

Myanmar's Religious and Ethnic Crises Response: The Efficiency of Replicating Medina's Constitution

Fakhratu Naimah Muhad¹, Fadzli Adam¹, Najihah Abd. Wahid¹,
Nor Salimah Abu Mansor², Wan Kamal Mujani³, Omar S.H.S.¹,
Rahimah E.¹

Universiti Sultan Zainal Abidin (UniSZA), Kampus Gong Badak
21300 Kuala Terengganu, Terengganu, Malaysia
E-mail: fadzliadam@unisza.edu.my

DOI Link: <http://dx.doi.org/10.6007/IJARBSS/v7-i7/3152>

Published Date: 22 July 2017

Abstract

This article is the conceptual paper, responding to the crisis of current bloody Myanmar by using the approach of Islamic political law, particularly on the basis of the Constitution of Medina. Besides, in this opportunity also, brief analysis on proposing the essence of the Medina's Constitution onto Myanmar's state of affairs also be expounded in order to diminish the tense, hatred between the pluralistic coexistence society, cum the stable and harmonious living in Myanmar is inevitably achieved. As a conceptual paper, the data is analysed from textual, contextual and comparative study. Nonetheless of the thousand proposals and ideas posited in solving these crises, it is a hoped that this study is considered as one of the contributive factors leading to the amiable and prosperous living of Myanmar and the whole communities, generally.

Keywords: Religious Crises, Myanmar, Rohingya, Muhibbah, Medina Constitution

I. Introduction

It is not a new issue when political business becomes a great polemic until the sense of humanity are willingly to be slain by own species. The thirst to become powerful and greed are both sufficient to degrade the level of compassionate and benevolent in each man. Recorded in al-Quran, *seerah* of the Prophets, as well in the Bible; the first incident of killing

¹ Research Institute for Islamic Products & Malay Civilization (INSPIRE), Universiti Sultan Zainal Abidin (UniSZA), Kampus Gong Badak, 21300 Kuala Nerus, Terengganu, Malaysia

² Faculty of Islamic Contemporary (FKI), Universiti Sultan Zainal Abidin (UniSZA), Kampus Gong Badak, 21300 Kuala Nerus, Terengganu, Malaysia

³ Faculty of Islamic Studies, Universiti Kebangsaan Malaysia (UKM). Kampus Bangi, 43600 Bangi, Selangor, Malaysia.

among mankind was happened due to the greed of Cain to get his own beautiful twin even he has to pay for the spilling bloods of his own brother, Abel (Quran 5:30; Bible Genesis 4:8). Started from that particular time, the world never stays in rest for witnessing the bold, and unnumbered of cruelty actions did on this earth; towards human, animals, plants, minerals and et cetera.

It is undeniable that the state of differences able to catalysing the rivalries among manhood. However, the state of differences between men are not created for the purpose of upholding one's sovereignty, yet it is the sign of God's power and His recommendation for each of us to appreciate and knowing each other. Despite of the variances in term of skin-colour, races, physical abilities, languages, religious and tradition background; yet by collectively, all human are sharing the same element of humanity. Without this self-inner value, the whole co-existences will be living in great despair, chaos and fear – for the quest of power and greed-driven within men will occupied their soul. This is shown throughout the history where the conquest, invasion, wars are taking place by the great inclination of man to possess the image of authoritative man, the desire to uplift the status-quo, despite the price of their wishes are the blood and soul.

Whenever Islam comes into the world of barbarians, it has turn the cruelty of desert-Arabia continents into an oasis when it has flourishing the land with the etiquette, propriety and decency of living hood. Within a short period, by the leadership of Prophet Muhammad, aided by the revelation from Allah and the effort of the Companions, Islam has been spread out to other countries, even to far-reaching area from Arab's world (Brown, 2000). Hence, noticeably on today's statistic, there are approximately 1,299,700,000 or 23% from the whole number of population, which made up Muslim as the second largest population after Christians (Pew Research Centre, 2012).

The easy-acceptance of men towards Islam is not due to coercive manner, but owing to the beautiful nature of Islamic traditions and political endeavour. By the conquest of Muslims over the non-Muslims region in the years aback, was not driven by the power and greed but merely to expand the religion of Islam to the whole mankind. This is justified by the conditions posited by the Muslim's rulers in letting the established kings to govern his own throne as long as the submission to Islamic jurisprudence are presented. The citizens are not forced to accept Islam as their religion, however, the loyalty from them are required.

II. Constitution of Medina as The Guidelines

Upon the migration of Prophet Muhammad and oppressed Muslims in Mecca to Medina, the coming of Prophet Muhammad and the *al-Muhajiroon* (migrated Muslims) were receiving delightful celebration from al-Ansar (Muslims in Medina). From the previous name of Yathrib, turn to be Medina, means town, changed rightly after the ruling were handing to Prophet Muhammad. By the various co-existence living in Medina, Prophet Muhammad has taking initiative (by the support of revelation) to construct a charter or constitution of Medina, which also known as *al-wathiqat al-Madina* or *dustur al-Madinah* in Arabic terminologies (Emon, 2001).

In this constitution, it is a written text in adjoining between the various groups in Medina at that particular time; *al-Muhajiroon*, *al-Ansar*, Jewish groups, Christian Najran, and also

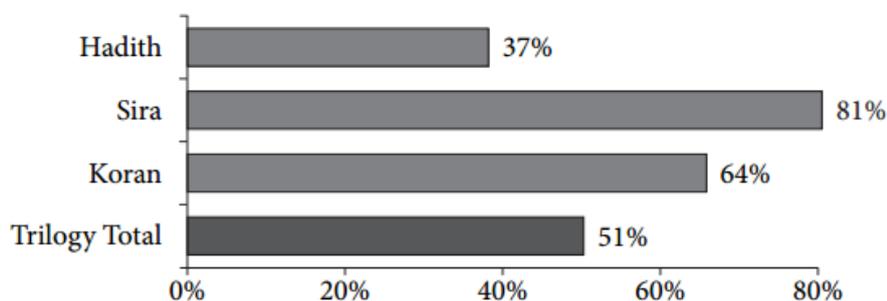
including idolaters and polytheist (Bayman, 2003). Constitution of Medina has been declared and authorized as the first written constitution and the benchmark of the Western documents, almost six centuries earlier than English Feudal Bills, Magna Carter of 1215 and other distinguished human rights documents (Bayman, 2003).

By the agreed confirmation of the residents of Medina on the approximately 47 clauses, all of them were regarded as a single community (*umma wahida*) and the responsibilities towards the stability and harmonious living of Medina should be shouldered by everyone (Emon, 2001; Buchanan & Moore, 2003). From the first quarter clauses, the chain of tribalism or *assabiyah* were broke by the requirement of the document's contents to uphold unity between them; to do collective opposition on the tyranny and cruelty; equal life, opportunity and sundries (Ahmed, 2013).

Looking in depth, the constitution of Medina is promoting freedom of life, respecting pluralistic co-existences by accepting others, abiding to the established laws and safeguarding the rights of minorities. Other than that, this constitution is showing the spirit of democracy by not showing coercive manner onto minority (Bayman, 2003).

However, in Islamic political law, the categorization of non-Muslim, (infidels or *Kafir*) is presented by the lengthy discussions of the scholars. The figure below shows the percentage of the amounts on Islam puts in describing and discussing on this particular group:

Figure 1: Amount of text devoted to *Kafir*



(Warner, 2010)

In brief, for those infidels (non-believer to Islamic principles) whom are living in Muslims territory will be treated and categorized as how the way they behave. If they are showing loyalty, not imposing any rebellion and harm onto Islamic government, also willingly to pay the *jizya* (protection taxes) or readily to protect the territory from the foreign foes, aggression and injustice, thus Islam assures them to be in safety hands and their welfare has to be taken in good care (Brown, 2000; Munir, 2004). According to Al-Qaradhawi (2013), this group is called as *Kafir Dhimmi* and receive protection from any maltreatment;

Except those who reach a people between whom and you there is an alliance, or who come to you, their hearts shrinking from fighting you or fighting their own people; and if Allah had pleased, He would have given them power over you, so that they should have certainly fought you;

therefore, if they withdraw from you and do not fight you and offer you peace, then Allah has not given you a way against them. (Quran, 3:90)

By the payment of *jizya*, they will not be forced to be included in military service and have the rights to establish own courts, practicing the inclusive customs and cultures. However, as the member of the shared community, they are also entitled and eligible in participating in social facilities, services provided by the government, rights and privileges (Munir, 2004).

By the agreement between the Muslim's administrator and the non-Muslims members of state, their welfare are subject to be under the responsible of the ruler, as how stated by Siddiqi (1982):

“No increase in agreed taxes, no appropriation of their lands or buildings nor they will be subjected to harsh penal laws, nor will there be an interference in the religious matters and nor any attack on their honour and dignity. In fact, the doctors of Islam have agreed upon the principle that such people will be dealt with strictly in accordance with the terms of the treaty. Only that will be taken from them which is agreed upon in the treaty and (treaty) will be strictly observed without any subsequent addition...” (Ibid: p. 92)

In addition, the *jizya* is showing its humane features and just when the payment is excluding these three groups; (1) non-Muslims women, old and children, and disabled persons; (2) religious pastors or priests who are old and poor; (3) non-Muslims who are willingly to offer military services in defending Islamic State (Peerzade, 2010).

However, for *Kafir Harbi* (those infidels that are imposing threat to the stability of Muslim affairs) are required to be fought if it is necessary. Besides, the status of *fardhu kifayah* (collective obligation) turns to be *fardhu ain* (personal obligation) in defeating the foes (Hamid, 2006).

III. Injustice in Myanmar

Myanmar or its former name, Burma has experiencing pluralistic co-existences for the presence of various ethnics, for example, Shan, Mon, Karen, Rakhine, Karenni and sundries. Meanwhile, in the aspect of religiosity background, the report indicates the population of Myanmar are conquered by the majority 90 percent of Theravada Buddhist population. The remaining are four percent of Muslims and Christians respectively, Jewish and others (Global Centre for the Responsibility to Protect, 2015; Burma 2012 International Religious Freedom, 2012).

Though Buddhism is not sanctioned legally as the religion of constitution, but it is adopted to be functioned as an official state of Myanmar. Under the military ruling, the function of Buddhism is apparently for the purpose of unifying the majority cum as the controlling agent of 54,584,700 Buddhist population of Myanmar. One of the example supporting this statement is the requirement of Mahn Win Maung to convert into Buddhism for his intention to become a third Prime Minister of Myanmar. Besides, the government continuously maintaining the welfare of Buddhist community, even gives aid for constructing Buddhist shrines in the non-Buddhist residency (Shu, 2014).

Living in the variances, the harmonious living in Myanmar is clearly corroded by the unending inevitable crimes, killings and genocides, and other exacerbation phenomenon especially onto Muslims population (Adam et al, 2016). Recently, a Supreme Court Advocate, a Muslim's activist - U Ko Ni, was shot dead outside of the Yangon International Airport after went home from official discussion on religious violence on Rakhine (Watson, 2017; Ko Ni death: Thousands mourn shot Myanmar lawyer, 2017).

Ignited its big blast on 2012, the issue of Muslims in Rakhine and Myanmar Buddhist are not indicating any significant changes towards betterment. Since then, more than 100,000 fled by sea to escape themselves to other countries, just to keep them safe from being abused (Asian Parliamentarians for Human Rights, 2015). Despite of the possibility to be captured by human trafficking, escaping via sea is seems to be the best option for seeking refuge. Thus, it is reported that, more than 100,000 of them are in Malaysia and another several hundred of refugees are in Thailand, Bangladesh and other nearest countries (Ibid).

Other than that, the Myanmar government is imposing the strict regulations on Muslim married couples to have not more than two children. Once the agreement is violated, a mother may be sentenced to jail detention, up to ten years (Lindblom et al, 2015). Besides, despite of residing in Myanmar for many generations, Muslims in this state are facing difficulties when the rights of them as citizens are not fulfilled by the government. The humanitarian aids are denied, the citizenship identity is rejected, housing areas are burnt, killing and raping cases of Muslims women are clearly showing the cruelty of the military government of Myanmar towards Muslims and the violation of the government over the agreed ASEAN Human Rights Declaration of 2012 (Petrova, 2012). Similar to the content of Medina Constitution, there are few passages including in the ASEAN Human Rights Declaration of 2012 are the insistency of encouraging a spirit of humanity, safeguarding the rights and freedom of each residences without putting any biasness and distinguish qualities, the rights of obtaining public protection, and being recognized as part of the society (ASEAN Human Rights Declaration, 2012).

IV. Assimilating the Spirit of Medina Constitution Into Myanmar's State of Affairs

Despite of the ancient status of the Medina Constitution, its application is thought to be relevant and applicable in co-existence society. The historical account has justifying the efficiency of that written document in establishing the peaceful living amongst the variances, hence it has been adopted by Malaysia's government in the ideology of 1 Malaysia (Mohamad Ramli & Tengku Jusoh, 2012).

The problem of current Myanmar; it is considered to be inhumane for a government in expelling its own people and sanctioning the act of killing or genocide. Reported by Global Centre for the Responsibility to Protect (2015), started from 20th March 2013, two days of riot between Buddhist and Muslim located in Meikhtila has killed around 40 victims and the destruction of 800 of Muslims' residents, mosques and business centres by the mobs of Buddhists, counting in the monks as well. Despite of being responded by Thein Sein on that incidents to execute a state of emergency and strengthen the security, the Buddhist rioters, yet has successfully devastated the Muslim's facilities of Lashio, such as mosque, business and orphanage centres.

The unnumbered incidents happened and continuously taking place in Myanmar can be solved if the government assimilates the spirit of Medina Constitution in administrating the states. As understood by the aforementioned passages, the Medina Constitution is regarded as the proving solving agent of the rivalries between difference groups. Thus, it is appropriate to be adopted by a slight amendment in curing the crisis of Myanmar, currently. Though the government of Myanmar is not under the ruling of Muslim, but the holistic approach depicted in the Constitution of Medina has make it suitable to be applied in current days.

Among the vital lessons to be learnt and adopted is the need for the government in creating peace between the pluralistic co-existence society. As what has done by Prophet Muhammad after he reached Medina, seeking mutual agreement from the residents by the establishment of the constitution becomes the foundation of the state's stability. Despite of Islam as the official religion of Medina, the constitution is not imposing biasness but welcoming differences and maintaining the welfare each of the residents that are subscribing to the agreement (Peerzade, 2010).

From the Constitution of Medina too, the nationalism can be expounded in Myanmar, thus the threat from outsiders and local riots can be defended. Similar to the previous situation of Medina, Myanmar can utilize the loyalty submitted to the agreement as the agent of stabilizing the country, cum establishing the progressive country that is possessing the high moral value appreciation, harmonious relationship of political, trading and sundries. If Myanmar continuously upholding its motto of '*Amyo, Bartha, Thanata*' which signifies 'Burmese race, Burmese language, Burmese religion (Buddhism)', ergo this value of exclusiveness will not support Myanmar into any betterment (Lynn, n.d.).

Besides, Myanmar will lose its uniqueness if the hatred between races and religious groups is unceasingly promoted. Taking Malaysia as the nearest example, although previously Tanah Melayu (Malaysia, currently) also received the coming of immigrants from China, India, as how Myanmar received the first generation of Muslims in Rakhine and other parts of Myanmar; the welfare of all various citizens of Malaysia are well taken care of (Daniels, 2005). Some of the Chinese and Indians are elected and eligible to sit in parliament as they are also possessing the rights before the legislation. This is supported by the aspiration of First Prime Minister of Malaysia, Tunku Abdul Rahman Putra al-Haj in instituting the *Muhibbah* concept in order to preserve the beauty of variances amongst the Malaysians (Kamaruzaman, 2010).

V. Conclusions

As such, with the adequate understanding on the beautiful of Islamic political law, particularly in the noble idea presented in each clauses of Medina Constitution, the hope for bright future of Myanmar can be actualized. Indeed, humanity crises is not a common issue that can be solved merely by a paper, but the supportive environment is needed for catalysing the changes. A set of mutual understanding, shared value and religious cooperation are among the success factors in nurturing wisdom and breeding appreciative value within co-existence society.

Acknowledgement

This paper is based on the research project under the FRGS 2016 (RR209). Special gratitude is owed to the Ministry of Higher Education Malaysia and Universiti Sultan Zainal Abidin (UniSZA) for supporting and funding this study.

Corresponding Author

Fadzli Adam, Professor, Research Institute for Islamic Products and Malay Civilization, Universiti Sultan Zainal Abidin (UniSZA), Kampus Gong Badak, 21300 Kuala Nerus, Terengganu, Malaysia. Email: fadzliadam@unisza.edu.my

References

- Adam, F, Muhad, F. N., Abd Wahid, N., Yusoff, Z, Baru, R. Abdul Kadir, F. K., Salleh, M. A. (2016). Radical religious extremism within the context of Islamic discussion. *Man in India*. 96 (12).
- ASEAN Human Rights Declaration. (2012). Retrieved from <http://www.asean.org/news/asean-statement-communicues/item/asean-human-rightsdeclaration?tmpl=component&print=1>.
- Asian Parliamentarians for Human Rights. (2015). *The Rohingya Crisis and the Risk of Atrocities in Myanmar: An ASEAN Challenge and Call to Action*.
- Bayman, H. (2003). *The secret of Islam: love and law in the religion of ethics*. Berkeley, CA: North Atlantic Books.
- Bible Genesis 4:8. New International Version. Zondervan: Michigan.
- Brown, L. C. (2000). *Religion and state: the Muslim approach to politics*. New York: Columbia University Press.
- Buchanan, A. E., & Moore, M. (2003). *States, nations, and borders: the ethics of making boundaries*. Cambridge, UK: Cambridge University Press.
- Burma 2012 International Religious Freedom Report. (2012). Retrieved from <http://www.state.gov/documents/organization/208430.pdf>.
- Daniels, T. P. (2005). *Building cultural nationalism in Malaysia: identity, representation, and citizenship*. New York: Routledge.
- Emon, A. (2001). Reflections on the "Constitution of Medina: an essay on methodology and ideology in Islamic legal history. *UCLA J. Islamic & Near E.L.* (103). Los Angeles, CA: UCLA School of Law.
- Kamaruzaman, K. O. (2010). *Religion and pluralistic co-existence: the muhibah perspective: a collection of seminar papers*. Kuala Lumpur, Malaysia: IIUM Press.
- Ko Ni death: Thousands mourn shot Myanmar lawyer. (2017, January 30). Retrieved from <http://www.bbc.com/news/world-asia-38793972>
- Lindblom, A., Marsh, E., Motala, T., & Munyan. K. (2015). *Persecution of Rohingya Muslim: Is Genocide Occuring in Myanmar's Rakhine State*. International Human Rights Clinic, Yale Law School.
- Lynn, S. N. (n.d.) "Voices of Minority Ethnic Christians in Myanmar." CTC Bulletin, Retrieved from <http://www.cca.org.hk/resources/ctc/ctc02-02/ctc02-02e.htm>.
- Mohamad Ramli, Y. & Tengku Jusoh, T. G. (2012). Najib Razak's 1 Malaysia and Charter Medina's one ummah: Comparative perspective. *International Journal of Business and Social Science*. 3(2).
- Munir, L. Z. (2004). *Islam and politics. In Islam and Universal Values: Islam's Contribution to the Construction of a Pluralistic World*. Jakarta.

- Peerzade, S. (2010). Jizyah: A Misunderstood Levy. *Journal of King Abdul Aziz*. University-Islamic Economics. 23(1), 149-160.
- Petrova, D. (2012). Emergency Report: Urgent Action Essential to Protect Muslims in Myanmar. The Equal Right Trust. London, United Kingdom.
- Qaradhawi, Y. (2013). *Fiqh Jihad Jilid 1 dan Jilid 2*. PTS Islamika.
- Quran 3:92. Chapter Ali Imran, Verse 92. Translation by Shakir.
- Quran 5:30. Chapter al-Maaidah, Verse 30. Saheeh International Translation. Maktabah Booksellers and Publishers: United Kingdom.
- Shu, N. A. (2014). A Critical Reading of 2008 Myanmar Constitution on the Rights and Freedom of Minority Christians and other Religions.
- Siddiqi S.A., (1982). *Public Finance in Islam*. Adam Publishers and Distributors: New Delhi.
- Warner, B. (2010). *Sharia Law for Non-Muslims*. CSPI Publishing.
- Watson, A. (n.d.). Myanmar government adviser shot dead at airport. Retrieved from <http://edition.cnn.com/2017/01/29/world/myanmar-government-adviser-shot-dead-at-airport/index.html>