

Charter of Madīnah: a Foundation for Centralized Modern State

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Abstract

Charter of Madīnah, the first written constitution in the annals of universe has become the fore runner of certain international documents, such as American constitution, Greek discourses, UN charter of human rights and British constitution, is being recognized as first written constitution of the world. The prophet of Islam, Ḥazrat Muḥammad (PBUH) has produced this great piece of work in such period, when human being was under quite severe circumstances. The order of might was right. The weaker ones have no say in the discourse of life. Political and racial clashes devastated human culture and civilization. Due to the absence of civilized approach of life, human life was an unruly mob, wandering aimlessly. Witnessing the grave circumstances of Mecca, the prophet of Allah on His command migrated to Madīnah. In Madīnah, he became the founder of modern and centralized city state of Madīnah. This was indeed enunciation of first modern Muslim state with first written constitution in the annals of universe. This constitution or charter famously known as Charter of Madīnah, This was the first written constitution of world which has enshrined complete rights in the context of Social, Political, economic and rights to its subject population. The charter of Madīnah is the basic principle of governance in the context of their way of life, basic and inalienable rights, which are supposed to be the birth rights of an individual. The promulgation of charter of Madīnah has brought drastic change in the life of those of the communities which were ragged with bloody battles and ghastly enmities. Charter proclaimed individual dignity, socio- political rights, and economic rights as well as opportunities to all subjects at par level. The concept of human rights specially the rights of weaker was an ignored fact during the dark ages had found full overhauling in the charter of Madīnah. It became the flare of hope and enlightenment for those of the depressed communities, which never perceived the sense of freedom, human dignity and rule of law as they experienced after the promulgation of the charter of Madīnah.

Introduction

Islam, the universal religion, which underwent a huge process and struggle to acclaim the title of Al Islam, is the universal order and religion of world. It has proceeded on Christianity and Judaism, once acclaimed to be the universal orders. If the core point to be evaluated both Christianity and Judaism was Islam but aheading with local culture and traditions, the prevailing religion came to be recognized with the name of Prophet. Islam is the religion and order of world from its very birth. From Adam to Muḥammad (PBUH), there is only one religion in the world, which is Islam. With the finality of Prophet-hood, of Muḥammad (PBUH), Almighty Allah has entitled Islam as Al Islam, the complete religion and order for universe. As Almighty Allah has defined in Holy Quran "This day, I completed my religion, have bestowed my bounties on you and have accepted Islam as religion for you".⁽¹⁾

The completion of religion of Islam of Islam has brought the prophet-hood of Muḥammad (PBUH) in permanent position till doomsday and Holy Quran as eternal revelation and guidance for universe till the day of accountability. The duration of the prophet-hood of Ḥazrat Muḥammad (PBUH) encompassed on 23 years, with initial 13 years in Mecca and

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remaining 10 years in Madīnah. The initial duration of 10 years in Mecca was indeed the period of immense trial and tribulations. The prophet of Islam and his noble companions have excessively suffered in the hands of the Quresh of Mecca. Receiving the Almighty's call, the prophet of Islam accompanied with his trusted companion Abu Bakar Siddique departed to Yathrab which later to be called Madīnah leaving Ali his cousin in his bed. The arrival of Holy prophet in Madīnah, his warm well come brought him in unique position. Within the short span of time, the peoples of Madīnah including all sections of Madīnah have accepted prophet as their supreme leader and head of state. Madīnah has now adopted the position of first state for the Muslims. The human history is witness to the fact that, with his ascendancy as supreme leader of Madīnah, Holy prophet founded the city state of Madīnah on modern footings by producing first written constitution in the annals of world came to be known as charter of Madīnah, this document of the charter of Madīnah was such a marvelous and vivid piece of constitution, the following documents of international fame such as American constitution of 1787 and the English Magna Carta of 1215, has adopted the pattern of the charter. ⁽²⁾

The arrival of Holy prophet in Madīnah has brought a change in the socio- political and economic order of Madīnah. The prevailing circumstances of Madīnah were also no different from that of Mecca. Petty wars, lands disputes, clan disputes and social and political rivalries have damaged the social life of Madīnah. The migration to Madīnah was better aimed to change the socio-political order of the city state of Madīnah.

Prophet Muḥammad (peace be upon him) delivered the message of Allah in Makkah for about 13 years in the face of staunch opposition. In 622 A.D. he finally moved to Yathrab (Madīnah) together with his followers after receiving an invitation from the Arab tribes of Yathrab. At that time, Yathrab was a pluralistic society composed of people of different religions with a large population of christens and Jews and several other communities. These tribes were engaged in bitter quarrels and often went to war over disputes that had been going on for generations. There were 12 tribes of Arabs divided between Aws and Khazraj and ten Jewish tribes including Banu Nazeer, Banu Quraiza and Bani Qainuqa. ⁽³⁾

The continuous state of anarchy in Madīnah eventually forced the residents to seek options for peace. They agreed to make a prominent tribal chief, Abdullah ibn Ubay bin Salool, their king so that peace and harmony could be achieved. Around this time, Prophet Muḥammad (SAW) arrived in Madīnah and the tide turned against Abdullah bin Ubay. Since the Prophet was viewed as a respectable, honest and trustworthy person, he was requested to head the soon to be city-state of Madīnah. The arrival of Holy Prophet in Madīnah has finally ended the mischief making rule and politics of schist elements such as Abdullah bin Ubay. After arrival in Madīnah, Holy prophet (PBUH) has held consultations with prominent Ansars of Madīnah and his close companions on the future of the city state, its political order thereafter he evaluated the imminent issues of the city state, which were mainly revolved around;

- Determining the rights and responsibilities of the local population as well as the immigrants from Makkah
- Making agreements with the non-Muslim population of Madīnah, especially the Jews, to ensure peace and harmony

- Creating a strategy and plan to defend the city against invasions
- Making resources available for the immigrants to make a living
- Devolve concrete strategy to harmonize the local population
- Concretely enumerate an strategy of rights of different communities having different faiths living together in the city of Madīnah

As prophet (PBUH) has very rational approach to the affairs of the state of Madīnah, he attracted his attention for developing the centralized Govt of the city state of Madīnah to end the prevailing anarchy culminated in the creation of the Charter of Madīnah. The charter of Madīnah was a way of governance or a constitution for the cosmopolitan city of Madīnah. This has later shaped itself as first written constitution in the annals of the world.

The text of the charter has been preserved in its entirety by the scholars Ibn Ishaq and Abu Ubaid. It is divided into two parts; the first part deals with the rules and regulations for Muslim immigrants (Muhajiroon) and Muslim natives (Ansar) and the second part deals with the rights and responsibilities of the Jews of Madīnah. Following is the text of the charter of Madīnah.⁽⁴⁾

In the name of God the Compassionate, the Merciful

(1) This is a document from Muḥammad the prophet (governing the relations) between the believers and Muslims of Quraysh and Yathrab, and those who followed them and joined them and labored with them.

(2) They are one community (ummah) to the exclusion of all men.

(3) The Quraysh emigrants according to their present custom shall pay the blood within their number and shall redeem their prisoners with the kindness and justice common among believers.

(4-8) The B. 'Auf according to their present custom shall pay the bloodwit they paid in heathenism; every section shall redeem its prisoners with the kindness and justice common among believers. The Bani Saida, the Bani. 'L-Harith, and the B. Jusham, and the B. al-Najjar likewise

(9-11) The B. 'Amr b. 'Auf, the B. al-Nabit and the B. al-'Aus likewise.

(12)(a) Believers shall not leave anyone destitute among them by not paying his redemption money or bloodwith kindness.

(12)(b) A believer shall not take as an ally the freedman of another Muslim against him.

(13) The God-fearing believers shall be against the rebellious or him who seeks to spread injustice, or sin or animosity, or corruption between believers; the hand of every man shall be against him even if he be a son of one of them.

(14) A believer shall not slay a believer for the sake of an unbeliever, nor shall he Aid an

unbeliever against a believer.

(15) God's protection is one; the least of them may give protection to a stranger on their behalf. Believers are friends one to the other to the exclusion of outsiders.

(16) To the Jew who follows us belong help and equality. He shall not be wronged nor shall his enemies be aided.

(17) The peace of the believers is indivisible. No separate peace shall be made when believers are fighting in the way of God. Conditions must be fair and equitable to all.

(18) In every foray a rider must take another behind him.

(19) The believers must avenge the blood of one another shed in the way of God.

(20)(a) The God-fearing believers enjoy the best and most upright guidance.

(20)(b) No polytheist shall take the property of person of Quraysh under his protection nor shall he intervene against a believer.

(21) Whoever is convicted of killing a believer without good reason shall be subject to retaliation unless the next of kin is satisfied (with blood-money), and the believers shall be against him as one man, and they are bound to take action against him.

(22) It shall not be lawful to a believer who holds by what is in this document and believes in God and the last day to help an evil-doer or to shelter him. The curse of God and His anger on the day of resurrection will be upon him if he does, and neither repentance nor ransom will be received from him.

(23) Whenever you differ about a matter it must be referred to God and to Muḥammad.

(24) The Jews shall contribute to the cost of war so long as they are fighting alongside the believers.

(25) The Jews of the B. 'Auf are one community with the believers (the Jews have their religion and the Muslims have theirs), their freedmen and their persons except those who behave unjustly and sinfully, for they hurt but themselves and their families.

(26-35) The same applies to the Jews of the B. al-Najjar, B. al-Harith, B. Sai ida, B. Jusham, B. al-Aus, B. Tha'laba, and the Jafna, a clan of the Tha'laba and the B. al-Shutayba. Loyalty is a protection against treachery. The freedmen of Tha 'laba are as they are the close friends of the Jews are as themselves.

(36) None of them shall go out to war save the permission of Muḥammad, but he shall not

be prevented from taking revenge for a wound. He who slays a man without warning slays himself and his household, unless it be one who has wronged him, for God will accept that.

(37) The Jews must bear their expenses and the Muslims their expenses. Each must help the other against anyone who attacks the people of this document. They must seek mutual advice and consultation, and loyalty is a protection against treachery. A man is not liable for his ally's misdeeds. The wronged must be helped.

(38) The Jews must pay with the believers so long as war lasts.

(39) Yathrab shall be a sanctuary for the people of this document.

(40) A stranger under protection shall be as his host doing no harm and committing no crime.

(41) A woman shall only be given protection with the consent of her family.

(42) If any dispute or controversy likely to cause trouble should arise it must be referred to God and to Muḥammad the apostle of God. God accepts what is nearest to piety and goodness in this document.

(43) Quraysh and their helpers shall not be given protection.

(44) The contracting parties are bound to help one another against any attack on Yathrab.

(45)(a) If they are called to make peace and maintain it they must do so; and if they make a similar demand on the Muslims it must be carried out except in the case of a holy war.

(45)(b) Every one shall have his portion from the side to which he belongs.

(46) The Jews of al-Aus, their freedmen and themselves have the same standing with the people of this document in purely loyalty from the people of this document. Loyalty is a protection against treachery. He who acquires ought to acquire it for himself. God approves of this document.

(47) This deed will not protect the unjust and the sinner. The man who goes forth to fight and the man who stays at home in the city is safe unless he has been unjust and sinned. God is the protector of the good and God-fearing man and Muḥammad is the apostle of God. ⁽⁵⁾

This charter contains 47 clauses, which laid the foundations of a sovereign nation-state comprising of Muslims, Jews and Pagans, having equal rights and responsibilities under a common citizenship.

Many historians believe that the charter was developed in two stages: the first part was written before the battle of Badr and the second part about relations with Jews, after Badr,

when Muslims had gained a much stronger standing. The salient features of this charter include:

- All parties included in the charter, i.e. Muslims, people of the book (Jews and Christians) and pagans, had freedom to practice their religion
- All citizens of the state had equal rights and responsibilities and were protected against excess and oppression
- A system of financial aid was developed within each tribe and between tribes. Communal funds were set up which were used in times of financial need such as to pay ransom or blood-money
- In the event of a war or hostile attack from outsiders on one tribe, all tribes of Madīnah (signatories of the charter) were required to come to the aid of the defending tribe
- In the event of a dispute among the signatories, Prophet Muḥammad (SAW) was the final authority for settling the dispute
- The Quraysh of Makkah were to be boycotted commercially by all signatories and nobody was to extend any support to them

Dr. Hamidullah Khan, the venerated scholar of Muslim world has termed the charter of Madīnah as first written constitution of world. He is of the opinion that the world has so far not produced any such a balanced document granting rights to its subjects.

The Medina Charter, written and promulgated by Prophet Muḥammad for the multi-religious ten thousand-strong citizens of the city-state of Medina in 622 A.D is truly a remarkable political-constitutional document. The claim made by Professor M. Hamidullah that it was the first written constitution in the world is not without basis. Aristotle's Constitution of Athens written on papyrus, discovered by an American missionary in Egypt in 1890 and published in 1891, was not a constitution.

It was an account of the constitution of the city-state of Athens. Other legal writings on the conduct of ancient societies have been found, but none can be described as a constitution. The Medina Charter is the first, and in this it preceded the American Constitution of 1787, considered by Western authorities as "a landmark document of the Western world ... the oldest written national constitution in operation" by more than a thousand years! It also preceded the English feudal bill of rights, the Magna Carter of 1215, by almost six centuries!

Not only is the Madīnah Charter important in the sense that it is the first written constitution; it is also modern in the sense that it was promulgated for a plural society, giving equal rights to every citizen as well as giving them a say in governmental matters as well as socio-cultural rights points of view. Considering all these, it is amazing that those Muslim leaders and writers who talk and write about the Islamic state seldom refer to this important seminal political document of Islam.

It is to be remembered that Muḥammad had become a prophet, reciting God's revelations to his fellow-Meccan, for twelve years before he and his followers migrated to Yathrab, two hundred and ten miles to the north of Mecca. There was going to be another ten years to his mission before he completed the delivery of the Divine message to the Arabs and to mankind in God's final scripture, the Quran. So this Medina Charter was provisional in the

sense that it could not contain all the provisions of statecraft contained in the Quran. Yathrab was later to known as "The City of the Prophet" or simply Medina. The reason for the migration was the growing opposition of the Quraisy aristocracy to his teachings and the receptive attitude shown by some Yathrab pilgrims to Mecca at this time. The whole text of the Charter has been reproduced, word for word, by Ibn Ishaq and Abu Ubaid in their respective books from the original preserved by Ibn Abi Khithamah. The Charter provided a federal structure with a centralized authority, with the various tribes in various districts constituting a unit and enjoying autonomy in certain matters of a social, cultural and religious character. Provision for this district autonomy is repeated for each district. (Clauses 3 through to 11 and 26 through to 35) In fact, many matters were left in the hands of the autonomous units, except state security and national defense. (Clauses 17, 36 (a) and 47) Provisions for these centralized subjects are made in Clauses 13, 15, 17 and 44. Only in cases of disputes the units could not resolve, recourse for their decisions had to be made to the Prophet, whose decision was final. (Clauses 23 and 41) ⁽⁶⁾

Each content of the charter of Madīnah has brought with it very important, and -- to Arabia at least -- very revolutionary change and improvement, by providing the people with a central public institution for seeking justice, in place of everyone seeking it with the power of his own hand or, at best, that of his family. This epoch-making innovation ... brought an end for all times to the chaos of tribalism and which laid the basis for a wider institution, viz a State."

It should be noted that this loyalty to the State by its plural citizenry constituted nationalism, or more exactly a patriotism, that is approved by Islam, contrary to what some modern Muslim ideologues assert. It is in line with the teaching in the Quranic verse, "O people, we created you from the same male and female and rendered you into distinct peoples and tribes that you may recognize one another. The best of you in the sight of God is the most righteous." ⁽⁷⁾

With the promulgation of Charter of Madīnah, a best model of state craft was introduced in the city state of Madīnah. Geographically the city state was redefined; its geographical boundaries were reset. District system of Govt. introduced. There were twenty districts each with a chief (naqib) and deputy chiefs (arif) and its meeting place (saqifah). The city at this time had a population of about ten thousand. Of these, the Muslims made up only a few hundred; half of it was monotheist Jews, the rest being polytheists.

It is noteworthy that the Charter ordained equality to its members and protected them against oppression. (Clause16). The State proclaimed the brotherhood of believers and gave each one a right and support to give protection to any individual, excepting an enemy. (Clause15). It also extended help to its members in debt or in financial difficulties in regard to payment of ransom or blood-money. (Clause12). It prohibited help or refuge to be given to a murderer. (Clause22).

A very important human right is given in Clause 25 where freedom was guaranteed for each community to practice its own religion. The implication of this clause is that each individual was also free to choose his or her religion, in line with the clear teachings of the Quran.

Another important principle of statecraft is consultation with the people in all matters. This is stated in Clause 37(a). Unlike in modern democratic polity, the voice of the people, vox populi, regardless of whether that voice represents right and truth or not, is given the

highest value. This is a basic flaw in Western democracy. Another important principle of just governance is that no quarter is given to an injustice or wrong-doing. In the Charter, this is stated in Clause 47.

As stated above, this constitution is Muḥammad's ijtiḥad at formulating a constitution when he was confronted with the task of administrating the city-state of Medina. At this time, he had not yet received the full Quran. He had therefore to fall back on customs and precedents, and he did. In any case, all constitutions are provisional in the sense that it must be adapted to changing times.

A trace of Arab tribalism can be detected in two clauses where members together with their family were to be punished because of a crime he committed. (Clauses 25 and 36(b)) This clearly contradicts another clause which states that no evil-doer is punished except for the crime he commits. (Clause 46) ⁽⁸⁾

Perhaps, in the light of present Muslim interest in an "Islamic state", we should point out that this important constitutional document of Islam does not anywhere use the term "Islamic state" of "Islamic society". The major principles governing an Islamic society are, of course, present -- principles like justice, brotherhood and unity of believers, unity and cooperation among citizens of the state, freedom of religion, strict adherence to pacts entered into between parties, cooperation to do good and to prevent evil, encouragement for high moral conduct, consultation as a method of government.

Conclusion

The charter of Madīnah has initiated new course of life as well as governance in the state system throughout world. Viewing the situation of that time, we have some powerful governing structures in byzantine and Sassanid rules but such concrete and well planned system of governance with set of rules and regulations as constitution of a particular was never produced by any such state which Islam and Holy prophet Muḥammad (PBUH) has produced. The pattern of Government in the city state of Madīnah had all such provisions, which today's modern states have adopted. Charter of Madīnah is highly precious document stretching on the multi aspects of governance such as government, human rights, rights of minorities, economic and political rights etc. William H Muir terms charter of Madīnah as precursor of modern constitutions of the world.

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