the orthodox traditionalist scholars of Islam who are characterized as clinging blindly to the past by proposing the classical formulations to the statecraft. See *Ibid.*, p. 681
24 Reformists form that group that represents moderate voices that argue for adopting a middle path and sought to bridge the gap between conservative religious scholars and the western-oriented secular elites. See Ibid., P 647.


27 Asad, *The Principles of State and Government in Islam*, op. cit., p. 4


29 Asad, *The Principles of State and Government in Islam*, op. cit., p. 4

30 Ibid., p. 30

31 Ibid., pp. 2-3

32 Ibid., pp. 22-23

33 Ibid., p. 61

34 Nabhānī, *The Ruling System in Islam*, op. cit., p. 18

35 Asad, *The Principles of State and Government in Islam* op. cit., p. 4

36 Ibid., p. 96

37 Ibid., pp. 4-10


39 Asad, *The Principles of State and Government in Islam* op. cit., p. 2

40 Nabhānī, *The Ruling System in Islam*, op. cit., pp. 8, 18, 52

41 Asad, *The Principles of State and Government in Islam* op. cit., p. 17

42 Ibid., pp. ix-x

43 Ibid., p. 22
44 Ibid., p. 24
48 Ibid.
50 Asad, *The Principles of State and Government in Islam*, op. cit., p. 21
51 Ibid., p. 42/see foot note 24
55 Nabī, *The Ruling System in Islam*, op. cit., p. 18
58 Ibid., pp. 43-44
60 Asad, *The Message of The Qur'ān*, op. cit., p.175
61 Ibid., p. 174

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64 Asad, *The Message of the Qur’ān*, op. cit., p. 175

65 al-Bukhārī, *Saḥīḥ al Bukhārī*, op. cit., vol. 4, Book 60, Chapter 50, Ḥadīth no. 3455, p. 414

66 *Al-Qur’ān*, 33:40


68 *Ibid.*, see explanation of the Qur’ānic āyah 2: 30 in its corresponding note 22, p. 32


72 See Article 22 of “A Draft Constitution” op. cit.


77 Asad, *The Principles of State and Government in Islam*, op.cit., pp. 43ff


79 Asad, *The Principles of State and Government in Islam*, op.cit., p. 36


81 *Ibid.*, pp. 240f

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Asad, *The Message of The Qur’an*, op.cit., p. 145

83 Asad, *The Principles of State and Government in Islam*, op.cit., p. 35


85 Nabhānī, *The Ruling System in Islam*, op. cit., p. 32

86 Nabhānī, *Al-Shakhsiyyah Al-Islāmiyyah*, op. cit., pp. 60-64

87 Nabhānī, *The Ruling System in Islam*, op. cit., p. 55, 68

88 Nabhānī, *Al-Shakhsiyyah Al-Islāmiyyah*, op. cit., p. 16


91 Nabhānī, *The Ruling System in Islam*, op. cit., pp. 50ff


95 Nabhānī, *The Ruling System in Islam*, op. cit., pp. 53-54

96 *Ibid.*, pp. 54-55

97 Asad, *The Principles of State and Government in Islam*, op.cit., p. 42/see foot note 24


99 al-Bukhārī, *Sahīh al Bukhārī*, op. cit., vol. 9, Book 92, Chapter 18, Ḥadīth no. 7099, p. 145

100 *Ibid.*, pp. 56-57


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103 *Ibid.*, vol. 5, Book 37, Chapter 17, Ḥadīth no. 4401, p. 43


110 *Al- Qur’ān*, 4:59

111 Asad, *The Principles of State and Government in Islam*, op.cit., p. 41

112 Asad, *The Message of the Qur’ān*, op. cit., p. 174

113 *Al- Qur’ān*, 49:13

114 al-Bukhārī, *Saḥīh al Bukhārī*, op. cit., vol. 9, Book 93, Chapter 4, Ḥadīth no. 7142, p. 162


117 al-Bukhārī, *Saḥīh al Bukhārī*, op. cit., vol. 9, Book 93, Chapter 7, Ḥadīth no. 7149, p. 165

118 *Ibid.*, vol. 8, Book 83, Chapter 1, Ḥadīth no. 6622, p. 329


120 Nabhānī, *The Ruling System in Islam*, op. cit., pp. 76-77

121 *Ibid.*, p. 77


123 Nabhānī, *The Ruling System in Islam*, op. cit., pp. 77-81

*~180~*
125 *Ibid.*, p. 68
126 *Ibid.*, pp. 68ff
127 Asad, *The Principles of State and Government in Islam*, op.cit., p. 45
130 *Ibid.*, pp. 82-86
133 *Ibid.*, pp. 92-93
139 *Al-Qur’ān*, 3:159
140 Asad, *The Message of The Qur’ān*, op.cit., p. 145
141 Asad, *The Principles of State and Government in Islam*, op.cit., p. 52
144 Asad, *The Principles of State and Government in Islam*, op.cit., p. 48
145 Nabhānī, *The Ruling System in Islam*, op. cit., p. 246

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148 *Sunan Abu Dāwūd*, op. cit., vol. 3, Book 19, Chapter 4, Ḥadīth no. 2932, p. 454


150 *Ibid.*, pp. 144-149


159 *Ibid.*, pp. 231-239


165 Asad, *The Principles of State and Government in Islam*, op.cit., p. 15

166 Nabhānī, *The Ruling System in Islam*, op. cit., p. 21


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Asad, *The Principles of State and Government in Islam*, op. cit., p. 52

Nabhānī, *The Ruling System in Islam*, op. cit., p. 32


Asad, *The Principles of State and Government in Islam*, op. cit., p. 52


Asad, *The Principles of State and Government in Islam*, op. cit., p. 66


See article 5 of the Indian Constitution, p. 4


*Ibid.*, p 140. See also the article 7, in *A Draft Constitution*, op. cit.

Asad, *The Message of The Qur’ān*, op.cit., p. 218, fn, 48

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Asad, *The Principles of State and Government in Islam*, op.cit., p. 84

Asad, *The Message of The Qur’ān*, op.cit., p. 218


*Ibid.*, pp. 86-87

*The Message of The Qur’ān*, op.cit., p. 219

*A Draft Constitution*, op. cit., article, 173

*Ibid.*, article, 158


Asad, *The Message of The Qur’ān*, op.cit., p. 219

Asad, *The Principles of State and Government in Islam*, op.cit., p. 91

*A Draft Constitution*, articles, 119-121

*Ibid.*, articles, 154-59

*Ibid.*, article, 149

*Ibid.*, article, 152

*Ibid.*, article, 160

Muhhammad Asad describes non-Muslim citizens as *ahl al-dhimmah*, lit., “covenanted” [or “protected”] people”, whose safety is statutorily assured by the Muslim community. See Asad, *The Message of the Qur’ān*, op. cit., F.N. 43 corresponding to the āyah 9:29, p. 362 Al-Nabhānī maintains that “The dhimmī is the one who follows a dīn other than Islam and becomes the citizens of Dār al-Islām while remaining in his dīn other than Islam. “Dhimmī”
is taken from the “dhimmah” which is the pledge/covenant (‘ahd). They are upon our pledge that we treat them according to what we made truce with them upon, and that we run their transactions and affairs according to the rules of Islam”. See al-Nabhānī, *Islamic Personality, op. cit.*, p. 183. See also Ronald L. Nettler, “Dhimmi” in *OEIW, op. cit.*, pp.71-72

208 Shafī’, *Ma’ārif al-Qur’ān, op. cit.*, vol. 2, p. 542. Here in an annotation provided by the author’s son, Mufti Taqi Usmani (b. 1943) which differentiates the terms *Dhimmi* and *Musta’min* by saying that “Dhimmi is a non-Muslim person permanently and legally living in an Islamic state while Musta’min is a non-Muslim who lawfully enters an Islamic State for temporary stay”.


213 *Sunan Abu Dāwūd, op. cit.*, vol. 3, Book 19, Chapter 31, Ḥadīth no. 3052, p. 527


218 Ḥasan, *The Political Thought of Muhhammad Asad, op.cit.*, p. 142


221 Nabhānī, *The Ruling System in Islam, op. cit.*, p. 68


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225 Nabhānī, *Islamic state*, op. cit., p. 260


228 Ibid., pp. 78ff

229 *A Draft Constitution*, op. cit., article, 108

230 Ibid., article, 110

231 Ibid., article, 111; Cf. Nabhānī, *Islamic Personality*, op. cit., pp. 16ff

232 Ibid., article, 101

233 Ibid., article, 112


235 Ibid., pp. 90-91

236 Ibid., p. 45

237 Ibid., p. xi

238 al-Bukhārī, *Saḥīḥ al Bukhārī*, op. cit., vol. 9, Book 92, Chapter 18, Ḥadīth no. 7099, p. 145


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