



**FIRST WRITTEN CONSTITUTION OF THE WORLD: AN IMPORTANT DOCUMENT OF THE PROPHET'S TIME: A STUDY OF DR MUHAMMAD HAMIDULLAH'S VIEWS**

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**ABSTRACT**

The paper argue that the Dr Muhammad Hamidullah made significant contribution to the Islamic literature by tracing out the first written constitution of the world and fortunately the Prophet had drawn up this important document. Dr Hamidullah is known for its systematic presentation to the world. He argues that for the first time in history the right and obligations of the subjects and the sovereign were reduced to writing. One of interesting point this paper explore that this historic document of the first written constitution of the state was piloted by a man who was not able to write himself. . By analyzing the contents of the first part of the Charter, Dr. Muhammad Hamidullah stated that Madinah was the first independent state of Muslims which had a written Constitution. Therefore, in view of Dr. Muhammad Hamidullah, it was first constitution of the world in which the principles of brotherhood, equality and freedom of action were defined in written form to play an active part in the political unit. The author translated the constitution into English and therefore it is due to his efforts this unique achievement of the Prophet's time became known across the world.

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**INTRODUCTION**

Dr Muhammad Hamidullah is widely known across the Islamic world, in the Indian subcontinent and in Europe and North America for his seminal and outstanding contributions to the advancement of Islamic studies and to the dissemination of noble Islamic teaching. He also rediscovered and edited a number of rare manuscripts. He was a prolific writer and his works may be considered as encyclopaedic ones. As a dedicated researcher and great Islamic Scholar he contributed to all the major branches of the Islamic sciences particularly Qur'an, Hadith, Islamic jurisprudence and Sirah in different languages. He is one of those eminent scholars of the modern period who had left very deep impact on the academic life of the Muslims of the entire world. One of the remarkable contributions of dr Muhammad Hamidullah which reveal his international personality is first written constitution of the world: An important document of the Prophet's time. This important document of first written constitution of the holy Prophet by dr Hamidullah first published in England in 1941. The author translated the constitution into English and therefore it is due to his efforts this unique achievement of the Prophet became known to the world. Further this is well-known that Madinah Charter (Watha'iq-e-Madinah) prepared and promulgated by the Prophet (SAW) for the multi religious citizens of the city state of Madinah in 622 A.D., is really a constitutional document of prime importance.

Thus the Dr. Hamidullah has rightly designated it as the first written constitution in the world. this is not only the first written constitution of the world but also revolutionary step in the sense that it was promulgated for a pluralistic society, giving equal rights to all those citizen of Madinah who agreed with the clauses of the Charter and pledged to adopt them in letter and spirit. The credit for systematic presentation of this written constitution of the world goes to the great dr Muhammad Himudullah.

***The first written constitution of the world: The explanation by Muhammad Hamidullah***

There can be no society without a state, and there can be no state without a constitution, one of the celebrated maxims of political science. The word constitution is being used in many senses, in political sense it signifies the constitution of state. The constitution of state may be defined as a body of rules and regulations, written as well as unwritten. H.J.Laski wrote that not to speak of civilized nations, even the savage posses their own fixed rules for government and administration of justice; and even the most autocratic chief finds himself controlled by them. However before the time of the Prophet Muhammad (PBUH) only ordinary laws, reduced to writing can be found instead of any authoritative constitution of state. Dr hamidullah state that in spite of strenuous search, I could not find any instance of the constitution of a country as distinct from ordinary laws reduced to writing, before the Prophet's time. He says that truly Mann Smiriti (500B.C)

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mentions the duties of a king and the Artha Shastra (Science of Politics) by Kautilya (300 B.C) and the books of Aristotle contain complete treatises on politics. Further Aristotle describe the constitution of 158 of his contemporary city-states in many countries, including india. Dr Himudullah wrote that from among these monographs, only the constitution of Athens has come down to us. He further says that the writings of this kind are either in the nature of text-books or "advice-books" to princes, or are historical accounts of the constitutions of certain places. But none of these enjoys the dignity of an authoritative constitution of a state issued by the sovereign of the country.

Describing the conditions of city of Madinah, Dr. Hamidullah has given the factors which led to the preparation of the historic document. He says that the two Arab clans Aus and Khajraj were divided in twelve tribes and Banu Qainuqa, Banu Quraiza and Banu Nazir were divided in the ten tribes. There were constant internecine, tribal wars with general lawlessness prevailing. The Prophet Muhammad (PBUH) at once set about organising the city in order to give it the semblance of a state and to codify laws, which would form the basis for what can safely be called a basic constitution. This Charter was drafted in view of the following requirements of people of Madinah.

1. Determination of rights of inhabitants of Madinah and Muslims.
2. Residential arrangements for the refugees of Makkah.
3. Agreement with non Muslims tribes especially Jews.
4. Organization of state administration and arrangements for defence of Medina.
5. Compensation for the loss of life and property suffered by the refugees at the hands of the Quraish of Makkah.

Dr Muhammad Hamidullah wrote that in the first year of al-higra, the Prophet had a deed drawn up in which there was a detailed discussion of the prerogative and obligation of the ruler as well as of other immediate requirements. This constitution was drawn soon after the establishment of polity in medina. It was a unique achievement because for the first time in history the rights and obligations of the subjects and the governor were reduced to writing. This constitution was drafted with the consent of all parties concerned. Therefore came into existence the first written constitution of a state piloted by a man who was not able to write himself. This historical document contains 53 sentences or, to use legal terminology, sections. This document which has been referred to as kitab or sahifa meaning a "code of action" or "chart of duties." Further in words of dr Hamidullah it amounted to a declaration of the city of Madina as a city-state for the first time, and to laying down of a code for its administration.

Dr Hamidullah has divided this document into two distinct parts, the first part contain 25 clauses and second parts runs from 24 to 47. He further sub-divided it into many sub-clauses. And in his count it consists of 28 clauses and thus the whole document consists of 53 clauses in all. The first part is related to rights of migrants of Makkah and helpers of Madinah and the second part dealt with the rights and duties of the Jewish tribes of Madinah. Analyzing the contents of the first part of the Charter, Dr. Muhammad Hamidullah stated

that Madinah was the first independent state of Muslims which had a written constitution. He says it is the "first written constitution of the world". Moreover the Prophet introduced the moral values in politics. The Prophet did away with the concept that king could do no wrong. The Prophet declared himself the messenger, representative and servant of God. Further it was laid down in this Charter that this political unit will obey the orders issued by "the Prophet Muhammad, the messenger of Allah".

Regarding the justice in this constitution customary private justice was abolished and the administration of justice became henceforward the concern of the central organization of the community of the citizens under the presidency of Prophet Muhammad. In simple words this constitution of the city-state brought with it revolutionary change and improvement, by providing the people with a central public institution for seeking justice in the place of every one seeking it with the power of his own hand or at best of that of his tribe. Dr Hamidullah also pointed out that it was declared that in matter of the administration of justice, none would be permitted to take sides or show an favour to his relatives. Further this epoch- making innovation brought an end for all times, to the chaos of tribalism and laid the basis for a wider institution, viz., state.

A very significant clause of this part of the charter was about the application of the principle of peace and war. The question of war and peace was regarded as the prerogative of central authority and it was made impossible that some section should enter into peace or war while others remained out of it. In view of Dr. Muhammad Hamidullah, another significant clause of the Charter concerned provisions of mutual insurance which provide guidance to us for mutual insurance of modern times. The author says that Prophet Muhammad (SAW) developed a system in which every tribe of Madinah was supposed to keep one unit of insurance. In case, any person of that tribe is made to pay ransom or blood-money and is unable to pay, this insurance unit will be helpful. In case the tribe could not pay individually, the general orders were that the neighboring tribe would help through their insurance units. In case, the units of all tribes are not sufficient then the state could come to help.

Moreover the second part of the work which is related to Jews deals with their rights and duties. The Jews were free to follow their prevailing customs in internal matters and socio-cultural activities. In this constitution their political and social rights were recognized. Their allies called variously' as mawali batn, bitanah, were given equal status with the original Jews.' The right to freedom of religious faith was declared in the Charter as 'The Jews following their own faith and Muslims following their own religious faith" Dr Hamidullah states that all the elements constituting the body-politic were assured of religious, judicial and legal freedom. He further says that the Prophet was recognised-to use a modern appellation-as the President of the state. The citizens accepted the Prophet as ruler. Finally the pact resulted in weakening the hold of repressive culture and authority of many tribes and superimposed the modern concept of a unifying culture and authority above it. The said constitution is not only important as a first constitution it is also considered contemporary in the sense that it was promulgated for a plural society.

## CONCLUSION

To sum the constitution of Medina is a document drawn by the Prophet upon his migration from Mecca to Medina. This document established rights and obligation among the Ansar (Helpers) of Medina, the Muhajirun (Émigrés) and Jewish tribes of Medina as they embarked upon a new journey of co-existence and cooperation in nascent polity founded in Medina. It was drafted with great wisdom keeping in view the strategy to combat the existing conflicts. Dr Hamidullah is known for the systematic presentation of this constitution to the world. . He is one of those eminent scholars of the modern period who had left very deep impact on the academic life of the Muslims of the entire world. By analyzing the contents of the first part of the Charter, Dr. Muhammad Hamidullah stated that Madinah was the first independent state of Muslims which had a written Constitution. Therefore, in view of Dr. Muhammad Hamidullah, it was first constitution of the world in which the principles of brotherhood, equality and freedom of action were defined in written form to play an active part in the political unit. The author translated the constitution into English and therefore it is due to his efforts this unique achievement of the Prophet's time became known across the world. Finally the Medina charter is a prime example that is greatly needed and should be emphasized to be discussed and referred to in current conflicts. Further this Charter can represent the best model of ways to generate and uphold dialogue in a pluralistic society and of ways to build and establish political and social interaction among diverge groups.

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