

COMMON ATTRIBUTES OF THE CONSTITUTION OF MADINA AND MAGNA CARTA: ANALYTICAL STUDY FROM A HISTORICAL PERSPECTIVE

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Abstract

Both, the Madinah treaty along with the pact of Magna Carta, are thought to be the global constitutions that were written for the first time. The Madinah treaty is the truce among the people living in Madinah. Whereas Magna Carta is an agreement between the Barons and English King John. Both of these pacts are also considered to be the most primitive found focusing on human rights. For the first time, such agreements were introduced which entailed the particular rights of Humans that are serving as an inspirational source of guidance for even the constitutions of contemporary times. Factually, UDHR (universal declaration of human rights) is also instigated through such primitive pacts focusing on the fundamental rights of human beings. This comparison between the Madinah treaty and the pact of Magna Carta is an argument-based analysis stating that agency always lies there at the existing point of consent and culpability. The relative additional debates, regarding the rights mentioned in the constitution of Magna Carta that are anticipated to cause the formulation of comparatively more spatial constitutional practices in the western world. Similarly, the existing covenant of the treaty of Madinah organized by Prophet Muhammad (PBUH) with its specificity of containing details regarding the duties enjoined with the particular clans along with their related rights for the good of society together with the visionary rules formulated for the laws is the representative of the fact that all the Muslim states can undoubtedly organize and exchange the governance-related challenges, may it reside within the outline of a law of transcendence i.e. the law of Shariah. Assessment of the exclusive statutory features of the Madinah treaty and the constitution of the Magna Carta has revealed that both of these agreements, though not in a form of proper pact, are more in interest with the fundamental legitimate attributes that are found to have remarkable resonance, demonstrated in the consequent happenings of the resolutions of Arabs which occurred in 2011, together with the further restructurings of the global power. This paper thus focuses on the analyzation and comparison of these treaties along with their implementations together with the constraints. Furthermore, the perspective together with the audience of both these pacts are discussed. Moreover, these charters will be thoroughly analyzed and compared via their attributes, the rights these treaties granted along with their impact on the contemporary world. In the current research conducted, few opinions are being provided on the Madinah Treaty and the constitution of Magna Carta being the scriptures of Human rights. Also, frameworks of their implementations, constraints, along with their impact beyond the specialism for which such treaties were originally designed. These treaties will then be juxtaposed. Originally, not any of both pacts were discussed with the main focus on the universal civil and religious liberties. However, each of these charters have contributed to provide an impactful way in delivering economic, social, civil,



political, and religious rights for the individuals of contemporary world as the human rights and liberties are structured on these charters.

Key words: *Constitution of Madina, Human rights, Madinah treaty, Magna Carta, Common Attributes*

SUMMARY

The potential need of formulating the united and pivotal governance system in Madinah to eradicate the outweighing chaos led to the formulation of the treaty of Madinah. It is very important and a historic pact not only for the Muslims' world but the entire globe. This pact from history restored every characteristic of life in Madinah constituted of religious, civil, social, along with the political attributes. The phenomenal success of this treaty was its contribution in associating together every hostile clan with the intention of forming a society with the establishment of harmony and peace among the residents of this society. Furthermore, this treaty ended the prevailing chaos. Also, it protected the life property, religious freedom, and liberties of every individual which was the part of the agreement. The pact designed by the Prophet Muhammad (PBUH) related to the fundamental rights of security, peace, duties, needs, protection, and justice of every single resident of Madinah and association among the community of the Muslims, composed of Ansar together with the Muhajireen alongside Jews, also pagans have been illustrated in the pact which was then titled as "The Madinah Treaty"¹.

During early 12th century, due the failure of foreign policies along with the increased demands of the taxes from the public, English King John suffered continued jeopardization of imminent treachery together with the rebelliousness by the English Barons who ever thought to be very resilient and robust. Due to the enhanced pressurization and influence, the King John consented upon the treaty based on providing the liberties which is called as Magna Carta. Also, is called to be the great charter which was anticipated to King John together with the upcoming Monarchs, bound to follow all the laws of the states. This charter was found to be unsuccessful in fulfilling its objectives and aim because this agreement was cancelled by Innocent III, the Pope, and several other reasons. However, this pact was again produced with certain modifications in the year 1216, year 1217, and year 1225. Finally, this amended charter served the purpose of stabilizing the legitimate system of laws and regulations of England. In the history, the charter of magna carta is believed to be the most significant charter because it enlightened the principle that each and every individual is bound to act and follow upon the laws being set and none of the citizen, even including the King, is allowed to overrule them, no matter what. This charter was the one which guaranteed the protection of the rights of the individual including right of unbiased prosecutions and the merits of justice².

This research study is focused upon comparative analysis of both the constitutions i.e. The Madinah treaty and The Charter of Magna Carter with a compound focus on the civil and religious liberties provided by both of these treaties to its prospective audiences by the detailed comprehension of these pacts in every aspect.

OBJECTIVES

- Conductance of the unbiased, purposeful, and an unprejudiced comparison-based research study of The Madinah Treaty and The Charter of Magna Carta.
- Discernment of the analogies and bifurcations related to the Civil and Religious liberties mentioned in the two aforementioned constitutions.
- Finding out that which among these two treaties the pact was written with the intention of providing the whole world with the due civil and religious rights in genuine essence.

¹ Mohammed, A. H. (2019). "Justice of the Messenger of Allah in his constitution in Medina." *ISLAMIC SCIENCES JOURNAL* 37(1): 184-206.

² Holt, J. C., G. Garnett and J. Hudson (2015). *Magna carta*, Cambridge University Press.



RESEARCH METHOD

This research study is intended to be conducted through qualitative together with the comparative analysis of the two pacts by the detailed studying, analyzing, and comparing of these two constitutions through multiple books and previously researched articles based on it.

LITERATURE REVIEW

1.1 Structure of the treaty

For the formulation and creation of the perfect and balanced environment with the purpose of bringing about improvement along with the advancements for humankind, especially during the post-hijrat time period from Madinah, Hazrat Muhammad Mustafa SAWW conscripted a pact which is titled as "The Madinah Treaty" or "Meesaaq-e-Madinah". This pact guaranteed that every single individual is equal regardless of their creed, religion, creed, gender, and caste. It was formerly believed to be designed and written for the betterment and rights of the civilians and residents of Madinah however, Hazrat Muhammad Mustafa SAWW proclaimed this constitution to be for the whole universe; for every single person living anywhere around the entire globe. Because of the complicated and unclear historical happenings, The Madinah Treaty has constantly been a controversial argument for the historiographers³. Factually, there is not any adequate sneaking suspicion about this constitution that how it was put down on the paper as a pact and its formulation, also there is no accurate clue about the negotiations which might occurred among various tribes, that were also the target audiences of this treaty, regarding the terms of this constitution, the extent of enforcement of this constitution and how much it was acted upon⁴. However, it is obvious that this pact was the influential document as it specified and enunciated the civil, social, religious, and political liberties of the earliest ever Islamic state of the globe. With the migration of Hazrat Muhammad Mustafa along with his disciples from Makkah to Madinah, all of this was initiated because of the vociferous and severe treatment of the residents of Makkah with the civilians of Madinah. Hazrat Muhammad Mustafa SAWW together with His depressed and besieged disciples reached Madinah city in the 622 A.D. Later, it was divulged that life is not much different here in Madinah, for the newly arrived migrants, and as difficult as it was in Makkah⁵. Therefore, controlling the wrangling and quarrelling ethnic groups of Madinah upon insignificant and inconsequential issues was the dire requirement of that time period. Also, it was very significantly important to create the peaceful environment, for which establishment of the constitutionality was equally momentous. Also, it was substantial to make it sure that the impolite and barbaric residents of Madinah must follow the established constitutional laws⁶.

1.2 Targeted Audience of the Madinah treaty

Besides the Muslims, Jews together with the Pagans were as well the residents of Madinah, making up the large population, therefore, the constitutional laws were anticipated to cater the society of them also along with the society of Muslims⁷. Madinah was transformed into the pluralistic city in which residents of different ethnic groups were residing which is attributed to the virtues of the demographics of this city. All the residents of this city, no matter of which ethnic group they belong to, were supposed to be bounded to the established duties along with the advancements through the distinctive and unorthodox social agreement⁸.

In accordance with the formulated charter, Hazrat Muhammad Mustafa SAWW was the only one who had the ultimate authority related to every single matter of the state of Madinah, no matter what. Also, it was very convenient for the population of non-followers of Islam i.e., Jews and Pagans,

³ Jomaa, K. (2020). "Social Justice and Islamic Legal/Ethical Order: The Madinah Constitution as a Case Study from the Prophetic Period." *Islamic Law and Ethics*: 162.

⁴ Mukhtar, S. "SOCIAL TRANSFORMATION OF PAKISTAN UNDER THE SPEECH OF MUHAMMAD ALI JINNAH ON 11TH AUGUST 1947." *Social Transformations in Contemporary Society*: 89.

⁵ Sheriff, V. F. "The Legal Status of Non-Muslims in Islamic State: An Assessment from Islamic Thought."

⁶ منینہ مملکت دستور "The Constitution of the Kingdom of Madinah" is a research and analytical study" (2020). ب. ص. ح. م. بی. (2020). "The Constitution of the Kingdom of Madinah" is a research and analytical study" *Al-Qalam* 25(1): 454-470.

⁷ Warren, C. S. (2017). *Constitutions and Islamic Law*. *Oxford Research Encyclopedia of Religion*.

⁸ Liman, A. A. (2019). "MADINAH CHARTER: LESSONS FROM THE PROPHET." *E-PROCEEDING*: 54.



because of the rights which this constitution granted to them, which made it flexible for them to carry out their religious activities, follow their own customs and traditions along with the rituals which were pre-existing with the maximum liberty. However, all their religious, custom, and traditional features had to follow the scaffold of the Madinah Treaty⁹.

Followed by the detailed pursuance of this constitution, the accurate mandate-based system which was genuinely democratic in nature can be clearly noticed. During the designing of the charter of Madinah, there was not just one society which was living in the State of Madinah, but the communities belonging to multiple-ethnic groups were also living over there, which is dissimilar to the contemporary conception about the nation state¹⁰. All these religious communities were brought into a single unit under the shadow of a distinctive social agreement once this constitution was proclaimed. Nevertheless, on contrary to the Madinah treaty which covered the notions of an entire Ummah, the constitutions proposed by the contemporary western world focuses on opinion of an individual. The Madinah treaty however, guaranteed the social and political constitutional rights of every person¹¹.

The nature of the global region for which the constitution of Madinah was made was entirely different from the modern-day world, that region was the vicinity in which the moral codes and conducts together with the ancestral dignity were matters of the great importance which directly influenced the responsibilities of every single person. The relative association among multiple social communities were having a great impact on the everyday events of the public¹². Membership of the social community is not merely defined by the relations of blood, but there were numerous other aspects through which the civilians were believed to be the members of the clan including the linkage of different the social communities through the contract of marriage or through the dependency of one clan on another. This is the way in which the matters functioned in the antiquated archaic state of Arab. Different clans had the clear intention to have the leadership over the state of Arab, because of this attribute harmony and love prevailed among the different tribes. Creation of the harmonious and friendly environment, with no animosity and bellicosity all around, was the main motive of the charter¹³. Furthermore, it is clearly evident that most of the clauses of the constitution of Madinah deals with the matters of the communal public groups. Additionally, noticing of the fact that the time in which the Meesaaq-e-Madinah was getting mounted, the Holy Quran was not completely unveiled therefore, it cannot be said that this social contract was the archetype or a model of the statesmanship of Islam is also pertinent. Nevertheless, it can rightly be said that the individual's right was greatly focused along with the advancement in the idea of the pluralism after the careful examination of the social contract¹⁴. Prior to the dawn of the Muslim's religion i.e., Islam, the state of Arabia was morally depraved and effete to the extent that blood shedding was considered to be very minor thing, belligerent social groups used to continuously commit the ransom-related crimes against the other societal clans. Therefore, numerous clauses were formulated in the constitution of Madinah which addressed this issue and devised the solutions to deal with this problem. This constitution did not argue about every human being; however, the leaders of the tribes were granted with the due prominence¹⁵. In accordance with the pact the leaders of different social clans were

⁹ Mustofa, M. (2018). "Rechtstaat dan Konstitusionalisme dalam Pemikiran Abdurrahman Wahid (1940-2009) dan Hasyim Muzadi (1944-2017)." *MADANIA: JURNAL KAJIAN KEISLAMAN* 22(1): 83-98.

¹⁰ Sadr, S. K. (2016). Migration of the Holy Prophet (SAAS) to Madinah and the Formation of an Islamic State. *The Economic System of the Early Islamic Period*, Springer: 37-66.

¹¹ Bay, M. A. (2020). *The Sacred City Assemblage a Study of the Value-Based Preservation and Heritage Production Process of the Sacred City of Al-Madinah*, University of Colorado at Denver.

¹² Yayla, M. (2016). "Islam and tolerance: A need for a contemporary Madinah constitution İslam ve müsamaha: Çağdaş bir Medine sözleşmesi gereksinimi." *Journal of Human Sciences* 13(1): 2431-2440.

¹³ ABUBAKAR, D. F. and D. D. B. DARMA (2019). "ISLAM AND LEADERSHIP ACCOUNTABILITY: A REFLECTION ON POLITICAL AND DIPLOMATIC AFFAIRS OF THE PROPHET MUHAMMAD AND THEIR RELEVANCE TO THE CONTEMPORARY TIME." *E-PROCEEDING*: 268.

¹⁴ Quadir, T. (2020). "MORE THAN TOLERANCE: THE ISLAMIC CALL FOR INTERRELIGIOUS REVERENCE." *Al-Shajarah: Journal of the International Institute of Islamic Thought and Civilization (ISTAC)* 25(1): 127-154.

¹⁵ Stanizai, Z. (2020). "How Islamic is an Islamic State: A Theoretical Debate on Islamic Political Order."

having an authoritative position over the respective public, however they themselves were the subjects of Hazrat Muhammad Mustafa SAWW in turn and they were engaged with all the due clauses of the pact to be followed in the new civilization which was established by Hazrat Muhammad Mustafa SAWW. The authority given to Hazrat Muhammad Mustafa SAWW over the fighting social clans of the Madinah were divulged upon Him SAWW because of the revelations on Him SAWW. All those authorities of Prophet Muhammad Mustafa SAWW were implemented for the vindication about the conceptions related to the state of Madinah. The creation of some kind of dictatorship or commanding rule was not the objective of this exercise, but this was all done with the sole purpose of resolving the issues related to the impolite and fighting clans of Madinah and creation of the harmonious and halcyon milieu for the transformed state of Madinah¹⁶. The rules which were formulated in Makkah and especially based on religion were adapted then according to the framework of the state of Madinah. For the promotion and advancement of Islam, adequate and appropriate situations were made in Madinah however, not by deteriorating the rights of the non-Muslims. Yet, the constitutional rights of the followers of other religions were provided with the due respect and veneration. Also, no complicated and additional taxes were charged against them. All of this was executed with the aim of creating a multiethnic community in which all the residing groups can flexibly and fearlessly live with no fear of oppression¹⁷. Therefore, none of the ethnic group was ever forced to accept Islam. In Madinah, nor complete power was given to Muslims neither the Muslims were highly populous over there, that is why the conception of transforming Madinah as the multiethnic community was greatly perceived because at that particular time any risk of assuming the command over other ethnic groups was anticipated to bring about the consequent chaos along with turmoil¹⁸. Therefore, the idea that was endorsed at that particular time was to solicit all the communal tribes so that each clan may possibly evenly participate in assuring the benevolence among all the existing tribes. However, this idea better only has functioned if every fraction of the community evenly contributed to the discussions and conversations inclusive of the Pagans together with the Jews that were the most significant ethnic groups. It is sad to notice that the survival of the paradigm edition of the constitution could not be made possible; however, that charter was reproduced along with its conservation that was done by the Muslims of the earliest times¹⁹.

1.3 Themes of the Madinah treaty

The constitution of Madinah was composed of multiple clauses. Delineation of few clauses among them along with the elucidation of their repercussions together with the references of these sections would be my primary focus in this study. "This is the charter formulated by Prophet Muhammad Mustafa SAWW administrating the relationships among the believers and followers of Islam from the tribe of Quraish and the tribe of Yathrib, together with the ones who pursued and joined those Muslim tribes and struggled alongside them". "The Muslims belonging to the tribe of Quraish and the Muslims belonging to the tribe of Yathrib are a single community known as "Ummah" to the omission of every other man". These two are the starting clauses mentioned in the constitution of Madinah²⁰. The audience of the charter has been discussed in the first section of the pact; it discusses that which parties were the fundamental audience of this social contract. And the second section of the charter focuses on the conception of the single community, i.e., Ummah and demonstrates that the subjects of this pact better be a single unit in the form of Ummah. Furthermore, this section focuses on the insinuation of the fact that the region of Madinah was supposed to be the state of the nation. The

¹⁶ Muhammad, A. "MUHAMMAD THE PROPHET OF PEACE: A REPLICIA FOR THE ATTAINMENT OF PEACE AND SECURITY IN NIGERIA." *ETHICS IN HIGHER EDUCATION* 3: 11.

¹⁷ Saari, M. (2018). "Mohammad Hashim Kamali's Speech at the IAIS Interfaith Refugee Day in Conjunction with World Interfaith Harmony Week (IAIS Malaysia, 3 March 2018)." *Islam and Civilisational Renewal* 274(6015): 1-4.

¹⁸ Saeed, R. A. and S. Rafique (2019). "SOCIAL PROBLEMS OF MINORITIES IN PAKISTAN AND THEIR SOLUTION REVIEW IN THE LIGHT OF SIRAH OF THE HOLY PROPHET (PBUH)." *The International Research Journal Department of Usooluddin* 3(1): 43-54.

¹⁹ Muhad, F. N., F. Adam, N. A. Wahid, N. S. A. Mansor, W. K. Mujani, S. Omar and E. Rahimah (2017). "Myanmar's Religious and Ethnic Crises Response: The Efficiency of Replicating Medina's Constitution." *International Journal of Academic Research in Business and Social Sciences* 7(7): 801-808.

²⁰ Barodi, N. B. S. S. (2017). "Same-Sex Marriage: Exploring the Implications of Obergefell v Hodges on the Philippines' Muslim Law of Marriage and the 1987 Constitution." *IJUM Law Journal* 25(2): 197-227.



Ummah here represents the Muslims of Madinah along with those who came from Makkah through migration along with the Pagans and the Jews, who were residing under the guard of Hazrat Muhammad Mustafa SAWW. The former portion of the first section is composed of the followers of Muslims, whereas the second portion of the first section entails the population other than Muslims i.e., Pagans and the Jews of Madinah. Therefore, the land of Madinah was considered to be the protected heaven for every single community and not only for the Muslims²¹. "It is not permissible for a believing Muslim to assassinate another believing Muslim, nor he should help the non-believer against the believing Muslim". "The believing Muslims are commanded to retaliate against the blood of their brothers which is shed or the sake of the Almighty". These two mentioned sections are on the standard 14 and standard 19 in the pact, respectively. In the section number 14, it is mentioned in a categorial way that the believers or simply Muslims should not kill any other Muslim believer because of the non-Muslim. Also, no Muslim is allowed to support the non-believer against his fellow Muslim. Moreover, it is obligatory for every believing Muslim to take vengeance of their Muslim brothers who sacrificed their lives and got martyred for the sake of the Almighty²². "In case of any conflict among the Muslims about any matter, that contradiction must be sorted out as per the directions given by Allah and His Prophet Muhammad Mustafa SAWW". The aforementioned section is the section numbered 23rd of the constitution of Madinah which basically emphasis on the problem of altercation among the believing Muslims. Muslim followers have been consecrated to bring their conflicts to the Prophet Muhammad Mustafa SAWW and He would resolve their quarrels and fights then as per the will and command of Almighty²³. "Yathrib ought to be the shelter for the parties of this constitution". "Quraish along with the ones who aid them ought not to be given the asylum". These aforementioned sections are numbered as 39 and section 43 correspondingly. The state of Madinah was formerly known as "Yathrib". This clause is subjected to the status of Yathrib as a place of safe heaven for the Muslims. Furthermore, it has been cited that every community of multi-ethnic groups have the fundamental right to take shelter in the state of Madinah. Also, it has been stated above that besides the Muslims, the Pagans together with the Jews were the subscribers of this charter also, therefore due to this attribute of the Madinah Treaty, all of these religious groups were also granted with the honor of utilizing the land of Yathrib for the sake of their protection and shelter. The clause number 43 of the constitution explicates the don'ts of the concerned parties of the charter i.e., what they must not do. Thus, about the people who belonged to the clan of Quraish along with their partners would not be given any sort of asylum, has also been explicated in the charter. Paying firm attention towards this clause and not aiding such people was made compulsory for the parties of the pact²⁴. "It is compulsory for the concerned people of the charter to aid their fellow beings i.e., the Muslims, and the Jews in case of any invading attack on the state of Madinah". This clause is numbered at 44th position in the constitution which explains the protection and security of the state against the attacks by the foreign regions. The concerned people to this pact were compelled and appointed to be ready in the way of defending their land in case of any attack from the intruders. Furthermore, the related parties of the charter had been instructed to aid one another to protect the state of their nation as well²⁵.

1.4 Human Values and liberties in the light of Madinah Treaty

On a general note, the Madinah treaty declares to the leading personnel of the state of Madinah to necessarily follow the constitutional laws, to exhibit the attitude of determined morality and justice,

²¹ Albar, M. K. "CONFLICT RESOLUTION EDUCATION IN MEDINA CONSTITUTION."

²² Albar, M. K. (2019). "CONFLICT RESOLUTION EDUCATION IN MEDINA CONSTITUTION: Contextual Exegesis of Medina Constitution." *Al-Tahrir: Jurnal Pemikiran Islam* **18**(2): 347-370.

²³ ShARi, A. "CONStitUtIOnAl."

²⁴ Ripin, M. N., Z. M. Yusoff and Z. Haron (2017). "Political Management of The Prophet: A Brief Study in the Light of Al-Quran." *QURANICA-International Journal of Quranic Research* **9**(2): 1-24.

²⁵ Haidaruddin, A. (2019). *The Development of Islamic Constitutional Thought of the Mayumi and Its Influence in the Formulation of the Indonesian Constitution 1965-2002*, UIN Sunan Ampel Surabaya.

also, to substantiate their concerns and affection for their land²⁶. The conception about the mutual suggestions has been reassured by the constitution; the aim however is the creation of the virtue of brotherhood and unity within the residents of the state along with the formulation of a peaceful and harmonious milieu in which every dispute and conflict is settled with the help of dialogue along with the homily²⁷. Furthermore, to solve the problem, shedding of blood would not be permissible at any cost among the brother Muslims. Moreover, the non-believers i.e., the Jews and the Pagans were not burdened by imposing extra or meaningless tax charges on them, yet they must have to pay equal to what Muslims pay at the time of war or any other issue of the state. In case of any quarrel, dispute, or conflict, that would be brought to Prophet Muhammad SAWW, and then His SAWW word was considered to be final related to that matter²⁸. Additionally, the treaty also demonstrates that none among the concerned parties of the charter is allowed to initiate a war or fight against the opponent nation until or unless permitted by the Prophet Muhammad Mustafa SAWW. If permitted by the Prophet SAWW and the war happens, then any loss or demise suffered by the warriors would be compensated. Revolutionary procedures were adopted with the aim of ending the biasness and discriminatory tribal linkages through the formulation of the pivotal military forces along with the appropriate organization of serving equity²⁹. Also, usage of swords even by leaders with the purpose of winning equity was no more justified because the authoritative personnel was established as per the commandments and directions given by the Prophet Muhammad Mustafa SAWW, the one best in solving the conflicts among people. As described earlier, the population of the Muslims was very minor in the state of Yathrib and therefore, they were not dominating the state entirely upon rest of the ethnic groups residing over there. The Jews were thought to have an equal position in accordance with the constitution of Madinah based upon the clause stating that the Jews must follow the rules proclaimed by the charter³⁰. Likewise, it had also been demarcated in the treaty that the Jews, especially those enjoining the Muslims will be treated in the same way as the Muslims will be treated, and they will be facilitated in the same way as the Muslims will be given the facilitations. Therefore, the idea of an Ummah also incorporated the community of the Jews together with the Muslims based upon the reciprocal deference along with the justice. The phrase of "Islamic state" is not been written in the treaty document anywhere, also the notion of Zakat and Taxation to help the impoverished is not mentioned in the charter³¹. Moreover, the laws related to the concept of the Hudud are not explicated in the whole pact; however, all of them were stated and explained later on, although this treaty clearly and greatly emphasizes on the nationwide constitutional unit. The terms and conditions of the Madinah treaty hardly entails any information about the formulation of the taxation at national level organization, however, it do delineate about the centralized organizing structure of paying if at all the war happens with the objective of defending the land³². Based on these incongruities in the treaty of Madinah, it was not suitable to be implicated as a model or a standard for the contemporary state of Islam. Though it has been clearly mentioned in the constitution that Allah, the Exalted is the ultimate authority and the Prophet Muhammad Mustafa SAWW is the last messenger of Allah, even then Holy Prophet SAWW was not in favor of ruling the state by force. It is because of the fact the communities were not just agreed upon this treaty based on their acceptance of the Prophetic position of Prophet SAWW but due to the fact that this

²⁶ Ahmed, N. and A. b. H. Asmad (2020). "International Protection of Minorities Rights and Islamic Law: A Comparative Study." *JL & Soc. Deviance* **19**: 141.

²⁷ Din, F. and M. N. A. Jalil (2018). "Nationhood and Loyalty in Islam: Between Dustūr al-Madīnah and the Bukit Seguntang Covenant." *AL-ITQAN: JOURNAL OF ISLAMIC SCIENCES AND COMPARATIVE STUDIES* **2**(2): 7-18.

²⁸ Rafiq, H. and A. Qayyum (2019). "RESEARCH PAPER THE CHARTER OF MEDINA AND MAGNA CARTA."

²⁹ Diab, R. (2018). "Legal-Political Rhetoric, Human Rights, and the Constitution of Medina." *Rhetorica: A Journal of the History of Rhetoric* **36**(3): 219-243.

³⁰ Parveen, R. and A. Jadoon (2020). "An Analytical Approach to the Impact of Islamic Concept of Rights on the West." *Al Tafseer-Biannual Journal* **36**.

³¹ Pasture, P. (2018). "The invention of European human rights." *History* **103**(356): 485-504.

³² Embong, Z. (2018). "Conflict Management in the Constitution of Medina: An Analysis." *INTERNATIONAL JOURNAL OF ACADEMIC RESEARCH IN BUSINESS AND SOCIAL SCIENCES* **8**(12): 396-414.

constitution was not just for the Muslims of Makkah and Madinah, but also were the Pagans, and the Jews of Yathrib as well³³.

2.1 Magna Carta

The Charter of Magna Carta that is recognized as “The Great Charter” is undoubtedly among those historical documents that are considered to be very significant even today. The charter of Magna Carta was given the approval by King John in 1215 and due to the attributes of this charter, aristocrats of the England were provided with the several constitutional rights. There are 63 clauses encompassed in the charter of Magna Carta which are written exclusively in Latin language. In the modern times, only 3 sections are still active out of those 63 clauses. The remaining 3 clauses delineate about protecting the liberty together with the rights of the church of English people, preserving the honors and customs of English people and several other societies. The last clause however explicates about the constitutional rights related to the unbiased trials along with the equity and justice³⁴. In United Kingdom was a system of out-and-out monarchy and no constitution; the preliminary step was the establishment of the constitutional kingdom with the proclamation of the charter of Magna Carta. In accordance with this constitution, law is applicable on every single individual even on the king as well. Also, laws should be followed by every individual³⁵. The charter of Magna Carta even now is applauded as the document due to the attributes it entails inclusive of the virtue of protecting the constitutional rights of British people, for example provision of fair prosecutions based on equal rights. Similar to the clauses of the Madinah treaty, many clauses have gone obsolete from the constitution of Magna Carta in the contemporary world because of the fact that these two constitutions were formulated in tremendously special historical framework³⁶. Nonetheless, the framework and essence of this manuscript is exactly distinctive than that of the treat of Madinah. Based on the fact that this charter was made with the purpose of diminishing the influences and freedoms of dishonorable and dictatorial King John, who reigned the state of Britain through the initial time period of 13th century era. Before and even throughout that particular era most of the British population was working as the manual workers because that system was based upon the feudal authoritative organization, and all those laborers were hardly provided with any rights as compared to ones for which they worked that is the Barons. The societies and communities residing in the state of Britain and the state of Madinah were blatantly distinctive; besides the tribal system, the society also encompassed the feudal system in England dissimilar to the State of Yathrib, although certain obstacles were there with it, however, the English residents were comparatively less argumentative as compared to that of Yathrib and they were even more unified under the supervision of one king³⁷. The fundamental purpose behind the establishment of the charter of Magna Carta was the provision of fundamental rights to the people, who were deprived of the rights before. In accordance with the law of the state every individual was subjected to the same constitutional rights regardless of their statuses. Magna Carta was scripted in the language of Latin and it contained 63 clauses in total³⁸. King John was considered to be very recalcitrant and biased King. Also, due to the quirky and reckless nature of the king, the population at large along with the Barons were undergoing the same hurtful conditions alike. By 1215, King John agreed upon the terms and conditions of the charter of Magna Carta post the revolt of the Baron people.

2.2 Targets of the Magna Carta

This charter of Magna Carta was proposed as an agreement focusing on the peace among the fractious Baron people and the unjust King at Runnymede once the Barons tried to overtake London during

³³ Poole, A. L. (1993). *From Domesday Book to Magna Carta, 1087-1216*, Oxford University Press on Demand.

³⁴ Linebaugh, P. (2008). *The Magna Carta manifesto: Liberties and commons for all*, Univ of California Press.

³⁵ Painter, S. (1947). "Magna Carta." *The American Historical Review* 53(1): 42-49.

³⁶ Howard, A. D. (1998). *Magna Carta: text and commentary*, University of Virginia Press.

³⁷ Danziger, D. and J. Gillingham (2004). *1215: the year of Magna Carta*, Simon and Schuster.

³⁸ Hudson, J. (2014). *The formation of English common law: law and society in England from the Norman Conquest to Magna Carta*, Routledge.

1215 in May which forced the King to give his consent on the Magna Carta³⁹. The lords of the England were at conflict with the Monarch of that Time i.e., King John due to his controversial point of views about some fundamental constitutional matters inclusive of the matters related to the constitutional honors to fair prosecutions⁴⁰. Additionally, besides this very significant matter, the other matters were related to heavy taxes that were imposed by the England's Monarch on his subjects along with the exploitation of the imperial rights and honors. In the charter of Magna Carta, it has been mentioned that without the usual approval of the empire, i.e., the leading lords along with the churchmen, demanding of the taxes would not be allowed. Also, this document established a contract about the titles of the lands along with the matters of proprietorship together with the atrocious services of some royal agents⁴¹. As long as the matters of tax policies were related, an agreement was made no tax would be released without taking the general approval from the royal lords, the general approval here does not refer to the normal public, but it focused on the lords of Britain along with the top-rated representatives of the church of England. However, the general public was not satisfied with the system of absolute monarchy, because only one King possessed all the authorities and therefore, the people needed a generalized system that could serve them and address their needs as well⁴². Public was in a dire need to have their legitimate rights back that they enjoyed once and now they were made deprived of those rights. The public protested against this problem in front of the Roman priest who eventually expelled King John from the Christian's holy place due to which John was then imposed to give his consent about the approval of the constitution of Magna Carta. It was the virtue of this charter which considerably transformed the association between the Monarch and his people. Although, the great charter was merely a starting, but because of its virtues, the innovative figurines that were formulated just after ten decades were precisely manipulated by it⁴³.

2.3 foundation of the Magna Carta

In the original Magna Carta, above 63 clauses were written in it, however, as all those clauses were specific for that particular time, therefore, many among them are outmoded in the contemporary world. Nevertheless, the laws of Britain in the contemporary scenario still encompasses three sections of that charter that are perceived as the fount of enlightenment because several other legislative rules and sculptures are formulated based on the guidelines of these three clauses⁴⁴. One section among them conserves and protects the civil rights and liberties of the English churches while the other clause supports the strengthening of the liberties and freedom of several regions inclusive of London. The third clause however endorses the legitimate right of unbiased prosecutions and equity⁴⁵. The clause number 39 is thought to be the most significant clause of the charter of Magna Carta due to its feature and its ever-lasting influence which is thought to deal with freedom of equity along with the unbiased prosecutions. This section is stated as, "None among the general public will be confiscated or detained, neither their constitutional rights or belongings will be denied, or prohibited or expatriate, or underprivileged of their positions and statuses by any means, nor will any force progress against them, not even through others, besides through the legal verdict of their rights or based on the law of their property"⁴⁶.

2.4 Magna Carta and Civil Liberties

The charter of Magna Carta was an exclusive manuscript by its virtue of forcing King John to accept, approve, and abide by the constitutional sections of the state, in spite of the fact that it granted

³⁹ DAVID, R. B. (2005). "Magna Carta."

⁴⁰ Hazeltine, H. D. (1917). "The influence of Magna Carta on American constitutional development." *Columbia Law Review* 17(1): 1-33.

⁴¹ Gedicks, F. M. (2008). "An Originalist Defense of Substantive Due Process: Magna Carta, Higher-Law Constitutionalism, and the Fifth Amendment." *Emory Lj* 58: 585.

⁴² Musson, A. (2018). *Medieval law in context: the growth of legal consciousness from Magna Carta to the Peasants' Revolt*, Manchester University Press.

⁴³ Vincent, N. (2012). *Magna Carta: a very short introduction*, OUP Oxford.

⁴⁴ Maddicott, J. R. (1984). "Magna Carta and the local community 1215-1259." *Past & Present*(102): 25-65.

⁴⁵ Siegan, B. H. (2001). *Property Rights: From Magna Carta to the Fourteenth Amendment*, Transaction Publishers.

⁴⁶ Breay, C. and J. Harrison (2015). *Magna Carta: law, liberty, legacy*, British Library London.

very few rights to the people, and by people it does to refer to the general public, but the great lords of Britain. The great lords of Britain made the King to give his consent for the constitution of Magna Carta because some legitimate freedom of the great lords was in peril particularly those related to the properties of the British great lords. Ultimately, in 1215, alongside the river named Thames at Runnymede, the King John gave his approval to the manuscript. The charter of Magna Carta is also thought to be the Great constitution of legitimate rights which is considered to be authentic even up till now⁴⁷.

Most of the terms among the fundamental 63 clauses are rendered to be irrelevant as per contemporary world's requirements. Nevertheless, the provisions which are still valid and effective in the today's world are perceived as the foundation of the laws of the England. There are three provisions which are still valid, and these three provisions are given the title of "Pure Gold" by the most eminent legal expert of that era of United Kingdom's Supreme court, Sir Edward Coke, even now these remarkable words possess the thunder of putting the blood in to race⁴⁸. These three nominal clauses were the underpinnings which contributed to protecting the legitimate rights of the public from illogical incarceration along with the legal right to equity together with the unbiased prosecution. Factually, all the rights were initially given to the high-ranked great lords, however, these legitimate rights were then extended to the general public with the passage of time. Also, these rights were proved to be the cornerstone for modern human rights. As it is already known that the universal declaration of human rights encompasses the similar rules and regulations that were mentioned in the charter of Magna Carta. Also, its is very relevantly noteworthy that universal declaration of human rights was proclaimed in 1948⁴⁹. There were three fundamental legitimate sections proposed by the constitution of Magna Carta inclusive of⁵⁰:

- i. The taking away of the fundamental rights can be possible only through the legal proceedings and according to the rules of law.
- ii. The leadership depends on the consents of the regulated people, which is safeguarded and shielded, however, the legitimate rights of the public for in-discriminated and unbiased elections.
- iii. It is compulsory for everyone to follow the constitutional laws, be it the leading government or the general public.

The act of United Kingdom focused on the human rights proposed in 1998 guarantees that these rights and rules of the general public would not be violated, even not by the leading government. Through out the year of 1215, the fundamental focal point of the constitution of Magna Carta has been the implementation of the formulation of the laws based on the human rights around the entire existing globe. The bill of America scripted in 1791 which was made upon human rights suffered a great impact by the charter of Magna Carta⁵¹.

3.1 Assessment of both Constitutions

The charter of Magna Carta failed to preserve its originality. Also, the interpretations made by this constitution happened to be vibrant all the way through the era in which the English ruling bodies were bringing about certain modifications in it. Moreover, by now merely 3 sections of the pact of Magna Carta are active and valid. The basic purpose of the Magna Carta was based upon limiting along with the abridging of the benefits and prerogatives of John. Furthermore, this charter was focused on providing the liberties and rights to the general public and citizens of England⁵². The two manuscripts known as "The Madinah Treaty and Magna Carta" possess this similar attribute that both of these documents were actually the treaties. Also, they were formulated and scripted with the purpose to kill the system of barbarism along with the disgruntlement for settling the conflicts and

⁴⁷ Drew, K. F. (2004). *Magna Carta*, Greenwood Publishing Group.

⁴⁸ Daniell, C. (2013). *From Norman Conquest to Magna Carta: England 1066–1215*, Routledge.

⁴⁹ Turner, R. V. (2003). "The meaning of Magna Carta since 1215." *History Today* 53(9): 29-29.

⁵⁰ Klug, F. (2015). "A Magna Carta for all humanity: homing in on human rights." *Soundings* 60(60): 130-144.

⁵¹ Loengard, J. S. (2010). *Magna Carta and the England of King John*, Boydell & Brewer.

⁵² Kleidosty, J. (2011). "From Medina to Runnymede: Comparing the Foundational Legacies of the Constitution of Medina and the Magna Carta." *New Middle Eastern Studies* 1.

ensuring the harmony and nonviolent environment. However, both of these treaties are excessively distinctive from one another⁵³.

3.2 Assessment

There exists a difference of opinion in the Madinah Treaty and Magna Carta; in the sense that the social framework of Madinah contained more multi-ethnic groups as compared to that of the England. Contrastingly, the constitution of Magna Carta does not favor or promotes the pluralistic social framework. In contrast to the Madinah Treaty, the charter of Magna Carta proved to be even more vibrant and dynamic manuscript that was found to be altered unceasingly over the period of different eras⁵⁴. However, it went unsuccessful in the maintenance and enforcement of tranquility and nonviolent environment, yet the Madinah treaty succeeded in bring about peace and harmony on the land.

3.3 Assessment of the clauses of both treaties

On comparing the charter of Magna Carta with the Madinah Treaty it would be demonstrated that the perspectives of the clauses of Magna Carta are still influencing the figures around the entire globe. It is considered to be extensively wide-ranging and undoubtedly it will survive for even an extended period of time as compared to the Madinah Treaty⁵⁵. Nevertheless, the features of the Madinah treaty similar to the standards of reciprocated discussions, the self-dependency of the public, along with the spiritual power of Ummah are seen to be modified into multiple virtues and are witnessed to be put on in different conditions even after the passing away of the Prophet Muhammad Mustafa SAWW from this world⁵⁶. The constitution of Magna Carta was focused on dealing the matters of prosecution by the judges, in contrast to which the Madinah Treaty was focused on entirely preserving and dispensing the justice and equity in accordance with the commandments and instructions of Islam. Formation of the universal and centralized governmental system with the purpose to serve the justice was never the preference of the Madinah treaty, however ensuring the tranquility along with the peaceful environmental aura in the state of Yathrib was surely among the major concerns of this treaty⁵⁷. All the conflicts and the quarrels were all settled and resolved by the Holy Prophet Muhammad Mustafa SAWW himself. Furthermore, the organization for the establishment of justice was assigned to the tribal authorities with the aim that they may provide the justice to their subjects based on their own norms along with their due traditions. For the settlement of the vendettas and conflicts among different societal groups with the help of various tactics, was the objective of the exercise for understanding the ideas of both treaties, the Magna Carta, and the Madinah treaty⁵⁸.

3.4 Assessment of the Objectives

The aim behind authoring the Madinah treaty was the assurance of ever-lasting harmony and resolution of the disputes of the confrontational tribes of the State of Yathrib. A pact was formulated between the migrated Muslims from Makkah and those of Madinah who were residing there since ever. Contrastingly, in case of the pact of Magna carat, the direct dispute was there between the general public and their ruling King, John, which is entirely dissimilar to the perspective of the treaty of Madinah. It is right to say that the charter of Magna Carta was an agreement between the insolent great lords of Britain and the ruling king, John which ended the war. Nevertheless, as far as the

⁵³ Songur, H. "Human Rights And Islam: An Attempt To Compare The Farewell Address Of The Prophet and The Magna Carta." *SDÜ İlahiyat Fak. Dergisi* 19.

⁵⁴ Bouziane, M. and F. Ghennam (2014). "Comparison between the constitution of Medina and the constitution of the United States."

⁵⁵ Şentürk, R. (2008). The 'Constitution of Medina': Muhammad's First Legal Document BY MICHAEL LECKER, Oxford University Press.

⁵⁶ Deyab, M. S. a. and G. Elgezeery (2015). "Diverging Concepts of the Other in Islam: A Comparison between the Original Islamic Perception and Contemporary Muslims' Practice." *International Letters of Social and Humanistic Sciences* 51: 57-71.

⁵⁷ Bagu, K. J. "On Liberty, Identity and Declarations: Magna Carta to Indigenous Peoples."

⁵⁸ Saravanakumar, S. "THE EVALUATION OF HUMAN RIGHTS-HISTORICAL EVOLUTION."

constitution of Magna Carta is concerned, this manuscript was scripted by the offended group, which is in clear contrast to the constitution of Madinah which was scripted by the principal leader himself⁵⁹.

4.1 Civil and religious liberties

Based on the perspectives of the former, the Madinah treaty is a manuscript which is observed to be involved in the subverting, elevating, and recreating the identities along with the responsibilities of different tribes by associating them all under the shadow of the new aegis recognition. Argument was made by Uri Rubin who stated the constitution of Madinah renamed the new unified identity of Muslims as Ummah. Scholars from the western world also already knew the factual information regarding the examination of the meaning of Ummah, that this should be done in accordance with the teaching of Islam, because as per most relevant scenario this term possess a pure association with the religion⁶⁰. Uri Rubin continues the exploration of this treaty and exhibited the in the beginning of the charter, it has been delineated that all the residents of Yathrib are considered to be a single unit i.e., Ummah to the omission of the menfolk altogether, which basically in its true essence enjoins Ummah with *wahidah*. Among the nine quoted incidents, all incidents with the scripted words of Ummah *wahidah*, or single unit people, authored in the Holy Quran, it refers to those individuals who are unified through the common religious beliefs⁶¹. Simply put, the Muslims along with the Jews of the state of Madinah constitute a combined unit as they share a common religion on contrary to the ones who are practicing the religions of some different origins. Therefore, most primarily, Holy Prophet Muhammad Mustafa SAWW made this agreement, based upon the religion, with those particular groups of people who were nominated for social conscience. Least would anyone be doubtful about the addition of the Jews in this charter. Further, he continued and stated as according to the Madinah treaty the Jews following the Prophet SAWW and His SAWW followers would be provided with the equal legitimate rights and justice. Nor should they be harmed; the harmony of the disciples is inseparable⁶². The ones who are not monotheist and does not belong to the Abrahamic religion were excluded from the social agreement. Also, irrespective of their association with the tribes with the ones residing in Makkah were ranked as definite outsider of the shelter of the communal group at par. Prophet Muhammad Mustafa SAWW could not clarify it anymore, as He SAWW did it enough, when he stated that the believing disciples are friends with one another, while he clearly excluded the outsiders. Additionally, depending upon religion of the individual, that person would be included in the communal group of Madinah, i.e., Ummah. Also, Madinah was a state which was basically structured upon the foundation of the sacred land or haram. Such emotion is reverberated by Thomas Hobbes along with other philosophers as they focused upon the base of commitment amidst the native and the state in the contribution of the state to protect and preserve the life of its residents⁶³. Therefore, Uri Rubin noticed about several traditions of holding the fact that the prophet Muhammad Mustafa SAWW proclaimed the state of Madinah to be sacred, by doing so He SAWW elevated the religious status of Madinah same as to that of Makkah, prior to the critical battle merely two years post the Hijra against Makkah. It is clearly depictive of the meaning that the residents of Madinah would be anticipated to secure and protect their sacred land just in the similar way as the residents of Makkah i.e., Quraish protected the sacred grounds of Makkah. These fundamentals of the communal group which initiated from a yearning of associating together in the name of mutual protection is a common feature of this constitutional manuscript⁶⁴. The most interesting thing about this treaty is the declaration of Holy Prophet Muhammad Mustafa SAWW about the Madinah being a sacred land as it bestows the land with the religious importance

⁵⁹ Persaud, A., D. Bhugra, P. Das, S. Gnanaprasam, C. Watson, R. Wijesuriya, T. Brice, E. Clissold, J. M. Castaldelli-Maia and K. Valsraj (2020). "Magna Carta for individuals living with mental illness." *International Review of Psychiatry*: 1-6.

⁶⁰ Moosa, E. (2000). "The dilemma of Islamic rights schemes." *JL & Religion* 15: 185.

⁶¹ Rahman, F. N., K. Sami and M. F. Memon (2015). "Medina charter and just peacemaking theory." *The Government-Annual Research Journal of Political Science*. 4(4).

⁶² Khel, M. N. K. (1982). "Foundation of the Islamic state at Medina and its constitution." *Islamic Studies* 21(3): 61-88.

⁶³ MORINA, I. R. (2018). "RELATIONSHIPS BETWEEN PEOPLES AND THE CHARTER OF MEDINA." *Vizione*(29).

⁶⁴ Arjomand, S. A. (2009). "The Constitution of Medina: a sociolegal interpretation of Muhammad's acts of foundation of the umma." *International Journal of Middle East Studies* 41(4): 555-575.



which would be hard to acquire otherwise. Also, He SAWW reaffirms the significance of the beliefs based upon faith and religion in the structuring of this polity. He SAWW continued to affirm that everyone, whether be it Jews or Muslims, should bear all of their expenses by their own selves⁶⁵. Everyone was commanded to aid his fellow brother against any invasion or attack from the foreign parties or intruders. Both the groups i.e., Jews as well as Muslims will continue to fight until the battle gets ended. The state of Madinah was made to be a sanctuary, a sacred place for the parties of this constitution⁶⁶.

Just like other pacts, this manuscript paved the way for the creation of idea of antagonistic relationships, the aim of which was to allow the Ummah, particularly the immigrants from Makkah, to share their thoughts themselves not merely by their positive assertions of monotheistic religion and their living in the state of Madinah, but to oppose the concept of polytheistic religion also, along with the protection from the attackers and the intruders⁶⁷. The focus on the widespread faith along with the land in the treaty of Madinah better not extensively abstruse its regulated acknowledgment of the relationships between the families and the tribes which were existing already, as they remained to be pertinent in a way better manner after the establishment of Islam as the Arabian religion. As described heretofore, it continuously points the communities based on the identities of the tribes, more specifically when it comes to discuss about the Jewish people of multiple tribes of Arabia⁶⁸. The Quraish along with the Thala bah are considered to be distinctive from other societal groups. In principle, the state Prophet SAWW seek out to create possibly be demonstrated in three loops: a tribal state, a territorial state, and lastly and most significantly, a religious state⁶⁹.

Hence, here magna carta once again demonstrates to be beyond monotheistic in its description of being the state. Post the reassertion of the independency of the churches, the remaining manuscript outlines the legitimate rights and freedom of every single free individual⁷⁰. Still there were few people who were not provided with the freedom of protection inclusive of the laborers who were having the medieval linkages with their aristocrats which ordered them to work for them with no compensation allowed for them. Also, those aristocrats kept those peasants in a state of not different than the state of enslavement. It was all because of the abusive system introduced by the King John, due to which the Great lords of Britain became rebellious and they asserted that freedom of the king is also dependent on the duties of their attendants. It is this controversy together with the reality that the charter of Magna carta has made the law superior over the ruling king even that lifted it to the heights of a constitutional manuscript and not just a royal declaration⁷¹.

The Madinah Treaty and charter of Magna Carta both demarcated certain rights along with the responsibilities; few of them are specific in relation to time, however the remaining are suitable for every time i.e., universal. In Madinah treaty the fundamental focus is laid upon the religious and civil duties that are allocated by the public of the state of Madinah directed on the state and comparatively lower emphasis on the ones that are imposed on the Prophet Muhammad Mustafa SAWW⁷². The civil and religious responsibilities along with the duties that defined in the constitution are basically the ones that are imposed on one group for the betterment and aiding of another group. All those civil and religious responsibilities along with the duties that are demonstrated in the treaty

⁶⁵ Romdhoni, A. "THE MADINAH CHARTER, NOT A CONSTITUTION OF ISLAMIC STATE."

⁶⁶ Medina, L. E. (2009). "An Unsatisfactory Case of Self-Determination: Resolving Puerto Rico's Political Status." *Fordham Int'l LJ* 33: 1048.

⁶⁷ MIAZI, D. M. A. R. "The 7th International Islam & Liberty Conference: The Islamic Case for Religious Freedom Presentation on Attitude of Muslim Ummah towards Non-Muslims: Theory and Practice."

⁶⁸ Medina, G. (2013). Argentina on the Eve of a New Civil and Commercial Code. *The Scope and Structure of Civil Codes*, Springer: 43-66.

⁶⁹ González, F. and V. Medina "Shaping the public sphere: the Politics of Fictional Expectations in Social Media."

⁷⁰ Malik, M. "Fiqh al-Muwatanah (Fiqh of Citizenship): A New and Inclusive Islamic Approach for Multi-religious Societies."

⁷¹ Cook, B. J. and M. Stathis (2012). "Democracy and Islam: promises and perils for the Arab Spring protests." *Journal of Global Responsibility*.

⁷² Malik, B. A. (2018). "Islam and Civilizational Interaction: Understanding the Prophetic Paradigm of Dialogue." *Justice and Ethics in the Contemporary World: JCJCA 2017*: 99.

are dual in nature; one type focuses on the internal issues and disputes, whereas the other sort focuses on the exterior dangers and the perils such as wars⁷³. To acquire retaliation for those individuals who got massacred illicitly, forcing a disbursement of blood capital, demonstrating kindness and conviviality along with the presentation of the conflicts that remained unresolved to the Prophet Muhammad Mustafa SAWW encompassed inner compulsions along with the accountabilities. These responsibilities that have been defined in the treaty of Madinah at one-fold describes the obligations that one group of people owe to the other group of people and on other fold represents and signifies the civil and religious liberties of the group of people who get assassinated or are killed illicitly to be recompensated for their forfeiture⁷⁴. Also, the rights of the people to acquire conviviality along with the kindness and the freedoms of the ones to win justice and equity every time, no matter what. Just in case of any exterior peril the constitution states that a believing individual must not annihilate any other non-believing individual. Furthermore, a believing individual must not aid an individual who is non-believer against the one who is a believer. Moreover, it has also made compulsory for the believer to take the revenge of his fellow believer who has lost his life while fighting in the way of Allah⁷⁵. Every related party of the treaty of Madinah inclusive of the Jews were made compulsory in protecting the state of Yathrib in opposition to any mishap caused by the rival. In case of the English king John however, his indifference towards his subjects along with his self-indulgence together with the tyrannical rule proved not be beneficial for him. His every terrible and domineering act consequently led to damage the confidence of the subjects in their ruling king⁷⁶. The pinnacle of loyalty and affection which the Prophet Muhammad Mustafa SAWW demonstrated in scripting the treaty of Madinah was not seen in case of John at all at the time when the king was giving the consent for this agreement of magna carta. Public was infuriated and impatient and were waiting for a savior to protect them from this miserable life but, unfortunately there was no one who could save them from this life of slavery⁷⁷. Therefore, the public opted to stand against the tyrannical ruling system of the king themselves which consequently led to the wars of the great lords of Britain. The king John then had to surrender to the baron's demands who compelled him to give his consent for the magna carta which finally restricted the powers of the king and forced him to abide by what the public says. This agreement made the king to give due respect to the legitimate civil rights of the public. Of the 63 clauses of magna carta, one section demonstrated liberating the English church from the influence of royal authority, whereas the other section demonstrated that the people of England will once again be able to enjoy the civil liberties that they once possessed also, this liberty would be extended all over the England, in every city⁷⁸. Also, this clause assured that particular type of the government for the rights of the local people would be established which would take care the liberties of the general population. This shows that this section provided the local constitutional body to take necessary decisions for the betterment of the matters of the region. Both these documents settle the matters of the specific group of people such as audience in the case of treaty of Madinah is the public living in the state of Madinah while the audience in the case of constitution of magna carta is the people living in the state of England.

4.2 Authority

These manuscripts gave the Islam-based and west-based notion about the rights of the human⁷⁹. Furthermore, not only the reference of Magna Carta is taken in the decisions by the courts of United Kingdom but also in the states where the system of common law is very much prevalent. Also, it is

⁷³ Garay Acevedo, C. P. and A. d. P. Pérez Guecha (2018). "Human rights in Colombia, final peace agreement, and its projection in the security and defense policy." *Revista Científica General José María Córdova* 16(23): 83-105.

⁷⁴ Khan, Z. "For Christians, To be Born Again in Islam!".

⁷⁵ Kleidosty, J. (2016). *The Concert of Civilizations: The Common Roots of Western and Islamic Constitutionalism*, Routledge.

⁷⁶ Deswal, V. P. S. (2010). "Indian Constitution: As a Safeguard of the Rights of Labours." *Indian JL & Just.* 1: 159.

⁷⁷ Tröger, K. W. (1990). "Peace and Islam: In theory and practice." *Islam and Christian-Muslim Relations* 1(1): 12-24.

⁷⁸ Bhat, A. M. (2015). "Human rights in Islam."

⁷⁹ Islam, M. T. (2018). "Peaceful Coexistence of Various Religious Groups in Islam." *Journal of Islamic Thought and Civilization (JITC)* 8(2): 183-203.



also utilized as the legitimate source for deciding about various cases. However, the treaty of Madinah was applicable only up to the extent of the state of Madinah but not for the rest of the Arabia. Synergism amidst the religion along with the political set up can be witnessed by the careful observation of the treaty of Madinah which is prevalent since the beginning of Muslim's religion i.e., Islam⁸⁰. In accordance with the governance system of Islam religion together with political system are dependent upon one another and are connected with one another which can never be unlinked or unassociated from one another. In the treaty of Madinah, no such restrictions are there imposed with the ruling body. The most probable reason behind this is the fact the figurative portrayal of the ruler declared in this treaty is up to the perfection level which can only be attained by the Prophet Muhammad Mustafa SAWW⁸¹.

As the treaty of Madinah indicates the disputes among the groups of Muslims and their neighboring regions, the constitution of magna carta emphasizes on the disputes among the groups of Christians. However, in either of the cases, finding an accurate governmental system that might be efficacious for the modern world is not reasonable⁸². Nonetheless, there exists some specific laws and policies which succeeded in acquiring the legality in the social groups they were formulated to operate for. Furthermore, it is important to notice that the comparison of the treaty of Madinah with the constitution of magna carta is also significant based on the fact that nearly every Muslim country today is the component of the UN i.e., united nations. Therefore, they are the constituent participants to the principles inclusive of the universal declaration of human rights along with several other worldwide constitutions which are focused on protecting and preserving the similar legitimate rights and liberties such as the freedom of unbiased prosecution along with the habeas corpus remedy that is entrenched in the charter of Magna Carta⁸³.

4.3 Scope

Both of the manuscripts have been discussed in detail. It is obvious from their overview that both of them were authored in distinctive eras and contained distinctive social and political set-up. Nonetheless, these manuscripts contain immense symbolic importance because they are the cornerstones and foundations of human rights even in the contemporary world. Also, universal declaration of human rights is highly impacted by these documents. Both of these treaties have contributed to play a significant part to create the philosophies which are Islam-based and Hesperian along with the strengthening ideas of human rights.

4.4 impact of both pacts on the Global Level

Keeping in view the contemporary situations, the charter of Magna Carta seems to be much valid and alive having the legitimate significance even at present also, it is mostly used as a reference in several case laws. However, the treaty of Madinah was observed to be applicable on the particular region having the limited perspectives. Furthermore, it is outmoded legally because based on its perspectives it was entirely particular. That is why, it was not utilized as a reference, neither in the political perspective nor in the social perspective in the following times. This might be because of the reality that during 19th together with the 20th centuries most of the Islamic states were greatly inspired by the Hesperian concepts of the rights of human and developed their constitutions in accordance with those of the Hesperian states and entirely ignored the treaty of Madinah in developing their constitutions. Because the charters of the western states were greatly inspired by the charter of magna carta therefor, it was the same manuscript that seems to be really alive and is still utilized as a reference in formulating the multiple constitutions along with the charters. However, if middle ages are taken into consideration or even the era of renaissance and that of enlightenment it would be clearly observed that the treaty of Madinah undoubtedly posed a greater

⁸⁰ Olayemi, A. A. M., A. Hamzah Alabi and A. Hidayah Buang (2015). "Islamic Human Rights Law: A Critical Evaluation of UIDHR & CDHRI In Context Of UDHR." *Journal of Islam, Law and Judiciary* 1(3): 27-36.

⁸¹ Miazzi, M. A. R. and M. T. Islam "Attitude of Muslim Ummah towards Non-Muslims: Theory and Practice."

⁸² Hasan, S. (2007). "Islamic concept of social justice: Its possible contribution to ensuring harmony and peaceful coexistence in a globalised world." *Macquarie LJ* 7: 167.

⁸³ Sultana, S. (2005). "Western Concepts of Human Rights." *The Islamic Culture "As-Saqafat-ul Islamia" الإسلامية الثقافة-Research Journal-Sheikh Zayed Islamic Centre, University of Karachi*(04): 30-47.




influence in the future eras as well along with the employment of this treaty as a foundation and crux in the formulation of the political and social structural framework of the great Ottoman empire. The Empire of the great Ottomans was extensively multi-ethnic groups containing society just as similar to the one in the state of Madinah, because the individuals of multiple faiths and ethnicities lived there in the boundaries of the Ottoman Empire. The concept of establishing the political and social structural framework was adopted directly from the perspectives of the treaty of Madinah which were then utilized in formulating the arrangement and outline of the empire of the ottomans. The treaty of Madinah directly influenced the system of justice of the ottoman kingdom also and the similar Islamic framework of social equity was used in ottoman kingdom. The notions of pluralism together with the inclusivism that are greatly emphasized in the treaty of Madinah are found nowhere in the charter of magna carta because magna carta has never been found to deal with such issues. The charter of magna carta condenses and lessens the powers along with the freedoms of the ruling body, in contrast to which the treaty of Madinah does not reduces the benefits and freedoms of the ruling body of the land. When the treaty of Madinah was formulated, at that time the Holy Prophet Muhammad Mustafa SAWW himself was the monarch of the state that has been described in the treaty merely suits the perfect and immaculate supreme leader like the holy Prophet Muhammad Mustafa SAWW therefore, the treaty of Madinah might not be able to be employed as a paradigm or standard to the future system of politics around the entire globe. Although, both the treaty of Madinah and the charter of Magna Carta were formulated in entirely distinctive eras and possessed entirely dissimilar perspectives also, audience to both of the manuscripts was exclusively different still, both of these scripts share one aspect of serving as a source of defending and protecting the liberties and legitimate rights of their concerned parties.

CONCLUSION

While making the analysis of the treaty of Madinah alongside the charter of Magna Carta, it is clearly evident that they are fundamentally diverse in their origins. They are the scripts which focuses on the specific matters of specific times in a specific region. However, these scripts preserve the incredible level of similarity to the contemporary constitutional frameworks as the crux manuscripts of Islamic and western world's protection of the legitimate rights along with the responsibilities of every single person. The charter of magna carta climaxes the tautness in Christiane along with its neighboring regions amidst the demand of governance utilizing materialistic together with the ferocious types of forces, whereas, performing according to the privileges for the human rights which few will make arguments about the training advocates of Christians. In none of these stances, anyone would be able to acquire an already made governmental system which would be applicable in today's world, however, it is possible to have the greatly-established, manageable principles which have acquired world-wide acceptance along with the legality among their representative social groups. After comparing the both manuscripts, the conclusion to which I have been brought is that the treaty of Madinah and the charter of magna carta both have proved to highly influence the creating the religious structural framework of the audience states for whom they were formulated however, due to the extensive inspiration of magna carta and having the knowledge that this charter is still alive due to some of its virtues, it is this charter that is rightly deserving to be considered as the most primitive source of contemporary world's human rights also, the manuscript that was written at the earliest of times. Although these manuscripts were extensively specific in their perspectives in the starting whereas because of the deeply seated and widespread attributes of the charter of magna carta, it surpasses the restrictions of the perspectives and therefore, it even today mentioned as the primitive known appropriate written charter and the cornerstone with the help of which the contemporary notion of the rights of human is obtained.

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