

Muhammad Asad's Views on Shari'ah

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ABSTRACT

This paper analyzed Muhammad Asad's (1900-1992) views on Shari'ah (Islamic law). This was investigated from his thoughtful and broad understanding of its principle and underlying purpose. The essential understanding of the principle of shariah was analytically discussed in his works such as *This Law of Ours and Other Essays*, *The Principles of State and Government in Islam* and in his magnum opus *The Message of the Qur'an*. The finding shows that Muhammad Asad's discussion on shariah emphasized on its dynamic principle and relevance to contemporary practice and modern context of Islam. It set forth important framework towards reforming Islamic law by critically reconstructing and reprojecting its ideal in order to establish justice in implementing the law and in framing the ideal that underlie its purpose.

Keyword: Muhammad Asad, shariah, the practice of law, higher purpose of Islamic law

Pandangan Muhammad Asad tentang Shari'ah

ABSTRAK

Kertas ini menganalisis pandangan Muhammad Asad tentang Syariah Islam. Ini ditinjau dari kerangka pemikirannya yang luas yang menzahirkan falsafah dan idealisme maqasid dan fiqh syariah yang mendasar. Kefahaman tentang prinsip hukum dan syariah dan implikasinya dalam pemikiran moden ini dibahaskan dengan mendalam dalam karya-karyanya seperti *This Law of Ours and Other Essays*, *The Principles of State and Government in Islam* dan dalam magnum opusnya *The Message of the Qur'an*. Hasil kajian mendapati perbincangan Muhammad Asad tentang syariah menekankan tentang dinamika dan relevensinya dengan praktik dan konteks Islam yang moden. Ia menggariskan asas yang penting ke arah reformasi perundangan Islam bagi menegakkan prinsip kebebasan dan keadilan dan membawa pembaharuan hukum yang ideal dengan menekankan tentang nilai dan tujuan moral dalam implementasi undang-undang.

Kata Kunci: Muhammad Asad, shariah, amalan hukum, maqasid syariah

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INTRODUCTION

This paper discusses Muhammad Asad's fundamental ideas and outlook on shari'ah and the understanding derived from his discussion on the moral ground of shari'ah that brought forth its significance vision and philosophy and illustrate its wide-ranging implication. It brought out its legal framework and underlying value and wide ranging scope that represents the principle and ideal of *maqasid shar'iah* (ultimate objective of Islamic law) and the fundamental aspiration it projected. This was clearly illustrated in his work *This Law of Ours and Other Essays: The great mistake [of the Fundamentalists], is that most of these leaders start with the hudud, criminal punishment. This is the end result of the sharia [Islamic law], not the beginning. The beginning is the rights of people. There is no punishment in Islam which has no corresponding right* (Muhammad Asad, 1987).

The essential basis and understanding of shari'ah were set forth in his book *This Law of Ours and Other Essays* and *Sahih al-Bukhari: The Early Years of Islam* that elucidate the universal and practical implication of shari'ah and advocate reassuring ideal and aspiration on the value and significance and dynamic implication of Islamic shari'ah *The practical goal of the Islamic shari'ah is the construction of social conditions in which all individuals will find equal opportunities for their spiritual and material development. This practical, social purpose of the shari'ah gives the Muslims the moral right to strive for its establishment in the world* (Muhammad Asad, 2002:361).

The idea of shari'ah presented in his other unprecedented work *The Principles of State and Government in Islam* also set forth significance argument of shari'ah in his effort to clarify the problem and confusion surrounding its implementation and provide comprehensive discussion on the structure upon which Islamic law was founded, while refuting the unsubstantiated allegation and misunderstanding of shari'ah in Muslim society. According to him, shari'ah if implemented, can lessen the conflict forthcoming from many different ideologies in Islamic legal school of thought. The ideal interpretation of law and the shariah was intrinsically rooted from fundamental and undisputed text (*nas*) of the Qur'an and Sunnah that formed its understanding of Islamic law, *the rules that which has been provided in the ordinances of the Qur'an and supplemented (or, rather, detailed and exemplified) by the Prophet Muhammad (saw) in the body of teachings which we describe as his sunnah*.

METHODOLOGY

This work is based on qualitative research that investigates qualitatively authoritative works of Muhammad Asad that explicate his views and standpoint on shariah. These include *The Principles of State and Government in Islam*, *This Law of Ours and Other Essays* and *Sahih al-Bukhari: The Early Years of Islam* that formed overall ideal and characteristic of his approach and standpoint on the problem of shariah. The discussion presented in these works were compared and analysed to establish significance finding on the problem of shari'ah based on the critical standpoint and certain criteria set forth in his works in order to develop and acquire its relevant to contemporary societies.

DEFINITIONS OF SHARI‘AH

The word *syariat* was derived from Arabic word from the cluster *sh-r-a* (the way to a watering place, to plan or manifesting, law) that appears five times in the Qur’an in 4 formulas, *shara‘a* (2 times), *shurra‘an* (1 time), *shir‘atan* (1 time), *sharī‘atin* (1 time). Asad explains the meaning, and common comprehension hold by Muslim jurist and legal expert by quoting from Ibn Hazm (994-1064), as follows *The Shari‘ah in its entirety refers either to obligatory acts [fard], the omission of which constitutes a sin; or to forbidden acts [haram], the commission of which constitutes a sin; or to allowed acts [mubah], the commission or omission of which does not make man a sinner* (Muhammad Asad, 1961:13).

More explicit definition of *shari‘ah* or canon law was given in his book *This Law of Ours* (1987:41) and *The Message of the Qur‘ān* with the meaning *the way to a watering place* (from which men and animals derive the element indispensable to life) and is used in the Qur’an to denote a system of laws necessary for a community’s social and spiritual welfare. (*The Message of the Qur‘ān*, 1980, 5:48, 223, ft 66). He further expound this implying the connotation and implication from this understanding, *since water is indispensable for all organic life, this term has in time come to denote a ‘system of laws’, both moral and practical, which shows man the way towards spiritual fulfillment and social welfare* (*The Message of the Qur‘ān*, 1980, 45:18, 1043, ft 18).

The technical interpretation of *shari‘ah* as set forth in his book *This Law of Ours* illustrates its deep-seated understanding as *the elixir for humanity, the Right Way marked out in the commandments of God and His Apostle: the law of Islam* (Muhammad Asad, 1987, 41).

A more technical discussion of the meaning and connotation of *shari‘ah* was propounded in his *tafsir*, in his explanation of surah 5:48 and 45:18 from his magnum opus *The Message of the Qur‘ān*, “Unto every one of you have We appointed a [different] law and way of life.” (5:48) Explaining the profound and far-reaching meaning of this *ayat*, Asad remarks: *The expression “every one of you” denotes the various communities of which mankind is composed. The term shir‘ah (or shari‘ah) signifies, literally, “the way to a watering-place” (from which men and animals derive the element indispensable to their life), and is used in the Qur‘an to denote a system of law necessary for a community’s social and spiritual welfare. The term minhaj, on the other hand, denotes an “open road”, usually in an abstract sense: that is, “a way of life”. The terms shir‘ah and minhaj are more restricted in their meaning than the term din, which comprises not merely the laws relating to a particular religion but also the basic, unchanging spiritual truths which, according to the Qur‘an, have been preached by every one of God’s apostles, while the particular body of laws (shir‘ah or shari‘ah) promulgated through them, and the way of life (minhaj) recommended by them, varied in accordance with the exigencies of the time and of each community’s cultural development. This “unity in diversity” is frequently stressed in the Qur‘an (e.g., in the first sentence of 2:148, in 21:92-93, or in 23:52 ff.) Because of the universal applicability and textual incorruptibility of its teachings- as well as of the fact that the Prophet Muhammad (saw) is “the seal of all prophets”,*

i.e., the last of them (see 33:40) – the Qur’an represents the culminating point of all revelation and offers the final, perfect way to spiritual fulfillment.

And this argument was reinforced in his interpretation of *surah* 45:18, which says: “We have set thee on a way by which the purpose [of faith] may be fulfilled”. Asad explains: “Lit., “on a way of the purpose [of faith]”: see note 15 above. It is to be borne in mind that the literal meaning of the term shari‘ah is “the way to a watering-place”, and since water is indispensable for all organic life, this term has in time come to denote a “system of laws”, both moral and practical, which shows man the way towards spiritual fulfillment and social welfare: hence, “religious law” in the widest sense of the term (See in this connection note 66 on the second part of 5:48.)

FINDINGS: PRELIMINARY

The finding shows that Muhammad Asad had brought out with great clarity the essential meaning of shari‘ah and its dynamic understanding as divinely-inspired law. Reasserting its fundamental important as set forth in the textual evidence of the Qur’an and Sunnah, Islamic shari‘ah, he asserts, has wide ranging implication and significance in practical rule and in establishing religious ideal of Islam. It set forth uncompromising principle of moral and social imperative and outline significance aspect of moral and practical law and the defining purpose of faith as prescribed in the text. Asad categorically emphasized specific important of deriving and making of law based on the ultimate purpose of shari‘ah (*maqasid*) as crucial foundation in the development of fiqh and its fundamental.

Taklif (Duty) and Haqq (Right)

Asad contended that shari‘ah law touches every aspects of human existence, and was intrinsically relates to its real presence and consciousness, *Shari‘ah touches every aspect of human existence and is the life-breath of Islam* (Muhammad Asad, 1987, 20). In this sense, he emphasized that the basis of moral intended in implementing the *hudud*, *qisās* dan *ta‘zīr*, was meant to ensure social security and safeguard public interest based on equal social value and responsibility, where *There is no punishment in Islam which has no corresponding right* as its basic condition, as accentuated in his *Tafsir Punishment intended for social security”, applicable only within the context of an already existing, fully functioning social security scheme, and in no other circumstances* (Muhammad Asad, 1980, 5:38, 218, ft. 48) and that *No duty (taklīf) is ever imposed on man without his being granted a corresponding right (Haqq)* (Muhammad Asad, 1980, 5:38, 218, ft. 48).

The argument brought forth clearly shows the aspiration and objective of Islam in implementing the shariah law in realizing justice and the principle of *musawah* and lays down the ideal social order, “Qisas has been often and erroneously treated as retaliation rather it is a “just retribution” that all classical commentators consider it synonymous with *Musāwah* (making a thing equal [to another thing]) in this instance, making the punishment equal (or appropriate) to the crime” (Muhammad Asad, 1980, 2:178, hh. 71-72, ft. 147).

Asad further stressed, “The objective of qisas is the protection of the society and not the revenge; and accordingly the implementation of Islamic legal punishments is to

safeguard the community or a society as a whole.” (Muhammad Asad 2:179, h. 73, ft. 151)

The Inaccessible Shari‘ah

Asad contended that the essential basis of shari‘ah is *hanifiyah samhah* [easy and plain], but this religious ritual has been burdened by complex legal deduction of juristic rules that confused and make it inaccessible to the understanding of common man: including the juristic regulations of various jurists (fuqahā) in Shari‘ah has made Shari‘ah inaccessible to the understanding of common man.” (Muhammad Asad, 1987, pp. 20f). This he substantially emphasized since only the nas from al-Qur’an and Sunnah that constitute the sum-total of Shari‘ah, as portrayed conclusively in his statement concerning the Muslim religious law: *The nass ordinances of the Qur’an and Sunnah, comparatively few as they are, constitute the sum-total of the Shari‘ah in its true and eternal sense* (Muhammad Asad, 1987: 65).

And this has led the revelation that was initially sent down as practical guidance simply become academic affairs and debate void of daily realities and exigencies of life: “Making Shari‘ah the preserve of “specialised scholars”, instead of being a way of life became a merely academic affair and thus its practicability became an illusion.” (Muhammad Asad, 1987, 22). He claimed that *A thousand years of theology and canonical jurisprudence have made the simplicity of Islam entirely illusionary and the presence of various schools of thought put a common person into confusion* (Muhammad Asad, 1987, 19)

The meaning of shari‘ah as a religion of *samhah* and *hanifiyyah* [easy and plain] was brought forth in Asad’s commentary of surah *al-Maidah* [5:101] that set forth essential principle of shari‘ah and further elucidated the difficulties brought about by the juristic deductions that confused and entirely complicated in the rules of fiqh.

“O You who have attained to faith! Do not ask about matters which, if they were to be made manifest to you [in terms of law], might cause you hardship” (5:101) Asad cited authoritative views of jurist and fuqaha such as Ibn Hazm that refute the unreliable principle of juristic deduction and analogy and repudiate the burdening of law of shar‘i that is straightforward and essentially easy *This verse connects directly with verse 99: “No more is the Apostle bound to do than deliver the message.” Read in conjunction with the sentence, “Today have I perfected your religious law for you” (occurring in verse 3 of this surah), the above statement implies that the believers should not try to deduce “additional” laws from the injunctions clearly laid down as such by the Qur’an or by the Prophet, since this “might cause you hardship – that is, might (as has indeed happened in the course of the centuries) impose additional burdens on the believers above and beyond anything that has been stipulated in terms of law in the Qur’an or in the authentic commandments of the Prophet. On the basis of this verse, some of the greatest Muslim scholars have concluded that Islamic Law, in its entirety, consists of no more than the clear-cut injunctions forthcoming from the self-evident (zahir) wording of the Qur’an and the Prophet’s commandments, and that, consequently, it is not permissible to extend the scope of such self-evident ordinances by means of subjective methods of deduction. (A most enlightening discussion of this problem is to be found in the Introduction to Ibn Hazm’s Muhalla, vol. I, 56 ff.) This, of course, does not prevent the Muslim community from evolving,*

whenever necessary, any amount of additional, temporal legislation in accordance with the spirit of the Qur'an and the teachings of the Prophet: but it must be clearly understood that such additional legislation cannot be regarded as forming part of Islamic Law (the shari'ah) as such.

This principle and idealism of shariah lays down in the Qur'an was further elucidated by the views essentially propagated by Ibn Hazm, al-Razi, Baghawi and Zamakhshari, the viewpoints that were further clarified and propounded by Asad in his tafsir of *surah* 42:10 (*Ash-Shura*) that brought out this ideal and basic aspiration of religious law, "And on whatever you may differ, [O believers,] the verdict thereon rests with God." (42:10)

Asad notes *This, connecting with the first sentence of verse 8 above, evidently relates to problems of faith and religious law (Baghawi, Zamakhshari). The above verse has provided some of the great exponents of Islamic Law – Ibn Hazm among them – with one of the main arguments against the acceptance of deductions by analogy (qiyas) as a means to "establish" points of religious law not formulated as such in the nass – i.e., the self-evident (zahir) wording of the Qur'an and, by obvious implication, of the Prophet's commandments. This, as Razi points out, is the meaning of the phrase "on whatever you may differ, the verdict (hukm) thereon rests with God (See in this connection note 120 on 5:101; also the section on "The Scope of Islamic Law" in my State and Government, pp. 11-15.)*

The Principle of Freedom

The principle of freedom that is one of significant part and important aspects of *maqasid syar'i* was emphasized by Asad in his commentary of *surah* 2:256 (*al-Baqarah*) *there shall be no coercion in matters of faith (La ikrah fi al-din)* that articulate the concept of freedom of faith (*al-hurriyyah al-diniyyah*), and pointed out the semantic implication of the concept of *din* or moral law which signified the value and crucial legal implication of this verse *there shall be no coercion in matters of faith*. Asad stated *The term din denotes both the contents of and the compliance with a morally binding law; consequently, it signifies 'religion' in the widest sense of this term, extending over all that pertains to its doctrinal contents and their practical implications, as well as to man's attitude towards the object of his worship, thus comprising also the concept of 'faith.'* *The rendering of it as 'religion,' 'faith,' 'religious law' or 'moral law' ...depends on the context in which this term is used – On the strength of the above categorical prohibition of coercion (ikrah) in anything that pertains to din faith or religion, all Islamic jurists (fuqaha'), without any exception, hold that forcible conversion is under all circumstances null and void, and that any attempt at coercing a non-believer to accept the faith of Islam is a grievous sin: a verdict which disposes of the widespread fallacy that Islam places before the unbelievers the alternative of conversion or the sword (2:256).*

This interpretation echoes Mustafa Akyol's (2011) terrific statement that *Those who hope to nurture genuine religiosity should first establish liberty*. Asad's interpretation was reinforced in his commentary of *Sahih al-Bukhari*, *The Book of Faith (Kitab al-Iman)* on the principle of religious freedom that was highlighted in the hadith of al-Bukhari: "Nothing is further from truth than this: for the use of force in those early days of Islam had for its object not the spreading of beliefs, but the establishment of

certain social conditions regarded as beneficial to all. As to beliefs, the liberty of conscience is authoritatively laid down in the Qur'an: *There is no compulsion in religion* (Surah ii. 256) (Muhammad Asad, 2002: 361)

This view was further supported in many works of tafsir such as al-Tabari, al-Razi and az-Zamakhshari that reassert the fundamental ideal of the freedom of faith and demonstrate the essential strength of Islamic idealism that make it possible for people to proclaim and accept the faith based of conviction and not from any coercion or force.

The same view was brought forth in his commentary of surah 9:6 (*al-Tawbah*) that underscore such vital principle of liberty and right in religious persuasion that significantly support his interpretation of this incontrovertible facts: "And thereupon convey him to a place where he can feel secure: this, because they [may be] people who [sin only because they] do not know [the truth]." (9:6)

Asad remarked *Lit.*, "his place of security" (*ma'manahu*) – i.e., "let him rejoin his homeland" (Razi), which implies that he is free to accept or not to accept the message of the Qur'an: a further reaffirmation of the Qur'anic injunction that "there shall be no coercion in matters of faith (2:256).

Ijtihad (Independent Reasoning)

In his effort to develop the principle of law and promotes the ideal of shari'ah, Asad stressed the essential necessity of reason and critical thinking and *ijtihad* to expand the principle of law in order to articulate the benefit and interest (*maslahah*) forthcoming from the comprehension of *nas*: "The Law-Giver meant us Muslims to provide for the necessary, additional legislation through the exercise of our *ijtihad* (independent reasoning) in consonance with the spirit of Islam." (Muhammad Asad, 1961: 14)

This conclusively reflected the argument of Ibn Maskawayh *Because if the mind cease to investigate matters or cease to think, or his attention has declined to investigate deep-rooted problems, he become stagnant, become ignorant* (Hamka, 2017: 19)

Because the problems of law and juristic difference can be solved through critical judgement of *ijma'* (consensus) forthcoming from the crucial and essential strength of *ijtihad* and different opinions of jurists that enable it to illuminate and produce effective understanding of the text: "True progress is not possible without a variety of opinions, for it is only through the friction of variously constituted intellects and through the stimulating effect they have on one another that social problems are gradually clarified and thus brought within the range of solution." (Muhammad Asad, 1961: 48).

Asad's Perspective on Shari'ah in his Tafsir

Asad's perspective on *shari'ah* and his perception and standpoint of various schools of thought and the fundamental of *fiqh* and *madhhab* was exponentially brought forth in his tafsir *The Message of the Qur'an*. It propounded balanced legal thought rooted in the tradition of *ijtihad* and principal objective of Islamic law (*maqasid*) and its

fundamental aspiration. The substantive arguments he brought forth and the essential ideas he propounded on Islamic legal injunctions was extensively illustrated in his commentary of surah *al-Maidah* verse 38 (5: 38), that portrayed his unprecedented grasp of the essence of *shari'ah*: "Now as for the man who steals and the woman who steals, cut off the hand of either of them in requital for what they have wrought, as a deterrent ordained by God: for God is almighty, wise." (5: 38).

Asad remarks The extreme severity of this Qur'anic punishment can be understood only if one bears in mind the fundamental principle of Islamic Law that no duty (taklif) is ever imposed on man without his being granted a corresponding right (haqq); and the term "duty" also comprises, in this context, liability to punishment. Now, among the inalienable rights of every member of the Islamic society - Muslim and non-Muslim alike - is the right to protection (in every sense of the word) by the community as a whole. As is evident from innumerable Qur'anic ordinances as well as the Prophet's injunctions forthcoming from authentic Traditions, every citizen is entitled to a share in the community's economic resources and, thus, to the enjoyment of social security: in other words, he or she must be assured of an equitable standard of living commensurate with the resources at the disposal of the community. For, although the Qur'an makes it clear that human life cannot be expressed in terms of physical existence alone - the ultimate values of life being spiritual in nature - the believers are not entitled to look upon spiritual truths and values as something that could be divorced from the physical and social factors of human existence. In short, Islam envisages and demands a society that provides not only for the spiritual needs of man, but for his bodily and intellectual needs as well.

It follows, therefore, that – in order to be truly Islamic – a society (or state) must be so constituted that every individual, man and woman, may enjoy that minimum of material well-being and security without which there can be no human dignity, no real freedom and, in the last resort, no spiritual progress: for, there can be no real happiness and strength in a society that permits some of its members to suffer undeserved want while others have more than they need. If the whole society suffers privations owing to circumstances beyond its control (as happened, for instance, to the Muslim community in the early days of Islam), such shared privations may become a source of spiritual strength and, through it, of future greatness. But if the available resources of a community are so unevenly distributed that certain groups within it live in affluence while the majority of the people are forced to use up all their energies in search of their daily bread, poverty becomes the 'most dangerous enemy of spiritual progress, and occasionally drives whole communities away from God-consciousness and into the arms of soul-destroying materialism.

It was undoubtedly this that the Prophet had in mind when he uttered the warning words (quoted by As-Suyuti in *Al-Jami' as-Saghir*), "Poverty may well turn into a denial of the truth (kufr)." Consequently, the social legislation of Islam aims at a state of affairs in which every man, woman and child has (a) enough to eat and wear, (b) an adequate home, (c) equal opportunities and facilities for education, and (d) free medical care in health and in sickness. A corollary of these rights is the right to productive and remunerative work while of working age and in good health, and a provision (by the community or the state) of adequate nourishment, shelter, etc. in cases of disability resulting from illness, widowhood, enforced unemployment, old age, or under-age. As already mentioned, the communal obligation to create such a

comprehensive social security scheme has been laid down in many Qur'anic verses, and has been amplified and explained by a great number of the Prophet's commandments.

It was the second Caliph, 'Umar ibn al-Khattab, who began to translate these ordinances into a concrete administrative scheme (see Ibn Sa'd, *Tabaqat* III/1, 213-217); but after his premature death, his successors had neither the vision nor the statesmanship to continue his unfinished work.

It is against the background of this social security scheme envisaged by Islam that the Qur'an imposes the severe sentence of hand-cutting as a deterrent punishment for robbery. Since, under the circumstances outlined above, "temptation" cannot be admitted as a justifiable excuse, and since, in the last resort, the entire socio-economic system of Islam is based on the faith of its adherents, its balance is extremely delicate and in need of constant, strictly-enforced protection. In a community in which everyone is assured of full security and social justice, any attempt on the part of an individual to achieve an easy, unjustified gain at the expense of other members of the community must be considered an attack against the system as a whole, and must be punished as such: and, therefore, the above ordinance which lays down that the hand of the thief shall be cut off.

One must, however, always bear in mind the principle mentioned at the beginning of this note: namely, the absolute interdependence between man's rights and corresponding duties (including liability to punishment). In a community or state which neglects or is unable to provide complete social security for all its members, the temptation to enrich oneself by illegal means often becomes irresistible - and, consequently, theft cannot and should not be punished as severely as it should be punished in a state in which social security is a reality in the full sense of the word.

If the society is unable to fulfill its duties with regard to every one of its members, it has no right to invoke the full sanction of criminal law (hadd) against the individual transgressor, but must confine itself to milder forms of administrative punishment. (It was in correct appreciation of this principle that the great Caliph 'Umar waived the hadd of hand-cutting in a period of famine which afflicted Arabia during his reign.) To sum up, one may safely conclude that the cutting-off of a hand in punishment for theft is applicable only within the context of an already-existing, fully functioning social security scheme, and in no other circumstances." (Muhammad Asad, 1980)

This convincing argument and elaborate comment represents the spirit of *shari'ah* and its higher aims in assuring and safeguarding the principle of justice and the significant articulation of *ijtihad* in explicating the essence of the Qur'an. This evoked his explicit view developed earlier in his book *Islam at the Crossroads: The more I understood concreteness and practicality of the Islamic doctrine, the more I was tormented by a question why Muslims stopped to use them, apply them in life* (Muhammad Asad, 1999).

Politics and Shari'ah

Muhammad Asad's understanding of *shari'ah* is intrinsically relates to his dynamic and modern ideas and views of political philosophy arguing that *There is not only one*

form of the Islamic state, but many; and it is for the Muslims of every period to discover the form most suitable to their needs – on the condition, of course, that the form and the institutions they choose are in full agreement with the explicit, unequivocal shariah laws relating to communal life (Muhammad Asad, 1961: 23).

In his book *The Principles of State and Government in Islam*, Asad lays down in unambiguous terms the foundation of an Islamic state based on the Qur'an and Sunnah (traditions of the Prophet). Briefly, the two defining limits are that in an Islamic state true sovereignty lies with God and that believers must conduct all businesses pertaining to the state and community through mutual consultation. Within this framework, Asad showed that an Islamic state had the flexibility to contain features of parliamentary democracy and the rule of law, including the modern institutions of presidency and the Supreme Court.

He pointed out that the ideal Islamic state can be truly realized by concrete application of Islamic socio-political tenet in the entire spectrum of community's life and its incorporation in the state's constitution: "A state inhabited predominantly or even entirely by Muslims is not necessarily synonymous with an "Islamic state": it can become truly Islamic only by virtue of a conscious application of the sociopolitical tenets of Islam to the life of the nation, and by an incorporation of those tenets in the basic constitution of the country." (Muhammad Asad, 1961: 1).

He articulate the essential framework and principle of Islamic governance that has to be governed by Islamic vision and its political ideals and the *explicit, unequivocal shariah laws relating to communal life*, that *It is only within the framework of an independent ideological state built on the principles of Islam and endowed with all the machinery of government, legislation, and law-enforcement that the ideals of Islam can be brought to practical fruition* (Muhammad Asad, 1961: 96).

The vision he envisaged consciously envisage an independent ideological state that was largely founded on principles designed to realize the idea of *musawah* (equity), *'adalah* (justice), *amānah* (trustworthy), *mas-uliyyah* (responsibility), *hurriyah* (liberty) and *shura* (consultation) that *human ingenuity has not evolved a better method for corporate decisions than the majority principle* (Muhammad Asad, 1961: 50).

This ideas as envisaged and projected in his *State and Government* was also brought forth in his commentary of Qur'anic phrase *shura baynahum* in verse 38, *surah* 42 (*al-shura*) that lays down the ideal structure of Islamic social life governed by its socio-political tenets and principle: *And who respond to [the call of] their Sustainer and are constant in prayer; and whose rule [in all matters of common concern] is consultation among themselves* (42:38), Asad wrote: *This particular qualification of true believers – regarded by the Prophet's Companions as so important that they always referred to this surah by the key-word "consultation" (shara) – has a double import: firstly it is meant to remind all followers of the Qur'an that they must remain united within one single community (ummah); and, secondly, it lays down the principle that all their communal business must be transacted in mutual consultation.* (For the political implications of this principle, see *State and Government*, pp. 44 f.).

CONCLUSION

Muhammad Asad had illustrates the profound understanding of *shari'ah* in his discussion of its essence and clarify the method and problems relating to Islamic law. His works explicitly brought forth its intrinsic philosophy and clarify the scope and implication of shari'ah in modern context and contemporary situation. His discussion largely devoted to the principle of *maqasid* (higher objective of Islamic law) that emphasized on the higher ideal of religious law and its practical implication on the socio-political and cultural life of Islam. His interpretation of the Qur'an signifies rational understanding of an explicit, unequivocal tenet of shari'ah and its principle and illustrates its relevant to moral and practical need of humanity, as insightfully emphasized by Mustafa Akyol (2011) *The Shariah is made for man, not man for the Shariah*. He projected an ideal understanding of Islam that envisaged a conscious and resolve to realize its purpose that *A Muslim is he who carries the fear of God in his heart and tries, by following the ways of Islam, to rise in spiritual stature: and not merely he who happens to have been born in a Muslim house and bears a Muslim name* (Muhammad Asad, 1987).

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