

# The Prophet Muhammad and Constitution of Medina In comparison with the British Magna Carta

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## I- Introduction

Though Arab communities comprised a majority of the population among the people of Medina yet their resources were depleted and their influence in the city was declining. In contrast various Jewish clans were living in the city and its suburbs. The latter were traders and many of them used to lend money at excessive interest. The continuing wars in the area between the Arab tribes boosted their economy and personal wealth (Salahi, 2002, p.228).

Medina was a multi-religious and multi-ethnic society; therefore, life in it was much more complex than in Makkah (Salahi, 2002, p.232).

The immediate result of the Prophet's migration to Medina was the establishment of the new Islamic community on a strong foundation of administrative, political and ideological unity. The Prophet, motivated by the general welfare of citizens of Medina, commenced to establish regular and clearly-defined relations with the remaining non-Muslim communities including the Jews. He had already laid down the basis for relationship between the Emigrants from Makkah, known as Muhajirin, and Medinites, known as the Ansar, the helpers (al-Mubarakpuri, 1996, p.197).

The arrangements that the Prophet made regarding the rights of protection, security, peace, justice, duties of all citizens of Medina and the relationship between the Muslim community, consisting of al-Muhajirun and the Ansar in addition to Pagans and Jews are embodied in a document which has come to be known as 'The Constitution of Medina' (Ibn Ishaq, 1964, 76).

## II- The document's authenticity

Although Al-Umari states that some narrations of the document are weak, in terms of science of Hadith related to Isnad, he refuted Professor al'Ish's argument that the document is a fabrication. He stressed its validity as a basis for historical study, which does not require such a high level of authenticity as is required for legal judgments. This is true since

some texts of the document have been reported in the books of Sahih, some of which were reported by al-Bukhari and Muslim. However, according to Al-Umari on one hand the numerous chains of transmitters of the document combine to give it strength, and on the other, its authenticity is supported by the style of the contents which is very similar to that of the Prophet's dictations. That it used different words and expressions which were less normally used after that period (Al-Umari, pp.100-102).

Wellhausen throws no doubt on the authenticity of the document as Margoliouth admitted (1905, p.227).

Rodinson also holds a strong view about its certain authenticity, since, in his opinion, the document contains certain conditions which contradict with later views of the original Muslim community (1973, p.152).

## III- Time

Scholars are not quite certain about the precise date of the Constitution of Medina as Margoliouth states (1905, p. 228).

They seem to agree that it was not very long after the Hijrah in 622 AD. It has a topical unity, though parts of it are believed to have originated at different times and put together. In concurring with Ibn Ishaq (1964, p.76), both Al-Mubarakpuri (1996, p.197) and Salahi (2002, p.239) hold the view that the treaty's placement is in very Hijra period, Bashier (1990, p.85) also agrees with the same view.

Various western writers like Armstrong (1995, p.154), Rodinson (1973, p.152) and Esposito (1991, p.11) have also admitted that the Constitution of Medina was written in earliest Hijra period.

In contrast, Watt argued that it was composed from two or more separate documents, some of which dating from the initial settlement at Medina while others to be in later period not earlier than the year 5/627 (1970, p.41).

After comparing various reports of the document in the different books of Seerah

and Hadith Al-Umari (1991, p.106) came to the conclusion that there were two separate treaties which were joined by historians under one document. One dealt with the policy with Jews, while the other dealt with the coalition between the Muhajirun and the Ansar. The former, however, was written, according to him, before Badr, while the latter was written after Badr.

#### IV- Contents

This development of Medina Islamic polity is extremely important for our discussions with Islamic states today as Iqbal (Ali, 1978, p.111) argued. The Constitution of Medina is the most primitive, the most original, way there is of being an Islamic state. And certainly people of other faiths, particularly people of the book, had a place in that polity from the very beginning.

As stated before, Medina became a multicultural and multi-religious society in which individuals had a responsibility to respect the rights of each other in practicing own religions. But it can be difficult to draw a line between allowing free expressions of religious differences on the one hand and outlawing any expressions of intolerance on the other, which might lead to insulting behaviour or violence.

One of the most important questions that might be asked would have to be: What kind of leader the Prophet was that he could tackle the difficulties of such situation, and establishing Medina as a city-state, with a written constitution?

Referring to the framework of community of Medina through the analysis of the treaty, Rodinson acknowledged the Prophet's supreme authority and leadership. He further states that he was a valuable addition to the whole community of Medina. (1973, p.156)

However, Armstrong (1995, p.155) would have the reader to believe that in the Charter the Prophet Muhammad is raised in his authority since his state was "far lower than that of Medinan chiefs like Sa'ad ibn Muadh or Ibn Ubbay". Elsewhere he discussed the early conversion of Ibn Ubbay to Islam in order to hijack the leadership from the Prophet (Armstrong, 1995, p.158). I consider this, however, as clear contradiction since a

powerful leader would not need to hijack the position of someone who is far lower than him.

Furthermore, a superficial judgment might rise the following objection to this view: How can a man with a lower rank in his society be accepted as a valid judge in disputes in a multi-religious society, and yet at the same time be given the right for legislation and final judgments?

It is, therefore, clear as Al-Umari (1991, p.114) states that the Prophet was recognized as a higher legislative authority, that has to be respected by all the inhabitants of Medina, including the Jews.

Though he became an unchallenged leader, nevertheless he did not set up a personal dictatorship, which he could have easily done.

Thus, the Constitution of Medina establishes the importance of consent and cooperation for authority in the Muslim state.

Al-Umari (1991, p.117) pointed out that the treaty emphasized beyond any doubt that in settling disputes and disagreements between the parties at Medina, the guiding principles were to be honesty, truth and justice. Those committing excesses were to be held responsible for those excesses.

It is also interesting to note that Jews were legitimate partners in signing the first Islamic road-map state plan, personally led by the Prophet (pbuh) with perfect justice for all parties.

The Prophet has laid down some fundamental rights for Medina citizens as a whole, which are to be observed and respected. Some of these rights are as follows:

#### a) Protection of Religious Sentiments

Despite Islam being a religion itself, the Prophet (pbuh) had set forth religious freedom.

Individuals were given the right that their religious sentiments will be given due respect and nothing will be said or done which may encroach upon their rights. This is clearly admitted in his statement: "The Jews have their religion and the Muslims have theirs" (Ibn Ishaq, 1964, p.77)

Therefore, minorities were not merely tolerated but they enjoyed religious independence. They were free to wear their traditional clothing, maintain their own language and customs and follow their religious laws. Hence, the constitution recognised freedom of religion, particularly for Jews, which gave them equality with Muslims in all matters of life.

Protection, therefore, was promised to the Jews so long as they give no cause for offence as admitted by Margoliouth (1905, p.228); because any offence will lead to religious hatred. Its effects may range from violence in Medina against them, to more insidious crimes that can jeopardise the safety of citizens.

It should be noted that Islam's principle of freedom has not appeared as a result of a social evolution or following a revolution that clamoured for it.

#### **b) Protection from arbitrary punishment**

"He who does ill only brings ill upon himself and upon his family, unless he be oppressed; then Allah will justify his deed." (Ibn Ishaq, 1964, p.77) This agreement has laid down the principle that any citizen can be only responsible for his actions, and not for the offences of others.

On the same ground we discuss this clause: "He who aids or shelters a malefactor will earn the curse and wrath of Allah on the day of resurrection.." (Ibn Ishaq, 1964, p.77), that those who behave unjustly and sinfully should be responsible for their actions, and not to be protected from getting the punishment they deserve.

Since there was no public force, such as police force, the Prophet used the tribal bounds as a collective responsibility in enforcing the covenant law as pointed out by both Bashier (1990, p.86) and Rodinson (1973, p.154). This according to al-Umari filled huge gaps in communal responsibilities (1991, p.117). The outcome of that was internal peace, which was the interest of all. The Constitution clearly shows the importance of consent and cooperation for authority.

#### **c) Equality before the law without any discrimination**

While discussing the text of the document: "Jews who follow us shall be given aid and equality; they shall not be oppressed, nor shall aid be given to others against them" (Ibn Ishaq, 1964, p.78) Edwards claims (Ibn Ishaq, 1964, p.76) that the Prophet's aim of the document was the conversion of the Jews over to Islam as allies if not as believers.

While on one side Armstrong completely neglects this clear statement on the other Margoliouth throws doubt on any implementation that took place (1905, p.227) pointing to the end of relation with some Jewish tribes. But his claim is refuted when he admitted that they have submitted a case of adultery to the Prophet for judgment.

Elsewhere, Margoliouth also claims that the Prophet had an ultimate determination to destroy the Jews because of their efforts in the direction of discrediting him (1905, p.230). In fact he mentioned many Jewish actions that prove they were grossly responsible for the fragmentation of the treaty. He states: "The Jews of Medina were against him" (1905, p.231) furthermore: "the envy of many of them was doubtless" (1905, p.233). In contrast, Esposito (2002, p.73) on one hand pays glowing tributes to the tolerance and freedom of religious thought and practice that was granted to Jews in Medina, and on the other strongly criticises the recent Muslim intolerance even among themselves.

Elsewhere Esposito (2002, p.17) came to the conclusion that the Prophet had no discrimination against the Jews. Rodinson (1973, p.158) also came to the same result.

A closer analysis to the document's clauses shows the fact that stand very differently from the way described by Margoliouth. When I read: "the Jews are one community with the believers" (Ibn Ishaq, 1964, p.77). The Jews were clearly considered amongst the Umma or community which consist the people of Medina as a whole.

I argue, therefore, that Margoliouth's position is ultimately untenable and that the covenant makes it clear that the Prophet of Islam was determined to treat with respect and equality the other citizens of Medina, and to regard them and deal with them as one *Umma*.

Which essentially is promised equal security to all and all be equal in the eyes of the law.

The British claim that their Magna Carta, the Great Charter, of 1215 A.D, was the first democratic constitutional document (The British Library, 1997) and it has long been the most potent symbol of freedom under the law for Western Civilisation. While The Medina Charter preceded it, by almost six centuries.

Moreover, the Magna Carta guaranteed rights of the powerful English Barons vis-à-vis the king, whereas the Constitution of Medina guaranteed the democratic rights of the entire population of Medina, both Muslim and Non-Muslim, equally.

Its provisions reflect the importance that the Prophet attached to religious tolerance and the idea of equal citizenship for all.

Furthermore from this clause: "There shall be mutual aid between Believers and Jews, in face of any who war against those who subscribe to this document, and consultations and advice" (Ibn Ishaq, 1964, p.77), it is clear that not only the Jews are understood to belong to the community, indeed, they were required to contribute to the defence of the community against outside hostilities both in matters of information or military. As protected citizens they were also expected to give a sincere advice to the Muslim state (Salahi, 2002, p.242).

The Prophet prevents the Jews from getting out of Medina without his permission: "None shall depart to war except by the permission of Muhammad" (Ibn Ishaq, 1964, p.77), al-Umari points to the possibility of participating in any tribal military action that might affect the peace process in the Muslim state (1991, p.114).

It might seem, however, that the Prophet is restricting the human rights of the state citizens, while in fact, it is a protection to individuals from each others transgression and the freedom of one group stops where the liberty of the other begins, and safety is a right to every individual in the society.

The Constitution also defined the role of non-Muslims in the community. Jews, for instance, were part of the community; protected people, as long as they conformed to its laws: "The Jews are one community with the

believers (but they have their own religion as the Believers have theirs). As with the Jews, so with their adherents, except for him who commits a crime." (Ibn Ishaq, 1964, p.77). This established a precedent for the treatment of citizens in a truly multi-racial and multi-cultural society.

#### **d) Freedom of Association**

The treaty has also given people the right to freedom of association and formation of parties or organisations. It obliges all parties to respect other's allies. This right is also subject to a certain condition for the state's safety, excluding Quraish because of their hostility. Moreover, each ethnic group had the right to appoint their own leader. This could serve society and establish a system of social security among the community as Al-Umari (1991, p.116) argued and also appreciated by Rodinson (1973, p.154)

It recognized Jews, for example, as a separate political and ethnic minority, and allowed them to practice their religion quite freely governed by rabbinical court.

The Constitution of Medina formed an alliance, or federation. Its members defined themselves as a community separate from all others. This clearly showed that the political awareness of the Muslim community had reached an important point.

The significance in this part, in particular, shows how far the prophet (pbuh) had gone to approve freedom and how he holds it in high esteem.

#### **e) The Security of Life and Property**

The covenant emphasized the sanctity of life, and individual possessions; and prohibited crime.

As well as considering Medina as a "sacred sanctuary" (Ibn Ishaq, 1964, p.77), which according to both Bashier (1990, p.86) and al-Umari (1991, p.118) to prevent any war within it and therefore, the internal security of Medina would be ensured.

Human blood is sacred in any case and cannot be spilled without justification. If anyone violates this sanctity of human blood by killing a soul without justification, they should be killed in revenge, unless the family of

the deceased choose to take blood money as a substitute" (Ibn Ishaq, 1964, p.77). By this, the unending cycles of revenge killing came to an end. (al-Umari, 1991, p.118)

#### f) The right to basic necessities of life

All the believers were to help any other person who was crushed by the burden of debt and this was the social security established in Medina" (Ibn Ishaq, 1964, p.76)

#### V- Conclusion

Ummah is usually understood to mean only the community of believers. This wider use of the word by the Prophet himself, to include all citizens of Medina, not excluding Jews, must surely make us think about this again. Moreover, the introduction of comprehensive equality legislation as proposed by the Prophet (pbuh) was a vital and unequivocal statement of public policy against discrimination and for equal opportunities and diversity.

Thus from the above discussion it becomes quite evident that there has been Jewish-Muslim, and indeed pagan-Muslim-Jewish interaction, from the very beginning of the Muslim state.

Salahi argued, however, that the example of Medina is a real refute for the claim about the intolerance of Islam over the years towards other religions (2002, p.238).

The constitution of Medina, in my view, was indeed a giant leap for mankind and established the basis for treating non-Muslim minorities within the Muslim community.

#### Bibliography

- Ahmad, Mirza Bashiruddin Mahmud. (1998). *Life of Muhammad*. Islamabad, Tilford: Islam International Publications.
- Al-Mubarakpuri, Safi-ur-Rahman. (1996). *The Sealed Nectar*. Riyadh, Saudi Arabia: Dar-us-Salam.
- Al-Umari, Akram Diya. (1991). *Madinan Society at the Time of the Prophet*. Herndon, Virginia: The international Institute of Islamic Thought.
- Armstrong, K. (1995). *Muhammad: A Biography of the Prophet*. (Second edition). London: Victor Gollancz.

- Bashier, Z. (1990). *Sunshine at Madinah*. Markfield, Leicester: The Islamic Foundation.
- Dalacoura, Katerina. (1998). *Islam, Liberalism and Human Rights*. London: I.B. Tauris & Co.
- Esposito, John L. (1991). *Islam: The Strait Path*. (Second edition). New York: Oxford University Press.
- Esposito, John L. (2002). *What Everyone Needs to Know About Islam*. New York: Oxford University Press.
- Ibn Ishaq. (1964). Edwardes, M. (Ed.), *The Life of Muhammad Apostle of Allah*. London: The Folio Society.
- Margoliouth, D.S. (1905). *Mohammed And The Rise Of Islam*. (Third Edition). New York: G.P.Putnam's Sons.
- Rodinson, M. (1973). *Mohammed*. Middlesex: Penguin Books.
- Salahi, A. (2002). *Muhammad: Man and Prophet*. Markfield, Leicester: The Islamic Foundation.
- Watt, W.M. (1970). " Muhammad", in P. M. Holt, Ann K. S. Lambton and Bernard Lewis (Eds.), *The Cambridge History of Islam, Volume I: The Central Islamic Lands* (pp.30-56). London: Cambridge University Press.
- The British Library*. Available at: [URL: http://www.bl.uk/index.shtml](http://www.bl.uk/index.shtml) Access Date: 16<sup>th</sup> June, 2003.

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