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# THE SCIENTIFIC IMPORTANCE OF KARACHI CONFERENCE ABOUT THE ‘CONSTITUTION OF MEDINA’

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## **Abstract**

Muhammad (peace be upon him) emigrated from Mecca to Medina with groups of Muslims in 622 and signed an agreement with the host citizens such as Arab and Jewish tribes. The agreement has been known as Medina's regulations and also it has been suggested as the significant document in Islam history. Professor Hamidullah considered this document as the 'Constitution of Medina'. International scientific conference, which was held in 1951 in Karachi, Pakistan, has been resulted in adoption of the Resolution on the progressive significance of this document. The aim of this paper is widely discussing the range of issues and highlighting the importance of Karachi's resolution. This conference's resolution might be assessed as a key concept about the values and perspectives of the 'Constitution of Medina'. This study is based on qualitative research methodology and document analysis has been chosen as a method. The main chapters of the 'Constitution of Medina' and the 'Karachi resolution' have been compared, analysed and interpreted by the authors. The outcomes of this study will assist to strengthen of values of Karachi resolution that highlighted the role of 'Constitution of Medina' to construct of Islamic state with secular, democratic and constitutional principles.

*Keywords:* Medina, constitution, Islam, resolution, consolidation

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## **1. Introduction**

International scientific conference held in Karachi, Pakistan in 1951 resulted in a document known as the Karachi resolution [1]. The Resolution highlighted the importance of a document namely the 'Constitution of Medina' (also known as Charter of Medina in the Islamic history). Constitution of Medina has been examined and interpreted by such academics as O. Bolshakov, V. Solovyev, J. Wellhausen, M. Hamidullah, M. Lecker, M. Gil, W.M. Watt, etc. Islam experts emphasized the great values of the Medina's Constitution and Hamidullah [2] claims that it was the first written constitution in the Islamic history. Meanwhile, Karachi conference in 1951 can be assessed as the most significant attempt in this aspect since its Resolution should be confirmed as

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‘ijmah’ in Muslim law. According to the Muslim law, the agreement of experts (mujtahids) in a particular issue assesses as an al-ijmah decision or consensus. As a rule, all Muslims should accept the decisions of ijmah [3]. Thus, Karachi resolution about the religious and legal significance of the Constitution of Medina can be asserted as a conclusive decision for all Muslims. At the same time, it has reported about the historical role and features of the first Islamic State.

Karachi Resolution consists of 17 paragraphs, which have indicated the religious values and legal norms of the Constitution of Medina. This study is aiming to release the strong correlations between the Karachi Resolution and the Constitution of Medina and the significance of the Resolution for Islam Studies.

## **2. Research methods**

Document analysis has been chosen as a method of qualitative research in current study. Interpretative analysis is used for comparing the articles of the Constitution of Medina and the paragraphs of the Karachi Resolution for explaining the logical relationship there. A new methodology of making analogy to the posing problems has been involved in Muslim law that is considering Quran and Sunnah as the precedents [4]. Thus, the messages from the both texts can be proved by the text of Quran, as consequences, each paragraph of the Resolution based on the Constitution of Medina as well as each article of the Constitution based on surahs of Quran. The logical sequence and legality of the Resolution are clearly shown in this study.

## **3. Documentary analysis**

Muhammad - peace be upon him (p.b.u.h) signed an agreement namely as the Constitution of Medina in 622 to keep the peace with religious groups in Medina as well as with the tribes living in the outskirts, which have not accepted Islam yet, such as Damra, Ghifar and Mudlish [5]. In case of the perspectives of development of a new political system in Medina, it was crucial for Muslims to have a sustainability environment and to be tolerant towards to the neighbours. As Hamidullah discloses principles and structure of the first Islamic state, “[t]he Islamic state was founded on tolerance. Jews and idolaters lived in this state at the same conditions as Muslims. Regarding to this fact, Islamic state had a federal structure”. [6]

Firstly, the Constitution of Medina provides a crucial point about interreligious mutual understanding in paragraph 1: “The representatives of different religions have got mutual understanding with common idea about approving only one Creator in this document” [1, p. 169]. It is reported in the article 1 of Medina’s Constitution as: “[This shall be a pact] between the Muslims of Quraysh, the people of Yathrib [the Citizens of Madina] and those who shall follow them and become attached to them [politically] and fight along with them” [2, p. 191]. This means that the rights of Jew tribes such as

Nadir, Qaynuqa, Quraysh and other isolated Christians would be protected as well as the rights of Medina's Muslims. The reason why the Resolution highlighted "mutual understanding between different religious groups regarding to one Creator" is the fact that the norms of "obeying one Allah" is considered in articles 15, 19, 22, 23, 42, 46 and 47 of the Constitution of Medina [2, p. 191-211].

If the resolution of Karachi conference about "[l]egal norms in the contract are based on the Quran and Sunna" [1, p. 169] is considered as a foundational point, it can be asserted that the consolidation of different religious groups is not contrary to the messages of Quran and Muhammad (p.b.u.h). Moreover, Quran indicates that the religions of former prophets preceded and matched to Islam. For example, Quran declares "And strive hard in Allah's Cause as you ought to strive. He has chosen you, and has not laid upon you in religion any hardship, it is the religion of your father Ibrahim. It is He (Allah) Who has named you Muslims." (Al Hajj, 78). The following message announces "Truly, my Lord has guided me to a Straight Path, a right religion, the religion of Ibrahim, Hanifa and it was not of Al-Mushrikun" (Al Anaam, 161).

By analysing those surahs, Ibn Kesir notices that Ibrahim (p.b.u.h) and Muhammad (p.b.u.h) have disseminated the same religion [7]. Regarding the agreement between Muslims and Christians, Quran states that "And when it is recited to them, they say: 'We believe in it. Verily, it is the truth from our Lord. Indeed even before it we have been from those who submit themselves to Allah in Islam as Muslims'" (Al Qasas, 52). "Verily, you will find the strongest among men in enmity to the believers the Jews and those who are Al-Mushrikun, and you will find the nearest in love to the believers those who say: 'We are Christians'" (Al Maidah, 82). To support the idea about collaboration between Muslims and Christians, Ibn Kesir provides as evidence the fact that how Head of Ethiopia Nejassi sent 70 Christians to Muhammad (p.b.u.h) for accepting Islam. Kesir interpreted the tolerance of Muslims towards to Christians as a consequence of this situation [7, p. 1814].

Moreover, it has been suggested that Muslims and Christians have had close interactions by that time. Muhammad (p.b.u.h) sent a group of Muslims, who were not protected and had violence from the Quraysh idolaters to Ethiopia in 615. Nejassi, the Head of this state, accepted and favoured all of them [8]. The second group of Muslims, 83 men and 18 women moved to Ethiopia in 617 [V. Solovyev, *Mohammed, his life and religion*, 2004, <http://vehi.net/soloviev/magomet/index.html>]. While Quraysh idolaters asked Nejassi do not help to Muslims, the Head of Ethiopia proved his actions regarding with the Quranic surahs about Mariam and Jesus [8, p. 130-134].

Quran states about relationships with other religions: "Perhaps Allah will make friendship between you and those whom you hold as enemies. And Allah has power, and Allah is Oft-Forgiving, Most Merciful" (Al Mumtahina, 7). Islam does not allow dominating one nation towards others. All nations are equal regardless their religions. According to Muhammad (p.b.u.h), "Arab nation will

not be able to dominate other nations, as well as other nations are not more dominant than Arab nation” [9].

Therefore, Ates claims that Jewish, Christian and Islam religions have similar principles not only in their bases, but also in the regulation norms of relationships [10]. Muslim lawyers have established a significant source of Islamic law namely “Shariahs before Islam” (rules of previous religions that have not contradicted to Islam) based on these similarities [11].

In fact, the Constitution of Medina focuses on the necessity of preservation of peace because different religious groups have lived in one region. Particularly, article 17 of the Constitution states that “And verily the peace granted by the believers shall be one. If there is any war in the way of Allah, no believers shall make any treaty of peace [with the enemy] apart from other believers, unless that is based on equality and fairness among all.” In addition, the following legal norms are considered in Article 39: “The valley of Yathrib is sacred and there shall be prohibition of fighting and bloodshed among the various communities of the state” [2, p. 210]. This function of Islamic state has been approved on Karachi conference and has been confirmed in the Resolution as “to maintain peace of Muslims to avoid the reasons of danger for peace”.

By studying the terms ‘compatriots’ and ‘citizens’ (in paragraphs 4, 5 and 6) in the Resolution of Karachi conference, it can be noted that despite the religious diversity in Medina, the Constitution of Medina offered keeping the peace and defending everyone’s rights regardless their religions within the law [1, p. 170]. These have been highlighted as the most important functions of Islamic state in the Constitution of Medina. Moreover, these norms are likely to be in harmony with the term of ‘Islam’. It has been originated on the Arabic word ‘Salema’ (*trans.* peace, purity, humility, obedience) and in religious term that means faith and obedience in the Creator, devotion to Allah and following in the religion of His messenger, Muhammad (p.b.u.h) [12]. The Resolution has emphasised the significance of keeping the peace in the Constitution of Medina. For instance, it is stated in Paragraph 5 of the Resolution as: “Islamic state in Medina protects the personal security, property rights and the dignity of its citizens and the freedom of speech. Also it gives equal rights to its citizens in the worship of God, in the opportunity to travel, to engage in their business, to enjoy the social benefits and to work to increase the career ladder.” Moreover, paragraph 7 declares: “The state allows non-Muslims to adhere to their religions, to worship, to receive an education and to observe their traditions within the law.” Therefore, these norms can illustrate how patriotic and civic consciousness have been constructed gradually instead of tribalism in the Arab society by that time.

In addition, articles 17 and 39 of the Constitution of Medina offer to keep the peace and to preserve political stability in the state. It has been suggested that if any state has weaknesses in the regulations to maintain political stability, it would likely lost their independence or integrity. Thus, the Constitution of Medina gave a big priority for the issues to keep the peace as well as to preserve

political stability. As Karachi conference concluded the norms (in paragraph 16) of the Constitution of Medina regarding to political stability, "Promoting ideas or organizing movements resulting disorder and anarchy that is contrary to the laws issued by the state are not allowed" [1, p. 171].

Secondly, the Constitution of Medina considers the norms designed to protect the social rights of Medina's citizens as one of functions of Islamic state. Regarding to social functions of the state, the Constitution, in the article 12, is announcing that "The believers shall not leave a debtor among them, but shall help him in paying his ransom, according to what shall be considered fair". Article 15 states: "The security of God [granted under this constitution] is one. This protection can be granted even by the humblest of the believers [that would be equally binding for all]." It is also indicated in Article 16: "A Jew, who obeys us [the state] shall enjoys the same right of life protection [as the believers do], so long as they [the believers] are not wronged by him. [the Jews], and he does not help [others] against them". Article 34 is about that "Jafna, a branch of Banu Thalaba, shall enjoy the same rights as granted to Banu Tha'laba". Article 40 is providing that "All sub-branches of the Jews shall enjoy the same rights as granted to them [the Jews]" [2, p. 211].

Karachi conference highlighted that "regardless social and religious diversity of belief the rights of compatriots in provision of food, clothes, accommodation, medical care and education are equal". Moreover, it has been indicated that "citizens are given equal rights for the performance of worshipping, travelling, doing business, improving social positions and making promotions". It is explained further in paragraph 4 as: "non-Muslim citizens were also allowed within the law to pray, to travel, to do business, to study, to get success in their careers and to get married and to raise children" [13]. Thus, the Karachi resolution considered that the Constitution of Medina clearly identified main social functions of Islamic state.

The Constitution of Medina also regulated the legal norms of family law and civil matters. Buti [8, p. 216] cites article 40 of the Constitution is about "All sub-branches of the Jews shall enjoy the same rights as granted to them [the Jews]" and article 41 is that "No one shall violate the pledge due to his ally and verily; help shall be given to the oppressed" as the norms containing women rights together with "maula" (the person given freedom) and "dahlil" (the person taken care for by the tribe on the base of friendship). The implication of article 40 is that individuals in the positions of "khar" (a member of the tribe of an equal position), "maula" and "dahlil" have equal rights; a man and a woman in the family have an equal status. As it is stated in article 41 "A woman shall not be given any shelter without the consent of her family", that means it is prohibited to pretend a woman who is married to another man.

Thirdly, Karachi Conference proclaimed the principles of constitutional state in its resolution. It has been highlighted that the Constitution of Medina has operated in accordance with the principles as "The rights of citizens are protected within the law and no one will be punished in his individual capacity without the court's decision", "The head of state and other individuals have the

same rights. Statesmen will act strongly in the framework of the law". "Any dispute in case of controversy of the laws issued by the State which may result in trouble and lead to anarchy and disorder will not be allowed" [1, p. 171].

Although the Constitution of Medina does not contain all legal norms regulating totally any spheres of the society, it had the main bases of legal judgment. For example, the certain legal norms on paying taxes namely 'zakat' to the state by Muslims and the tax namely 'jizyah' paid by non-Muslims were not considered in the Constitution of Medina. However, according to articles 23, 42 and 47, the last instance of making any decision is referring to Allah and Prophet (p.b.u.h) [2, p. 191-211], since it can be noted that the fulfilment of the state treasury was dependent on the solutions of the Quran, Sunnah and 'Shura' (Council).

At the same time, the Constitution of Medina urged Arab society that was living in tribes upon a new style of life and values. After the adoption of the Medina's Constitution all residents of the city despite of their wishes have become the members of a new political society with its certain legal judgments. The attributes of constitutional state appeared in this political society. In other words, legal norms dominated in the regulation of citizenship in the Islamic state. Article 46 is announcing that "No party shall have the right to violate the constitution. Every person who is guilty of a crime shall be held responsible for his act alone" and it demonstrates the supremacy of the law. The norm of article 40 is about "All sub-branches of the Jews shall enjoy the same rights as granted to them [the Jews]" and the norms of Articles 26-35 are mentioned that "maula" (sub-branches) will be afforded the same status as "hur" (free man) and all citizens of Medina have equal rights within the law. Article 13 states collective responsibility towards to any crime in a society by announcing that "There shall be collective resistance by the believers against any individual who rises in rebellion, attempts to acquire anything by force, violates any pledge or attempts to spread mischief amongst the believers. Such collective resistance against the perpetrator shall occur even if he is the son of anyone of them". Moreover, article 21 states that "When anyone intentionally kills a believer, the evidence being clear he shall be killed in retaliation, unless the heirs of the victim are satisfied with the blood money. All the believers shall solidly stand against the murderer and nothing will be lawful for them except opposing him." [2, p. 209] This means that the Constitution of Medina established the priority of the law in Arabic society. Before that, only Sheikhs, the heads of tribes, could identify any type of crimes and approve a punishment for them. There were not generally established laws in determining the types of crime and punishments, all these issues Sheikhs resolved based on their own experiences and prejudices [5, p. 93]. It can be confirmed that the Constitution of Medina has declared and established the privileges of the law and determined that any crime would be punished within the law.

Buti agrees that Islamic state in Medina founded by Muhammad (p.b.u.h) followed to four principles called 'solidarity', 'mutual help', 'equality' and 'justice' [8, p. 217]. It can be entirely agreed that the principle of solidarity is

obliged from individuals for the sake of the city-state Medina in the articles 1, 15, 37, 45 of the Constitution [2, p. 191-211]. Also the principle of mutual help is noted in the articles 12, 15, 16, 34, 40, which are about that signatories have to help each other in case of need (ibid). In addition, according to the term equality in articles 15-16 and 25-35, individuals were given the status of equality; the principle of justice is announced in articles 3-11 that all participants have to make solutions of matters in accordance to justice principles [2, p. 191-192].

Finally, The Constitution of Medina considered the legal norms on the government divisions of the state as well. Articles 3-11 are devoted to each tribe, "the deal among the believers shall be in accordance with the recognized principles of law and justice". At the same time, article 45 declares that "Every party to the treaty shall be responsible for the measures and arrangements of the defence of its facing direction" [2, p. 211]. These norms demonstrate that the judicial and executive power was transferred to the Heads of tribes. However, it is mentioned in articles 3-11 that if the Head of tribe could not solve the problems within the "principles of law and justice", or their decisions would not fit the requirements of Quran and Sunnah, or one of the parties disagree with the verdict, then regarding to articles 23, 42, 47 the last solution would be given by Muhammad (p.b.u.h) [2, p. 191-192]. Karachi Conference interprets the government division in the Islamic state as "The head of state may impose the public administration to other officials or certain professionals" [13, p. 169].

The secular attributes of the state were also reflected in the Constitution of Medina. It is obvious to have a question how the state management system could be based on the secularity when the Head of Medina city-state was Muhammad (p.b.u.h), Prophet of Islam religion. Meanwhile, the freedom of religion and secularism are clearly identified in the basis of Islam. For example, article 25 of the Constitution of Medina states that "The Jews of Banu Awf [non-Muslim minorities] shall be considered a community along with the believers. They shall be guaranteed the right of religious freedom along with the Muslims" as well as Quran announces, "There is no compulsion in religion" (Al Bahara, 286). Therefore, Turkish scientists such as Ü. Günay, H. Güngör and A.V. Ecer assert that the secular attributes of the state, which were regulating interreligious relations, have been noticed in the Constitution of Medina [14]. Certainly, the modern state and religion regulation norms are not comparable with the norms of the Medina's Constitution. However, the fact that the Constitution of Medina had established secular attributes of the state should be claimed.

The Constitution of Medina was a document in the Muslim law that has Sunnah's force directly after Quran within those days. Sunnah is the portion of Muslim law based on the words and acts of Muhammad (p.b.u.h) [3, p. 211]. As Prophet (p.b.u.h) agreed and sealed the text of the Constitution of Medina, this should be considered as a document with Sunnah's value. Thus, Hamidullah (2003) strongly agrees that "the state management in Islam is based on the Quran. The Constitution of Medina can be considered as the second source after the Quran. Islamic bases have not considered certain state management either republic or monarchic forms. Thus, Muslim lawyers approved any state

management forms which are not contrary to the principles of Islam.” [6, p. 181] This point of view demonstrates the necessity of determining the state management form in Islam.

It could be confirmed that the management form of the Islamic state in 622 in Medina was based on ‘the Prophet’s power’ since the state foundation initiators always applied to the surahs of Quran and the Prophet Muhammad’s (p.b.u.h) Sunnah. The council organization as ‘Shura’ made decisions only in case of any dispute or controversy that were not covered by Quran and Muhammad’s (p.b.u.h) Sunnah. As Ibn Haldun notes, “State management can be considered in three classifications such as natural management, political management and Prophet’s management. Natural management means to govern the state taking people’s requirements and needs into consideration, whereas political management is concerning about consulting people and getting them to give up harmful actions on the base of advice and consultation protecting life values. But Prophet’s management is aimed to protect people’s rights not only in this life, but also afterlife. This means that the social and political issues are regulated on the basis of Islamic law.” [15]. Hassanov [16] agrees with this statement by concluding that “theocratic state is the state governance being in a straight contact with Muhammad (p.b.u.h) and Allah” [17].

It is mentioned in the article 15 of the Medina’s Constitution, “The security of God [granted under this constitution] is one”, and in the article 22: “A believer who believes in God and in the Hereafter and agrees to the contents of this document shall not provide any protection or concession to those who engage in mischief and subversion against this constitution. Those who do so shall face the curse and wrath of God on the Day of Resurrection. Furthermore, nothing shall be accepted from them as a compensation or restitution [in the life hereafter].” In addition, article 47 states that “Verily, Allah and the Prophet Muhammad [Peace be upon them], the Messenger of God, are the protectors of good citizens and of those who fear from Allah” [2, p. 211]. All of these norms demonstrate that theocratic character of Islamic state that established in Medina based on Prophet Governance.

It should be acknowledged that the political system described by the Constitution of Medina had theocratic state formation. Articles 36, 42 and 47 state clearly that Muhammad (p.b.u.h.) would rule according to Allah’s will. Nevertheless, this Islamic state has had a democratic institution as ‘Shura’ (Council). For example, article 12 of the Medina’s Constitution states that “the deal among the believers shall be in accordance with the recognized principles of law and justice” [2, p 211]. It can be assessed as the confirming that people have the rights to vote and ‘Shura’ played a significant role in political system. Moreover, the fact of the creating ‘Shura’ is mentioned in Quran as state management by saying “and who conduct their affairs by mutual consultation” (Ash Shura, 2/38), “and consult them in the affairs” (Al i-Imran, 3/159). In the situations when there was no message from the Quran regarding any problem, it was the responsibility of ‘Shura’ to discuss it thoroughly and to make a final decision. For example, during Uhud war, the decision to attack Quraysh near the

mountain Uhud was taken by the 'Shura' [18]. The hadith is about what Muhammad (p.b.u.h) said "I cannot appoint statesmen without a consultation, if I could make a decision I would appoint Abdullah Masghud" [17, p. 124] indicating the important role of 'Shura' in the state management. Therefore, Karachi Conference defined how the Medina's Constitution established state management in a democratic way and described a significant role of 'Shura'. The relationship between the Head and the Council has been described as "Oppressive authority of the head of state is not allowed. The head of the state is obliged to carry out the functions of the state consulting with members of the government and the representatives of the people"; "The head of state cannot deny a part or the whole parts of the constitution" [1, p. 170]. Thus, it is introduced 'Shura' as an essential part of the state management.

Moreover, the fact that Islamic state approved the election of the head of state signposts about democratic principles are not contrary to the theocracy form. The process of the election of the Head of Islamic State continued even after Muhammad's (p.b.u.h) death. For example, after Muhammad (p.b.u.h) Abu-Bakr and then Osman were elected as the Head of the state by the members of 'Shura' [15, p. 87-90]. Karachi Conference stated in paragraph 12 that "By electing the head of state people have the right to remove the head of state" [1, p. 170] and it could be interpreted as proof of the fact that the head of state had been elected due to voting. It can be concluded that although the Constitution of Medina was intended to establish an Islamic theocratic state, at the same time in this state some legal and democratic norms have been successfully applied.

#### **4. Conclusion**

This paper has studied the Constitution of Medina through the interpretation of the Karachi Resolution. The resolution that was approved on in 1951 on Karachi Conference can be assessed as a significant issue in research of political, social, and religious issues in Islamic state in Medina. Moreover, the Constitution of Medina has been suggested as a significant document written as 'hitab' (in a written form) in the Arab society from the 7<sup>th</sup> century. The matters considered in the document are systematized and the order of concepts is based on the consolidation rule. It is noteworthy that the concept of 'compatriots' appeared in Medina's Constitution to set up the principles of equality and tolerance as progressive values and to destruct the notion of tribalism. At the same time, the Prophetic governance system and 'Shura' (Council) developed to prevent the autocratic power in the state. However, the Constitution of Medina might not be compared to the modern codification and consolidation of legal documents. This document included the political, administrative, social, legal matters of all individuals living in the city-state Medina. Meanwhile, the detailed interpretation of the Karachi Resolution demonstrated that majority of principles of the Constitution of Medina could be adopted recently in interreligious collaboration.

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