**The Charter of Madinah – Mankind’s First Written Constitution**

Throughout the history of the world, all countries and nations operated under certain laws promulgated by their founders/rulers.  From the codes of Hammurabi to the constitutions of today, treaties have evolved significantly over centuries.

Many historians consider the English Magna Carta to be the first written constitution; however, according to the research of Dr. Muhammad Hamidullah, one of the most eminent Muslim researchers and scholars of the 20th century, the **Charter of Madina (Mithaq-ul-Madina)** was the first constitution written by mankind.  The Charter of Medina precedes the American constitution of 1787 and the English Magna Carta of 1215.

**The Backdrop to the Charter of Madinah**

Prophet Muhammad (peace be upon him) delivered the message of Allah in Makkah for about 13 years in the face of staunch opposition.  In 622 A.D. he finally moved to Yathrib (Madinah) together with his followers after receiving an invitation from the Arab tribes of Yathrib.

At that time, Yathrib was a pluralistic society composed of people of different religions with a large population of Jews.  These tribes were engaged in bitter quarrels and often went to war over disputes that had been going on for generations.  There were 12 tribes of Arabs divided between Aws and Khazraj and ten Jewish tribes including Banu Nazeer, Banu Quraiza and Bani Qainuqa.

The continuous state of anarchy in Madinah eventually forced the residents to seek options for peace.  They agreed to make a prominent tribal chief, Abdullah ibn Ubay bin Salool, their king so that peace and harmony could be achieved.  Around this time, Prophet Muhammad (SAW) arrived in Madinah and the tide turned against Abdullah bin Ubay.  Since the Prophet was viewed as a respectable, honest and trustworthy person, he was requested to head the soon to be city-state of Madinah.

**Creation of the Charter**

After assuming a central role in Madinah, the Prophet recognized a few pressing needs, which included:

* Determining the rights and responsibilities of the local population as well as the immigrants from Makkah
* Making agreements with the non-Muslim population of Madinah, especially the Jews, to ensure peace and harmony
* Creating a strategy and plan to defend the city against invasions
* Making resources available for the immigrants to make a living

The strong need to create a centralized government in Madinah to end the prevailing anarchy culminated in the creation of the Charter of Madinah.  The text of the charter has been preserved in its entirety by the scholars Ibn Ishaq and Abu Ubaid.  It is divided into two parts; the first part deals with the rules and regulations for Muslim immigrants (Muhajiroon) and Muslim natives (Ansar) and the second part deals with the rights and responsibilities of the Jews of Madinah.

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

Many historians believe that the charter was developed in two stages: the first part was written before the battle of Badr and the second part about relations with Jews, after Badr, when Muslims had gained a much stronger standing.  The salient features of this charter include:

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

**Significance of the Charter of Madinah**

It is a landmark document, not only in Muslim history but also in the constitutional history of the world.  This charter transformed all aspects of life in Madinah including political, religious and social life.  Its biggest achievement was bringing belligerent tribes together to form a polity and establishing long term peace among them.   It put an end to the prevailing anarchy and protected the life, liberty, property and religious freedom of all people included in the accord.  It created a state where equal rights and responsibilities were truly provided for all citizens.  The charter of Madinah replaced the traditional tribal kinship with a new social order and created a nation state with a new social fabric.

Dr. Hamidullah writes in his book, **The First Written Constitution**,

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

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**Full Text of the Madinah Charter**

1. **This is a document from Muhammad the Prophet (may Allah bless him and grant him peace), governing relations between the Believers i.e. Muslims of Quraysh and Yathrib and those who followed them and worked hard with them. They form one nation -- Ummah.**
2. **The Quraysh Mohajireen will continue to pay blood money, according to their present custom.**
3. **In case of war with any body they will redeem their prisoners with kindness and justice common among Believers. (Not according to pre-Islamic nations where the rich and the poor were treated differently).**
4. **The Bani Awf will decide the blood money, within themselves, according to their existing custom.**
5. **In case of war with anybody all parties other than Muslims will redeem their prisoners with kindness and justice according to practice among Believers and not in accordance with pre-Islamic notions.**
6. **The Bani Saeeda, the Bani Harith, the Bani Jusham and the Bani Najjar will be governed on the lines of the above (principles)**
7. **The Bani Amr, Bani Awf, Bani Al-Nabeet, and Bani Al-Aws will be governed in the same manner.**
8. **Believers will not fail to redeem their prisoners they will pay blood money on their behalf. It will be a common responsibility of the Ummat and not of the family of the prisoners to pay blood money.**
9. **A Believer will not make the freedman of another Believer as his ally against the wishes of the other Believers.**
10. **The Believers, who fear Allah, will oppose the rebellious elements and those that encourage injustice or sin, or enmity or corruption among Believers.**
11. **If anyone is guilty of any such act all the Believers will oppose him even if he be the son of any one of them.**
12. **A Believer will not kill another Believer, for the sake of an un-Believer. (i.e. even though the un-Believer is his close relative).**
13. **No Believer will help an un-Believer against a Believer.**
14. **Protection (when given) in the Name of Allah will be common. The weakest among Believers may give protection (In the Name of Allah) and it will be binding on all Believers.**
15. **Believers are all friends to each other to the exclusion of all others.**
16. **Those Jews who follow the Believers will be helped and will be treated with equality. (Social, legal and economic equality is promised to all loyal citizens of the State).**
17. **No Jew will be wronged for being a Jew.**
18. **The enemies of the Jews who follow us will not be helped.**
19. **The peace of the Believers (of the State of Madinah) cannot be divided. (it is either peace or war for all. It cannot be that a part of the population is at war with the outsiders and a part is at peace).**
20. **No separate peace will be made by anyone in Madinah when Believers are fighting in the Path of Allah.**
21. **Conditions of peace and war and the accompanying ease or hardships must be fair and equitable to all citizens alike.**
22. **When going out on expeditions a rider must take his fellow member of the Army-share his ride.**
23. **The Believers must avenge the blood of one another when fighting in the Path of Allah (This clause was to remind those in front of whom there may be less severe fighting that the cause was common to all. This also meant that although each battle appeared a separate entity it was in fact a part of the War, which affected all Muslims equally).**
24. **The Believers (because they fear Allah) are better in showing steadfastness and as a result receive guidance from Allah in this respect. Others must also aspire to come up to the same standard of steadfastness.**
25. **No un-Believer will be permitted to take the property of the Quraysh (the enemy) under his protection. Enemy property must be surrendered to the State.**
26. **No un-Believer will intervene in favour of a Quraysh, (because the Quraysh having declared war are the enemy).**
27. **If any un-believer kills a Believer, without good cause, he shall be killed in return, unless the next of kin are satisfied (as it creates law and order problems and weakens the defence of the State). All Believers shall be against such a wrong-doer. No Believer will be allowed to shelter such a man.**
28. **When you differ on anything (regarding this Document) the matter shall be referred to Allah and Muhammad (may Allah bless him and grant him peace).**
29. **The Jews will contribute towards the war when fighting alongside the Believers.**
30. **The Jews of Bani Awf will be treated as one community with the Believers. The Jews have their religion. This will also apply to their freedmen. The exception will be those who act unjustly and sinfully. By so doing they wrong themselves and their families.**
31. **The same applies to Jews of Bani Al-Najjar, Bani Al Harith, Bani Saeeda, Bani Jusham, Bani Al Aws, Thaalba, and the Jaffna, (a clan of the Bani Thaalba) and the Bani Al Shutayba.**
32. **Loyalty gives protection against treachery. (loyal people are protected by their friends against treachery. As long as a person remains loyal to the State he is not likely to succumb to the ideas of being treacherous. He protects himself against weakness).**
33. **The freedmen of Thaalba will be afforded the same status as Thaalba themselves. This status is for fair dealings and full justice as a right and equal responsibility for military service.**
34. **Those in alliance with the Jews will be given the same treatment as the Jews.**
35. **No one (no tribe which is party to the Pact) shall go to war except with the permission of Muhammed (may Allah bless him and grant him peace). If any wrong has been done to any person or party it may be avenged.**
36. **Any one who kills another without warning (there being no just cause for it) amounts to his slaying himself and his household, unless the killing was done due to a wrong being done to him.**
37. **The Jews must bear their own expenses (in War) and the Muslims bear their expenses.**
38. **If anyone attacks anyone who is a party to this Pact the other must come to his help.**
39. **They (parties to this Pact) must seek mutual advice and consultation.**
40. **Loyalty gives protection against treachery. Those who avoid mutual consultation do so because of lack of sincerity and loyalty.**
41. **A man will not be made liable for misdeeds of his ally.**
42. **Anyone (any individual or party) who is wronged must be helped.**
43. **The Jews must pay (for war) with the Muslims. (this clause appears to be for occasions when Jews are not taking part in the war. Clause 37 deals with occasions when they are taking part in war).**
44. **Yathrib will be Sanctuary for the people of this Pact.**
45. **A stranger (individual) who has been given protection (by anyone party to this Pact) will be treated as his host (who has given him protection) while (he is) doing no harm and is not committing any crime. Those given protection but indulging in anti-state activities will be liable to punishment.**
46. **A woman will be given protection only with the consent of her family (Guardian). (a good precaution to avoid inter-tribal conflicts).**
47. **In case of any dispute or controversy, which may result in trouble the matter must be referred to Allah and Muhammed (may Allah bless him and grant him peace), The Prophet (may Allah bless him and grant him peace) of Allah will accept anything in this document, which is for (bringing about) piety and goodness.**
48. **Quraysh and their allies will not be given protection.**
49. **The parties to this Pact are bound to help each other in the event of an attack on Yathrib.**
50. **If they (the parties to the Pact other than the Muslims) are called upon to make and maintain peace (within the State) they must do so. If a similar demand (of making and maintaining peace) is made on the Muslims, it must be carried out, except when the Muslims are already engaged in a war in the Path of Allah. (so that no secret ally of the enemy can aid the enemy by calling upon Muslims to end hostilities under this clause).**
51. **Everyone (individual) will have his share (of treatment) in accordance with what party he belongs to. Individuals must benefit or suffer for the good or bad deed of the group they belong to. Without such a rule party affiliations and discipline cannot be maintained.**
52. **The Jews of al-Aws, including their freedmen, have the same standing, as other parties to the Pact, as long as they are loyal to the Pact. Loyalty is a protection against treachery.**
53. **Anyone who acts loyally or otherwise does it for his own good (or loss).**
54. **Allah approves this Document.**
55. **This document will not (be employed to) protect one who is unjust or commits a crime (against other parties of the Pact).**
56. **Whether an individual goes out to fight (in accordance with the terms of this Pact) or remains in his home, he will be safe unless he has committed a crime or is a sinner. (i.e. No one will be punished in his individual capacity for not having gone out to fight in accordance with the terms of this Pact).**
57. **Allah is the Protector of the good people and those who fear Allah, and Muhammad (may Allah bless him and grant him peace) is the Messenger of Allah (He guarantees protection for those who are good and fear Allah).**

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