An Outline of the Structure of an Islamic State as Depicted in the Writings of Maulana Sayyid Abul ala Maududi

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Abstract : *State is generally considered to be an authoritative organ working for the accomplishment of the worldly affairs. But in Islamic terminology, state is meant not only for the conduct of worldly affairs but also considered to be the most influential means for the accomplishment of divine ends through the execution of divine commands in the collective life of the Muslim Ummah. For that very purpose, Islam systematically provides the well defined structure of an Islamic state. Maulana Maududi's presentation of the structure of an Islamic state is unprecedented in the intellectual history of Islam, because his presentation of the structure of an Islamic state fulfils the demand of the time. In this connection the paper is a humble effort to present an outline of Maulana Maududi's presentation of the structure of an Islamic state which is in consonance with the prophetic model and is quite compatible to the contemporary Muslim societies in which he discussed its every aspect and their jurisdictions. Moreover, his presentation of the structure of an Islamic state reduces the diverse interpretations regarding its structure and jurisdictions.*

Key Words: - Politics, Ruler, Citizenship, Legislature, Executive, Judiciary

Introduction

Islamic political thought has been the grey area throughout the history in general and from last two centuries in particular both in East and the West. The developments in the West viz a viz the downfall in the East marked the significant impact in the history of human civilization. The Western developments cast their shadows into the Muslim lands by means of colonization. The Ottoman Empire, which was considered as the last hope of Muslim *Ummah*, disintegrated with the colonial impact both in theory and practice. Muslim *Ummah* from then are in search of its identity under the West dominated world as the Western ideologies gained their impetus into the Muslim lands and proclaimed that Islamic ideals are incompatible to the contemporary demand of the time. Moreover, they tried to present Islam as an ideology irrelevant and rather threat to the reasoned societies, because according to them it possesses the state structure based on dictatorial rule and left no chance for the democratic ideals. The fact is that Islam is the religion which possesses the complete and reasoned structure of an Islamic state and guarantees the socio-political and religious freedom to both Muslims as well as non-Muslims. This very heated debate was discussed by an Indian Subcontinent theologian and Muslim political thinker named Maulana Sayyid Abul ala Maududi (1903-1979), who was the author of more than hundred books on Islam which discusses several themes like sociology, economics, morality, politics, education, women issues and others. Some of his main works are: Islamic Law and Constitution, Khilafat wa Mulukiyat (Urdu) (Caliphate and Monarchy), Khutbat (Urdu), *Tafhim al Qurān* (translation and commentary on *Qurān* in Urdu language). He extensively wrote almost on every aspect of Islam but he is mainly known by his writings on political thought of Islam. The present study is the undertaking of his presentation of the structure of an Islamic state which is in consonance with the Islamic ideals and provides the well defined structure of an Islamic state in contrary to the Western theories of state. The focus in this work will be on the head of the state (his jurisdiction), citizenship- its types and role, legislature- its authority and procedure, executive- its administrative undertakings, judiciary- its domain of work.

Background

Modern age is the age of complex ideas and ideologies. The ideologies which impact more on the thought process of the modern age are socialism, capitalism, nationalism, and racism. Secularism is not less important in the formation of human thought and in shaping the political institutions in the modern age. Secularism is defined with several interpretations, some say that it is the separation of religion from politics; some asserts that it is the triumph of reason over faith and some opine that it is the ideology which exclusively focuses on reason. The movement of secularism properly started in 1832, when Jacob Holyoake established the movement of separation of religion from politics. The command of this movement remained in the hands of theorists and politicians; the result is that within no time it entirely gained the political fame. Briefly, the aim of the movement was to limit the boundaries of religion within individual life and it should not interfere in

the collective and political matters. Initially, the matter was of no alliance with the religion and complete liberty of the individual but later on, the part of the movement opposed the religion and became the preacher of extreme materialism and socialism. (Maududi, 2004: 24) The influence of this ideology gained momentum day by day in the West. It influenced almost each and every aspect of the life of West especially their political system as a whole. The result is that they formulated their political system in accordance with this ideology. Hence, they developed a new concept of state that is Secular State. According to Maulana Maududi, the impact which secular state has posed on the West are as: 1) Secularism has developed scepticism and mental disorder. There is no discipline in front of them and a sort of unbelief spread in them. 2) The only aim of an individual is the attainment of selfish desires. 3) Their ethical values are disturbed. They lack courage enthusiasm and the ability of distinction between virtues and vices. 4) It has been observed that if materialistic benefit is the only aim and lacking ethical and spiritual system then even materialistic benefits are not achieved. (Ibid., 24-25)

Various scholars have discussed that the compatibility of religion and politics in Islam is the basic and most important aspect of Islamic political system. Islamic Law, as Joseph Schacht (an Orientalist scholar of Islam) emphasizes, does not separate religion from daily life; it does not separate religion from politics; or politics from morals; or morals from the state. In Islamic Law, the activity of individuals and their relation to the state had metaphysical and religious bases. Islam is a system for practical human life in all its aspects. (Schacht, 1974: 405) Muhammad 'Abduh, Shaykh al-Azhar (d. 1905), stated that Islam is a religion of sovereignty, of authority, and of unity between this world and the Hereafter. Islam is a spiritual, social, economic, political, civilian and military system. Its military force is to protect the application of *Sharī'ah*, the general guidance, the freedom of the *Ummah*, and not to force others to embrace Islam. (Abduh, 1972: 11) Muhammad al-Khidr Husayn, Shaykh al-Azhar from 1952 to 1954 added that 'separating religion from state is an act of desecration to the truth of the religion. This attempt is a kind of act that the Muslim cannot do and remain a Muslim.' (Siwi, 1975: 36) The contemporary scholar Muhammad 'Imarah (b. 1931) emphasizes that 'Islam is a state and Allah is its highest legal and governmental authority and its constitution is the *Qur'an* and the *Sunnah*.' (Imarah, 1998: 75-76) The Islamic paradigm does not separate religion and politics; instead, it amalgamates them into an integral and dynamic unit. Dr. Muhammad Hamidullah (1908- 2002) an internationally reputed Islamic scholar and author

of (Emergence of Islam, Introduction to Islam, and The Muslim Conduct of State) reiterates this unique phenomenon through the following words: 'The Islamic conception of life being coordination between the body and the soul, it was natural that a very close relationship should have been established between religion and politics, between the mosque and citadel.' (Hamidullah, 1974: 105)

Secularism, as understood by Maulana Maududi, has two important aspects. Firstly, secularism involves the rejection of religion as the principal guiding force of modern society and state. Secondly, it involves an understanding of religion as a private matter of an individual. The first aspect of secularism gives individual an absolute right to set the goals of his societal life. This understanding is regarded as the starting point of all the ideologies of the modern world. (Maududi, 1998: 17) Maududi understands secularism as religion-less (*lā-dīnī*) and a secular society as a religion-less society. The absence of religion has an implication for the morality of a society. He understands that secularism deprives society from any kind of morality. This understanding stems from his linkage of morality with religion. It is not conceivable to expect any kind of morality without religion and sanction of eternal punishment. Therefore, secularism involves an exclusion of all morality and ethics from the controlling mechanisms of society. (Adams, 1983: 113) The main feature of the obscurantism of Western culture is its spirit of secularism and the separation of religion and state, government, society, education and science. Maududi believed that to restore and revive Islam, the true Islamic state based on the *Qurān* and *Hadīth*, the Islamic state must be built and it must be governed according to Islamic *Sharī'ah* (law). In order to achieve the revival of Islam and rebuild an Islamic state, internal and external '*Jahiliyyah*' must be eradicated and all Western and non-Islamic influences must be discarded. Islamic values should be restored through exemplary conduct of Muslims and Islamic society should be rebuilt through specific practical actions. (Zhongmin, 2013: 29)

According to Dr. Sir Muhamad Iqbal, [an Islamic thinker, poet and philosopher of Indian subcontinent (1875-1938)] humanity needs three things today: a spiritual interpretation of the universe, spiritual emancipation of the individual, and basic principles of a universal import directing the evolution of human society on a spiritual basis. Modern Europe has, no doubt, built idealistic systems on these lines, but experience shows that truth revealed through pure reason is incapable of bringing that fire of living conviction which personal revelation alone can bring. This is the reason why pure thought has so little influenced

men, while religion has always elevated individuals, and transformed whole societies. The idealism of Europe never became a living factor in her life, and the result is a perverted ego seeking itself through mutually intolerant democracies whose sole function is to exploit the poor in the interest of the rich. Believe me, Europe today is the greatest hindrance in the way of man's ethical advancement. The Muslim, on the other hand, is in possession of these ultimate ideas of the basis of a revelation, which, speaking from the inmost depths of life, internalizes its own apparent externality. (Iqbal, Reconstruction. 75-76)

Power and Authority in Islam

In modern constitutional terminology, state is defined as 'an organized group of individuals residing in a specific territory who possess sovereignty over it'. (Kamal, 1975: 11) According to this definition, the constituents of a state are as follows: (i) Existence of a group of individual (ii) Existence of a specified territory of land (iii) A particular system of government, and (iv) Sovereignty. If we keep this modern concept of the state in mind, we find that the Madinan society, which was established by the Prophet Muhammad (PBUH), carries the modern concept to its full meaning, both in political theory and in marks of statehood according to modern international law. (Thaib, 2012: 311)

The early Muslim jurists normally used the terms 'Khilāfah' or 'Imāmah' to denote the idea of a political order. Beginning from the period of the first Muslim caliph Abu Bakr al-Siddiq (r. 632-34) to the period of the Ottoman caliphate (1299-1924), Muslims still regard the 'institution of caliphate' (Khilāfah) as the central platform, as well as the only institution to be answerable for the implementation of Islamic law (Sharī'ah) in the Muslim empire. Nevertheless, when the Ottoman caliphate was abolished in 1924, many Muslim kingdoms which were under its control have attained their independence which eventually developed into 'Nation States' following the nation state system established in Europe earlier. Nation state is a state organized for the government of a nation (or perhaps of two or more closely related nations), whose territory is determined by national boundaries, and whose law is determined, at least in part, by national customs and expectations. (Scruton, 2007: 463) With the new political developments in the Muslim world, the Muslim scholars felt that an alternative platform was needed which can be used as the authority to be responsible for the implementation of Islamic law (Sharī'ah) in the newly changing world politics. Since that time the idea of an 'Islamic state' was used in the writings of Muslim scholars 'as an alternative to the caliphate system.' (Thaib, 2012:

310-311) It has been said that the ultimate goal of an Islamic state is to establish a society wherein people are able to fulfil their valuable physical, mental and spiritual potential in peace and security. In order to ensure peace and security in the society, the state must intervene for the protection of life, property, honour and dignity of the people, and also for their protection from exploitation or victimization by one another. The state must provide basic healthcare and education facilities for the physical well-being and mental/intellectual development of the people. The state must take measures for providing equal opportunities for personal development to all the people. The state also needs to establish an economic system which leads to equitable distribution of wealth and freedom from any kind of socio-economic exploitation. (Hussain, 2013: 27)

According to Maududi's vision, an ideal Islamic state should not only respect the sovereignty of Allah, but also have full respect for public opinion. The ruler (Khalīfah or Imām) should be the dual representation of Allah and the Muslims. As the supreme head of the State, he has the highest authority, but 'he must abide by the laws of Almighty, he did not have absolute power and authority, he is neither an authoritarian, nor a dictator.' (Esposito, 1984: 147) The objective of state in Islam is the enforcement of the Islamic law in all spheres and parts of the state, by virtue of which Islam becomes the way of life. As Muhammad Asad (1900-1992) a great scholar of Islam and author of (The Road to Makkah, The Message of the Qurān, and Islam at the Crossroads) said: 'The foremost duty of such a state consists in enforcing the ordinances of the Islamic law (Sharī'ah) in the territories under its jurisdiction.' (Asad, 1961: 32) Islam holds that Allah has created the universe, controls and governs it. He created man and provided him with all that he needs for the progress and growth of life. To fulfil his material needs, He (Allah) has endowed the world with all kinds of resources and substances which man can harness to his use. To cater to his spiritual, cultural and social requirements, he needs His revealed Guidance through His prophets. It is the guidance which constitutes the religion of Islam. (Maududi, 1960: 3)

Islam wants to fashion ones entire life according to the principles of individual and social behaviour revealed by God and does not confine itself to the precincts of the private life of the individual alone. Politics, on the other hand, studies the relationship of man with man. In Islam this too is the domain of religion, which comprehends all aspects of life. Islam does not admit any separation between religion and politics; it wants to conduct politics

also in accordance with the guidance provided by religion and to use the state as the servant of the Lord. (Ibid., 4) It is this emphasis on the socio-political aspect of the Islamic scheme for human life which distinguishes Maududi from others who looked down upon power, political authority, and action as something beneath them, in itself contemptible and hence to be eschewed. For Maududi, the fusion of religion and politics is the dictate of Islam and cannot be disregarded. The *Sharī'ah* incorporates the temporal within the spiritual. There is an added reason for Maududi's emphasis upon politics and authority. While there are ideological orientations and movements in all branches of scholarship and human thought, it is politics that gives ideology its social experience, its practical articulation and meaning. This is hardly surprising since ideology and politics are inextricably intertwined and coterminous such that politics has ideology as its operational framework that gives it its meaning while politics provides a mode by which ideology is translated into practical actions. This gives the ideas their practical relevance in the real world. (Moten, 2006: 183) Maulana Maududi presents the importance of State or power by interpreting the following Quranic verse:

"Say: O my Lord! Let my entry be by the Gate of Truth and Honour, and likewise my exit by the Gate of Truth and Honour; and grant me from Thy Presence an authority to aid (me)." (Al Quran, *Banī Isra'īl*, Verse 80.)

According to him, this prayer clearly shows that the time of *Hijrah* (migration) had come near. That is why Allah had instructed the Holy Prophet (PBUH) to this effect: you should follow the truth wherever and in whatever condition you be. If you migrate from a place you should migrate for the sake of the truth, and wherever you go, you should go for the sake of the truth. That is, 'Either grant me power and authority or make some government my helper so that I may use its power to reform the corrupt world.' This is because power is required to check indecency and sin and to enforce the law of justice. (Maududi, Tafhim al Quran. 636) He further explains that whatever the evil you see in the world is because of the evil government. The power and wealth is in the hands of the government, laws are made by government, the powers of administration vests in the government, the power of police and army are in the evil hands. Hence, whatever the evil spread in the general public, either they are spread by the government itself or with the help of the government. (Maududi, 1996: 308) The root cause of all these evils is that the man rules man and there is no other way of reformation that there should be the rule of Allah over men. (Ibid., 311)

Regarding the need of power and authority, Maududi explains that these are 'the decisive factors in human affairs', just as the train moves in the direction intended by the driver, human civilization travels in the direction determined by those controlling the centres of power. Right and pious leadership ensures good and healthy society. A society in the hands of rebels 'drifts towards rebellion against Allah, towards man's exploitation by man and towards moral degeneration and cultural pollution.' (Ibid., 308) Human salvation therefore depends upon wresting control of power and authority and placing it in the hands of those who are righteous and committed to following the Divine guidance. Power and authority is desired not for itself but to root out the evils afflicting humanity. (Moten, 2006: 184) That is why Maududi said, 'Corrupt rule is the root of all evils you find in the world.' (Maududi, Hukumat Burayi ya Bhalayi ka Sarchashmah. 2)

Maulana Maududi negates the rule of man over man as he said that the earth belongs to Him and He alone is the sole Master of the earth. Just ponder, the earth on which you live, is it the creation of Allah or anybody else? The man who lives on the earth is it created by Allah or anybody else? The uncountable resources due to which the man lives is it provided by Allah or anybody else? If the answer of all these questions is nothing except Allah, Who created earth, man and all these resources; then it means that earth belongs to Allah, wealth belongs to Him and people too belongs to Him. If it is so, then how anybody can claim his right to implement his order in the land of Allah. How could it be right to implement the law except Him on His subjects or to implement the laws made by the subjects himself. (Maududi, 1996: 311-312)

Life is a unity. It cannot be divided into water-tight compartments. The function of religion is to direct the affairs of life. Therefore, its domain of life is in its entirety, and not any specific aspect of it. That is why it not only gives an outlook on life and reality but also lays down the basic principles on which man's relationships to his own self, to other men and society, and Allah the creator are to be reared. It looks upon life in its totality and provides guidance for every field of activity. According to Maulana Maududi, the mission of a Prophet, according to Islam, is not merely to cater to spiritual elevation. His mission is to purify the beliefs and ideas of man about reality, to purge his soul of all impurities, to awaken his moral consciousness and to use this moral force for the reconstruction of the society and the remoulding of the flux of history. (Maududi, 1960: 3)

Structure of an Islamic State

Islam is said to be the complete way of life, provides the systematic order for each and every aspect of life. Maulana Maududi discussed the facts of the universal order as: everyone can see that the universe we live in is an orderly universe. There is law and order among all the units that comprise this universe. Everything is assigned a place in a grand scheme, which is working in a magnificent and superb way. The sun, the moon, the stars and in fact all the heavenly bodies are knit together in a splendid system. They follow an unalterable law and do not make even the slightest deviation from their ordained course. The earth rotates on its own axis and in its revolution round the sun scrupulously follows the path laid down for it. Similarly, everything in the world, from the little whirling electron to the mighty nebulae, invariably follows its own laws. Matter energy, and life—all obey their laws and grow and change and live and die in accordance with those laws. Even in the human world the laws of nature are quite manifest. Man's birth, growth, and life are all regulated by a set of biological laws. He derives sustenance from nature in accordance with an unalterable law. All the organs of his body from the small tissues to the heart and the brain are governed by the laws prescribed for them. In Short, ours is a law-governed universe and everything in it is following the course that has been ordained for it. (Maududi, Towards Understanding Islam, 5) In the same manner political aspect of Islam is based on the model which Prophet (PBUH) provided through the establishment of an Islamic Society at Madinah in which systematic order was followed by his companions. As Masud al Hasan states that the Prophet was not merely the religious head; he was the head of the state as well. He did not merely preach a religion, he showed the people the way to live, and make best of their lives on earth. The political significance of the doctrine of finality of the prophet hood of Prophet Muhammad (PBUH) therefore, is that the Prophet was not merely the political leader and head of the state during his lifetime, he would continue to be the political leader and head of the state for all times. (Hasan, 1988: 79-80) To fulfil this need, Maulana Maududi presented the structure of an Islamic State in the twentieth century when Western ideologies have almost ended the integration of state and religion theory of Islam and proclaimed that Islam is the religion of private matters only having nothing with community life. The main organs of an Islamic state which are depicted in the writings of Maulana Maududi are hereby discussed as:

1. **Head of the State**:- The head of the state is the main organ of any state. As regards the eligibility for membership of the consultative assembly or for the post of the head of the state, Maulana Maududi asserted that there is one aspect which might be termed as legal eligibility, on the basis of which an election tribunal or a judge, after due consideration and verification, may declare a person eligible or non-eligible for election. There is yet another aspect of eligibility on which the selectors, the proposers and the voters base their judgment. The first aspect of eligibility may be possessed by every one of the millions of citizens of a state, but it is the second which actually elevates a very select few to the top. Criteria with regard to the first aspect are to be included in a few operative clauses of the constitution. But the standard of the second aspect of eligibility must permeate the spirit of entire constitution. (Maududi, 1960: 242-243)

The following qualifications, in view of the Quranic verses, are regarded essential for the head of an Islamic State by Maulana Maududi:

(1) Should be a Muslim. (Maududi, 1960: 243)

'*O ye who believe! Obey Allah, and obey the Messenger, and those charged with authority among you.*' (Al Quran *Nisā'*, V 59)

(2) Should be a male. (Maududi, 1960: 243)

'*Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means.*' (Al Quran *Nisā'*, V 34)

(3) Should be sane and adult. (Maududi, 1960: 243)

'*To those weak of understanding make not over your property, which Allah hath made a means of support for you, but feed and clothe them therewith, and speak to them words of kindness and justice.*' (Al Quran *Nisā'*, V 5)

(4) Should be a citizen of the Islamic State. (Maududi, 1960: 243)

'*Those who believed, and adopted exile, and fought for the Faith, with their property and their persons, in the cause of Allah, as well as those who gave (them) asylum and aid,- these are (all) friends and protectors, one of another. As to those who believed but came not into exile, ye owe no duty of protection to them until they come into exile; but if they seek your aid in religion, it is your duty to help them, except against a people with whom ye have a treaty of mutual alliance. And (remember) Allah seeth all that ye do.*' (Al Quran *Anfāl*, V 72)

Maulana Maududi gave more importance to the consultation which, according to him, plays an important role in the formation of the head of the state. (Maududi, 2013: 32) Political consultation system is an extension of the principle of sovereignty being exercised in the name of Allah. It embodies the '*Shūrā*' (consultation) principle in

such a manner that Allah's power of attorney should not be monopolized or passed on by individuals, groups, classes, tribes or generations rather it belongs to all Muslims. All Muslims qualified to be elected have the opportunity to be granted power of attorney. Maududi called the consultation system of the Islamic tradition 'Islamic democracy', and believed that appointment and removal of heads of state, as well as decisions about national policies can be made through a wide direct negotiation system or an indirect negotiation system whose representatives are elected by the voters. (Zhongman, Commentary on "Islamic State" Thoughts of Islamism. 31)

Maulana Maududi presented the answer to the most important question posed to him that who among the countless legally eligible persons should be elected and whom should be ignored for the important offices of the state. (Maududi, 1960: 243) He provides the following verses of the *Qurān* which according to him seemed fit for the selection of the head of the state.

'*Allah doth command you to render back your Trusts to those to whom they are due; And when ye judge between man and man, that ye judge with justice: Verily how excellent is the teaching which He giveth you! For Allah is He Who heareth and seeth all things.*' (Al Quran *Nisā'*, V 58)

'*O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise (each other). Verily the most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things).*' (Al Quran *Hujrāt*, V 13)

'*Their Prophet said to them: '(Allah) hath appointed Talut as king over you.' They said: 'How can he exercise authority over us when we are better fitted than he to exercise authority, and he is not even gifted, with wealth in abundance?' He said: '(Allah) hath Chosen him above you, and hath gifted him abundantly with knowledge and bodily prowess: Allah Granteth His authority to whom He pleaseth. Allah careth for all, and He knoweth all things.*' (Al Quran *Baqara*, V 247)

'*And keep thy soul content with those who call on their Lord morning and evening, seeking His Face; and let not thine eyes pass beyond them, seeking the pomp and glitter of this Life; no obey any whose heart We have permitted to neglect the remembrance of Us, one who follows his own desires, whose case has gone beyond all bounds.*' (Al Quran *Kahf*, V 28)

From the above verses of the *Qurān* it is clear that such qualifications are comming into the category

of moral qualifications of the ruler which includes that he should be just, righteous, knowligible, God fearing and non selfish.

2. Citizenship: - According to Maulana Maududi, the two kinds of citizenship that Islam envisages are: (i) The Muslims (ii) Zimmis (*Dhimmis*). (Maududi, 1960.:245)

The *Qurān* says:

'*Those who believed, and adopted exile, and fought for the Faith, with their property and their persons, in the cause of Allah, as well as those who gave (them) asylum and aid,- these are (all) friends and protectors, one of another. As to those who believed but came not into exile, ye owe no duty of protection to them until they come into exile; but if they seek your aid in religion, it is your duty to help them, except against a people with whom ye have a treaty of mutual alliance. And (remember) Allah seeth all that ye do.*' (Al Quran *Anfāl*, V 72)

While interpreting this verse, Maulana Maududi explained that the basic qualifications for citizenship as prescribed by the *Qurān* are two in number viz. faith in Islam and original or acquired domicile in an Islamic State. If a person, even though he may be from amongst the faithful, does not renounce his allegiance to a non Islamic State and migrate to Islamic State, he is not and cannot be its citizen. Contrary to this, all those believers who, whether they were born in the Islamic State or have migrated to it, are its citizens at par and helpers of one another. (Maududi, 1960: 246)

While discussing the rights and status of Muslims and Zimmis in an Islamic state, he is of the opinion that the Muslims are entitled to enjoy all the religious, moral, cultural and political directives. They take part in the election of the head of the state, appointed at the key posts of the state, where in they can defend it from internal feuds like ideological inconformity and external aggression. The utter absence of even a single instance in the days of the Holy Prophet (PBUH) or the caliphs where a *Zimmi* (non-Muslim) citizen may have been made a member of the parliament, or the Governor of a province, or the *Qādi* (Judge), or the Director of any government department, or the Commander of the army, or a minister of the government or may have been ever allowed to participate in the election of the caliphs, although the number of Zimmis even in the days of the Prophet (PBUH) was considerable and during the days of *Khilafat-i-Rashidah* (Rightly Guided Caliphate) it had gone up to millions. (Ibid., 247) According to him, Zimmis are meant all those non-Muslims who have affirmed to remain loyal and obedient to the Islamic State wherein they propose to live, regardless of the country they were born in.

For all citizens of this kind, Islam furnishes a guarantee of protection of life and limb, property and culture, faith and honour. It enforces only its law of the land on them and it gives them equal rights with Muslims in all civil matters. They are eligible for all kinds of employment except for key posts, they have an equal share with Muslims in the matter of all civil liberties, and even in economic matters. Prof. Dr. Muhammad Hamidulah asserts that the non-Muslim inhabitants of the Islamic state enjoy a judicial autonomy; each community having its own tribunals, its own judges, administering its own laws in all walks of life, civil as well as penal. (Hamidullah, 2003: 137) No discrimination is made between a Muslim and a *Zimmi* in terms of civil and fundamantal rights. An Islamic state has provided a special provision to non-Muslims that they can have separate schools of their own where they could receive education in their religion from their own teachers. (Hamidullah, 2007: 251) Furthermore, the Zimmis are exempted from the responsibility of the state, which devolves exclusively and entirely on the Muslim citizens. (Maududi, 1960: 247)

According to Maududi, the fundamental rights are the birth rights of an individual in any state. Islamic State too enshrines the fundamental rights to its citizens irrespective of religion. The main fundamental rights are as:

1) The first and the foremost right enjoyed by the citizens of an Islamic State is the protection of their life, property and honour. 2) The second important right is that of the protection of personal freedom. 3) The third important right is that of freedom of opinion and belief. 4) The fourth one is the provision of basic necessities of life to all citizens without distinction of caste or creed. (Ibid., 248-251)

Maulana Maududi affirmed that in response to the fundamental rights enjoyed by the citizens of an Islamic State, they are expected to perform fundamental duties to the Islamic State, because rights and duties are the two sides of the same coin. The fundamental duties are as:

1) The first is that of obedience, for which the technical term of '*Samaʾ-o-Tāʿat*' is used in Islam. 2) The second obligation on the citizens viz a viz an Islamic State is that they should be loyal to it and work for its welfare. 3) It is also obligatory on the citizen of the Islamic State to co-operate wholeheartedly with the government and to make sacrifice of life and property for it. (Ibid., 251-252)

3. Legislature:- The legislature is what in the old terminology of *fiqh* was known as the 'Body which resolves and prescribes' (*Ahl al Hal wa al'Aqd*). (Ibid., 221) Legislation in Islam is divided into two types: divine and human. The divine legislation is revealed in the *Qurān* as general principles or explicit rulings and is stipulated in the *Sunnah* of the Prophet (PBUH). The human legislation is driven from the understanding of the fundamental sources of Islam (the *Qurān* and *Sunnah*) and through the independent reasoning (*Ijtihād*) of the scholars and jurists to come up with rulings to address new issues. (Bowering, 2013: 203) The state is dependent on the law-making body or the constitution, which is the main organ of the state structure. It directs and maintains the administrative purpose of the state by formulating laws. The legislature or consultative body in the Islamic state in the final analysis, therefore comes down to a body of pious men with expert competence in the tools and the subject matter of Islamic law, who will work together to understand the *Sharīʿah*, to spell out what it has left unclear or unstated and to extrapolate from its principle rules to cover what it has not touched at all. (Esposito, 1983: 126) Maududi portrays that Islamic state which is purely an ideological state is based on the Sovereign character of Almighty Allah. He is the legal Sovereign of an Islamic State. This aspect of Legal Sovereignty of Allah is as much and as clearly emphasized by the *Qurān* as the one pertaining to His being the only deity to be worshipped. (Maududi, 1960: 72)

As per Maududi's explanation, all legislative functions vests in Allah and the only function left for the Muslims lies in their observance of the God-made law vouchsafed to them through the agency of the prophet. The fact of the matter, however, is that Islam does not totally exclude human legislation. It only limits its scope and guides it on right lines. Human legislation, according to Islam, is and should be subject to the Supremacy of Divine Law and within the limits prescribed by it. (Ibid., 74) Maududi broadened the jurisdiction of the legislators to the extent that they can formulate laws, in respect of those problems about which the Law-Giver has provided no guidance, new laws which are in conformity with the ultimate objective of Islam, and are capable of meeting the real needs of the people and thus expedient and are not repugnant to the spirit, temperament about the overall system of Islam. (Ibid., 87) According to him, the legislature in an Islamic state can perform several functions. Some of them are as:

1) Where the directives of *Qurān* and the *Sunnah* are capable of more than one interpretation, the legislature would decide which of these interpretations should be placed on the Statute Book. 2) Where there is no explicit provision in the *Qurān* or the *Sunnah*, the function of the legislature would be to enact laws relating to the same, of

course always keeping in view the general spirit of Islam. (Ibid., 222)

4. Executive: - The word '*Ūlil amr*' and '*Umarā*' have been used for the Executive in the *Qurān* and the *Hadīth* respectively. (Ibid., 223) According to Maududi, the laws of the Islamic state are to be implemented, for which the body is necessary which is known as executive in the political terminology. The head of the state is the executive head, who performs functions in accordance with the laws already came into existence by means of divine legislation or through legal experts. He is the interpreter of the laws. The chief duty of the executive is to maintain law and order and to implement the *Sharī'ah* injunctions in each and every aspect of the Islamic state. In an Islamic state *Khalīfah* is the executive head, who performs functions as dependent on the legislature, because he implements those laws which are passed by the supreme legal authority. In an Islamic state, the real purpose of the executive is to enforce the directives of Allah conveyed through the *Qurān* and the *Sunnah* and to bring about a society ready to accept and adopt these directives for practical application in its life. (Idem)

5. Judiciary: - The scope of judiciary (which in the terminology of Islamic jurisprudence is called *Qadā*) also becomes well prescribed by the acceptance of the de jure sovereignty of God Almighty. (Ibid., 224) Islam has required the establishment of justice, equity, and fair adjudication among people. The early Islamic system of government did not distinguish between the structures of authority. The rulers combined executive and judicial functions. The Prophet (PBUH) assumed the judicial functions and also appointed judges to the far regions under his jurisdiction which was followed by the early caliphs. With the expansion of an Islamic state and the growing responsibilities of the rulers, the position of judge was created. The second caliph, 'Umar (R.A), appointed judges to the different provinces to represent him in his judicial authority. Later, governors delegated by the caliph had the authority to appoint judges to look into legal and civic issues. (Bowering, 2013: 203) In Islam the judiciary is not placed under the control of the executive. It derives its authority directly from the *Sharī'ah* and is answerable to Allah. The judges will obviously be appointed by the government but, once appointed, will have to administer justice impartially according to the law of the constitution (which constitutes *Qurān*, *Hadīth* and Juristic opinions). All the organs and functionaries of the government should come within their jurisdiction: even the highest executive authority of the government will liable to be called upon to appear in a court of law as a plaintiff or defendant. Rulers

and ruled are subject to the same law and there can be no discrimination on the basis of position, power or privilege. (Maududi, The Islamic Way of Life. 21) The noble *Qurān* provides the judicial guidelines as:

'*To thee We sent the Scripture in truth, confirming the scripture that came before it, and guarding it in safety: so judge between them by what Allah hath revealed, and follow not their vain desires, diverging from the Truth that hath come to thee. To each among you have we prescribed a law and an open way. If Allah had so willed, He would have made you a single people, but (His plan is) to test you in what He hath given you: so strive as in a race in all virtues. The goal of you all is to Allah. it is He that will show you the truth of the matters in which ye dispute.*' (Al Quran *Ma'idah*, V 48)

The three organs of an Islamic state work independently in respects that there is no monopoly of one over other or there is no intervention of one another within the limits or boundaries already prescribed for them. They work dependently as well because executive is implementing the laws already prescribed by the Supreme Legislation (Almighty Allah) and the laws which are passed by the existing legislature or *ahl al hal wa al 'aqd* (those who bind and loose). *Qurān* says:

'*It is part of the Mercy of Allah that thou dost deal gently with them wert thou severe or harsh hearted, they would have broken away from about thee: so pass over (their faults), and ask for (Allah's) forgiveness for them; and consult them in affairs (of moment). Then, when thou hast taken a decision put thy trust in Allah. For Allah loves those who put their trust (in Him).*' (Al Quran *Imrān*, V 159)

Regarding the jurisdiction and appointment of the *Qadis,* Maulana Maududi illustrated that they were also directly appointed by the Caliph but the caliphs could not ordinarily terminate their services nor influence their decisions, so much so that if in their personal capacity or in their capacity as the executive head, anybody brought a case against the caliphs, he had to appear and plead his cases before the *Qadī* like any commoner. (Maududi, 1960: 226) In all important matters of the state, such as formulating a policy or giving a ruling in some intricate administrative or legal problem, the caliphs invariably consulted the *ahl al hal wa al 'aqd* and as soon as the requisite measure of agreement was reached, the work of this body was over. Executive officers worked directly under the caliphs. He appointed them to carry out the administration under his direct supervision and guidance.

There are several verses in *Qurān* which laid emphasis on the judicial aspect of the Islamic way of life. Some of them are as:

'*We have sent down to thee the Book in truth, that thou mightiest judge between men, as guided by Allah. So be not (used) as an advocate by those who betray their crust.*' (Al Quran *Nisāʾ*, V 105)

'*But no, by the Lord, they can have no (real) Faith, until they make thee judge in all disputes between them, and find in their souls no resistance against Thy decisions, but accept them with the fullest conviction.*' (Al Quran *Nisāʾ*, V 65)

'*We ordained therein for them: 'Life for life, eye for eye, nose or nose, ear for ear, tooth for tooth, and wounds equal for equal.' But if any one remits the retaliation by way of charity, it is an act of atonement for himself. And if any fail to judge by (the light of) what Allah hath revealed, they are (No better than) wrongdoers.*' (Al Quran *Maʿidah*, V 45)

Conclusion

Prophet (PBUH) was the first who founded with the help of written constitution an Islamic state in Madinah, and provides a well defined structure of state for the coming generations of Islam. He did not inherit the old system of rule from the despotic and autocratic Arabs; rather he developed an independent system of ruling with the help of divine guidance. An Islamic state of Madinah became a model for the succeeding governments of Islam, who had adopted each and every structured organ of Madinan state into its full extant and had left deep and long lasting influence on the contemporary civilizations and their respective governments, because they practically showed both the nature of coherence as well as independence of the different organs of an Islamic state. Maulana Sayyid Abul ala Maududi's explication of an Islamic state established by Prophet (PBUH); explaining its contemporary relevance; disclosing the integrity of religion and state theory in Islam; revealing the need of power and authority in Islam; and the presentation of well defined structure of an Islamic State which was developed by succeeding generations of Islam is highly commendable. His presentation of the structure of an Islamic state which consists of the head of the state; legislature, which highlights the law-making procedures and its jurisdiction in an articulate manner; executive, which throws light on civil administration and the maintenance of law and order; Judiciary, which is an independent organ and is applicable on all its subjects provided they admitted the ideology of Islam is unprecedented in the intellectual history of Islam. However, non-Muslims are provided with the facility of their own independent tribunals. Hence, Maulana Maududi's exploration of the structure of an Islamic state is lucid, eloquent, and relevant and after all in consonance with the real spirit of Islam.

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