Comparison Between the Constitution of Medina and the Constitution of the United States: the Application of Deconstruction and the Projections of Chaos Theory

A Dissertation Submitted to the Faculty of Letters and Languages, Department of English, in Partial Fulfilment of the Requirements for the Degree of

Master in Anglo-American Studies

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I dedicate this work to the souls of my father and grandmothers, to my lovely family especially my parents, grandparents, my sisters and brothers Ibrahim and Abd El-Hak for their encouragements and precious prayers, to my youngest brother Muhammad Naor Allah for downloading data for me, to all my cousins especially Prof. Abd El Fettah for being a model of struggling for knowledge to my brothers-in-law: Ismail and Muhammad, to my dear uncles Ahmed and Said for encouraging me and appreciating my effort, to my nephew Anis and my niece Aycha Hadil to my friends: Dalila, Hadia, Lily, Hanane, Assia, Mouna, Sonia, Nassima and Farida. Without your support, bringing this humble work to its end would never have been possible. I am so proud of you.
All praises to Almighty Allah for giving me power and patience to accomplish this humble work and I ask Him to accept it for His sake.

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Abstract

This present master dissertation aims to shed light on the Constitution of Medina which is known as Sahifat Al-Medina as one of the most important historical documents not only in the Islamic History but also the world History. In order to prove that the Constitution of Medina is the oldest and the shortest written constitution, we have first to prove that it is a constitution by arguing that it is neither a charter nor a proclamation.

In the other side, we find the Western model is the principal source for legislation in the Arabic and Islamic world. In fact, the Constitution of the United States is presented as the oldest and the shortest written constitution in the world. In front of this, we see that an analytical and a comparative study between the two constitutions is necessary to extract the reasons that made the American Constitution an example to be followed. Furthermore, we attempt to demonstrate the existence of some Islamic roots in the American Constitution

The theory of Deconstruction was applied on both the Constitution of Medina and the American Constitution to reveal some of the tribal features in the Medinian pluralistic society, and to cover the ambiguity in some articles of the US constitution. Additionally, we attempt to project the “Chaos Theory” using the Simple and the Double Pendulums on the notions of Democracy and Deconstruction in order to identify the referring point in both: the Islamic and the American political systems.

Keywords: Constitution of Medina, American Constitution, Deconstruction, Chaos Theory
تسعى هذه المذكرة إلى تسليط الضوء على دستور المدينة أو ما يعرف بوثيقة المدينة كإحدى أهم الوثائق ذات الدلالة السياسية، القانونية و الاجتماعية في التاريخ الإنساني برمته و ليس الإسلامي فحسب. و في سبيل أثبات أن دستور المدينة هو أقدم و أقصر دستور في العالم، فمن الضروري نحض كل الادعاءات الغربية الرامية إلى تصنيف الوثيقة كمجرد وعد أو معاهدة.

في مقابل ذلك، نجد النموذج الغربي هو المصدر الرئيسي لتشريع في العالم العربي والإسلامي. و في مقدمة الدسائير الحديثة نجد الدستور الأمريكي المعرَف على أنه أقدم وأقصر دستور مكتوب في العالم. و أمام الدهة التي ما إنك الأمريكيون يطبقون دستورهم بها نرى من الاهتمام يمكن أن تقوم بدراسة تحليلية و مقارنة بين دستورا لمدينة و الدستور الأمريكي للوقوف على أوجه القوة مثالا.  أكثر من ذلك، يسعى البحث للكشف عن الجذر الإسلامية في الدستور الأمريكي. و التحقق من مدى صحة الادعاء بأنه أقدم وأقصر دستور في.

تهدف الدراسة التفكيكية لدستور المدينة إلى الكشف عن بعض الجوانب القبلية في مجتمع المدينة المتعدد، و في الدستور الأمريكي عن بعض التناقضات و جوانب الغموض في العديد من الفقرات. أما محاولة اسقاط نظرية الفوضى باستعمال النواس البسيط و النواس المزدوج وذلك على كل من مفهومي الديمقراطية و التفكيكية، فالغالبة منه تحديد النقطة المرجعية في النظامين: المدة المدينة الأولى و في النظام السياسي الأمريكي.

الكلمات المفتاحية: دستور المدينة، الدستور الأمريكي، التفكيكية، نظرية الفوضى.
Résumé

Ce mémoire a pour objectif de mettre à la lumière la Constitution de Medina, ou ce qu’est connu comme Sahifat Al-Medina. C’est l’un des plus importants documents politiques, juridiques et sociaux de l’Histoire de l’humanité entière non seulement la société Islamique. Et pour prouver que ce document est le plus ancien et le plus court au monde, il faut mettre fin à toutes les allégations Occidentales dont l’intérêt est de dévaloriser ce document et faire de lui une simple promesse ou bien une charte.

D’un autre côté, on juge que le modèle Occidental est la seule source des constitutions dans le monde Arabo-musulman, et au premier rang, on estime que le modèle Américain est le plus récent connu comme la première constitution écrite au monde. Et pour la grande importance donnée à ce document, on trouve qu’il faut faire une analyse te établir une comparaison entre le modèle Islamique et celui d’Etats Unis pour relever les points qui ont fait du premier exemple à suivre. Avançant dans notre recherche, on espère identifier les racines Islamiques dans la Constitution Américaine.

Notre analyse concernant la constitution de la Medina vise à relever quelques points tribaux dans la société. Pour la constitution Américaine, on va identifier quelques points obscurs dans l’ensemble des articles. En ce qui concerne la tentative de mettre des projections de la Théorie du Chaos (désordre) avec l’emploi des pendules : Simple et Double sur les deux notions de Démocratie et celle de la Déconstruction. Son but est identifier le point repère pour les deux régimes politiques : Islamique et Américain.

Les Mots Clés : la Constitution de la Médima, la Constitution Américaine, Déconstruction, la Théorie du Chaos.
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An apology is necessary for presenting a very great document with my humble background and limited understanding. We intend to attract the attention by shedding light on the Constitution of Medina which was treated for a long period of time as a charter, a promise or at best as a treaty. On the other hand, the Constitution of the United States of America is overestimated as the oldest and the shortest written constitution in the world.

After a very long process of development of the legal systems from the very ancient times, it seems strange that humanity was waiting for the American colonies to write the first constitution. It is true that the primitive laws were partial and incomplete and laws of any society were developed with the evolution of the society. It seems strange that the American Constitution is a source of legislation in the Islamic world regardless to the differences between the Islamic Society and the American one.

The questions to be tackled in this dissertation are:

Firstly and importantly, is Sahifat Al-Medina a constitution? is of utmost importance to prove that Sahifat Al-Medina is a constitution. Therefore, giving some evidence is needed to be convincing. Secondly, is Islam based on a radical change to the previous existing way of life? To demonstrate the opposite, we have to analyse the Constitution of Medina. The Islamic rejection of the Derridian Deconstruction on the sacred texts where there is no place for contradictions or opposed binaries because all the binaries in the Quran exist in harmony. Thus, we are going to apply
the theory of Deconstruction on the first Islamic society to reveal the tribal features in that pluralistic society. So, Islam did not destroy the local systems, it reshaped them.

Thirdly, what is the role of the society? This question is very important because it makes the difference between the developed nations and the underdeveloped ones. It means that the society must play the major role to secure stability and development of the nation. After this, the State comes to accomplish and organize the first one in addition to imposing the respect and the rule of the law.

Fourthly, is the Constitution of the United States really the oldest and the shortest in the world? Are there any Islamic roots in it? The answer of these questions is the result of the comparison between the two constitutions.

Fifthly, what is the aim behind including a questionnaire? In fact, including ideas of teachers who are specialized in Law and Political Sciences is very beneficial especially since we intend to present an open-ended questionnaire without giving suggestions to extract the possibilities from the answers themselves. It is unfair to compare the answers of specialized teachers with master students from the department of English but this was the only possible solution because the third year students of Law and Political Sciences refused to answer unlike the master students of Anglo-American Studies.

Finally, what should be the reference in both political systems? To determine the referring point in the Islamic Political System, we will project the Simple Pendulum. However; we will project the Double Pendulum to see whether the referring point is a static or a dynamic one. For this reason, the application of “Chaos Theory” will be appropriate for the American Model at three dimensions:
philosophical using Deconstruction, Political using Democracy (direct and indirect) and Linguistic using the judicial interpretation and even its literary derivers such as the Reader Response Theory. Unfortunately, it is impossible to cover all the dimensions including the social and the cultural due to the limited period of time.

To achieve this set of objectives, two methods of work would be applied: analytical in chapters one and two, and comparative in chapter three which combines the two constitutions. Moreover, this dissertation makes use of a theory of Literary Criticism which is “Deconstruction” for two aims. First, it reveals the hidden features of both constitutions. Second, it coincides with Democracy concerning the reference. This Master dissertation relies also on the 7th edition of the Modern Language Association: *MLA Handbook for Writers of Research Papers* format (2009).

This is divided into three chapters: the Constitution of Medina, the Constitution of the United States and a comparative study between the two.

The first chapter tackles The Constitution of Medina. It is divided into three parts. The first part emphasizes the applications of the definitions of these concepts: charter, treaty, proclamation and constitution on Sahifat Al-Maddina to remove the wrong and the incomplete definitions. This step is necessary for two reasons. First, to classify the Sahifa in the right category at least as any constitution that organizes the relationship between the citizen and the state. Second, it identifies the rights and the duties of the citizen at the different levels of the state or of the society.

The second part is an analysis of the document. It reshapes some existing concepts like security and common defence and creating new relationships that can go beyond blood ties and tribal responsibilities such as citizenship, Ummah and pluralism.
The third part tackles the attitude of Islam towards Postmodernism in general and Deconstruction in particular. Islam rejects some of postmodern principles and accepts others. Since the application of Deconstruction on a sacred text is inacceptable and since the Prophet Muhammad (Peace be upon him) is a great social reformer, we have chosen to deconstruct the Medinian society to measure to what extent the new society preserves the previous tribal and social features. As a result, Islam has never been a radical change. Throughout its long history, great civilizations took place all over the world and there were always local features at all the aspects of life even in arts and architecture. Islam reshapes the whole life into a better flexible form.

The second chapter deals with the Constitution of the United States of America. It is composed also of three parts. Firstly, the historical background and the process of the production of this document staring with the Common Sense, the Declaration of Independence and then the Articles of Confederations where the Government was not as good as the American people hoped. To treat these weaknesses, a need for a new document was dramatically increasing in the following years. Thus the US constitution was ratified.

The second part is an analysis of the document with a focus on the functions of the three branches: legislative, executive and judiciary. In addition, we are going to mention the ambiguity of some articles and the problem of lack of a source which is higher than the constitution to refer to in cases of more than one possible interpretation to limit and control the use of the Constitution in inappropriate ways to serve specific policies and interests.

Deconstruction here was applied because there are some contradictions mainly concerning slavery which contradicts the second principle of the preamble “Establish
Justice”. In addition, Derrida revealed the presence of metaphysics in the presence of religion despite the first Amendment “Congress shall make no law respecting an establishment of religion…” In this respect, the exclusion of religion does not mean secularity. It means the rejection of having one dominant religion.

Chapter three is entitled The Constitution of Medina versus the Constitution of the United States: A Comparative Study. It compares first between both societies and their political systems. These two constitutions have different structures. So, the comparison will emphasize on the principles rather than the technical side of the procedures of making and putting laws into practise.

An open-ended questionnaire entitled “the Constitution from the Islamic and the Western Visions” is composed of seven questions was oriented to teachers and students of the departments of Law and Political Sciences. Finally, “Chaos Theory” will be projected on two notions: Deconstruction and Democracy to determine the referring point between order- disorder and stability- instability.
Chapter 1: The Constitution of Medina

Introduction:

The prophet Muhammad (peace be upon him) founded the Medina Constitution in 622 AD. It aimed at having a multi-cultural society which is a complex community that included Muslims, Jews and pagans living together in peace. And for the first time in the human history, a written document known as Sahifat al Madina was drafted by the prophet after different consultations: the first took place in the house of Anas bin Malek, the companion and the prophet’s servant. the meeting included the helpers (Ansar) and delegates of immigrants (Muhadjurin). After this, another meeting took place in the house of “Bint al Harith” where the representative of the different tribes agreed about the fundamental principles of the first Islamic state in Madina.

According to the Islamic scholar Muhammad Hamid Allah, The new constitution which called Sahifat al Madina was from an angle a social Contract between combined groups under a social structure considered at that time strange and new in the Arabs lives and traditions; because tribal Arabic traditions were stand on blood ties and kinship however; people from different religions, ethnicities and geographical locations, met to form a different social sector. (Djomaa51).

Some historians doubt the very existence of the constitution of Medina despite the fact that its principles had been translated into real achievements during the prophetic era and the successors huge and rapid expansions was the best witness. for example, the “the treaty of Ilaa” or what is known as Al “O’ada al Umairia” in which the second successor Umar Bin Khattab made a treaty with the Christians of Jerusalem following the same principles of justice, equality and religious freedom that proves
that the prophet Muhammad was; as Voltaire said; “A very great man who thought
great men”.

The constitution if Medina was issued six centuries before the Magna Carta,
about twelve centuries before the American and the French Constitutions and thirteen
centuries before the Universal Declaration of the Human Rights. It is interesting to
find clear imprints of the Islamic principles of Sha’ria in the modern constitutions and
it is ironic that some of the Arab countries’ constitutions were derived from the
French constitution which was derived in turn from the American constitution. It is
amusing to find that the latter has many similarities and contains a great deal of ideas
present in the Constitution of Medina.

In the Islamic world, people as well as scholars pay much interest to the Sirat or
the prophet’s biography and throughout history thousands of Muslim writers and
orientalists wrote about details of details about the very ordinary activities and every
single word or gesture was recorded with great importance. In the other hand, a very
little interest has been given to the prophet’s political acts. That is why there is a
necessity to return back to the prophet’s life with respect to the contemporary affairs
and with respect to the social and political affairs. I think it is time to produce more
specialized works about the Holy Prophet peace be upon him such as the prophet as a
great military leader; the prophet as a genius politician; the prophet as a qualified
administrator; as an economist; a socialist; a psychologist and mainly as model
educator; a husband and a father who lost most of his children. In brief, the example
who took on his shoulders multi-responsibilities and the man who succeeded in
playing all the possible roles together in the hardest situations to be the complete
model for all the human kind.
The prophet peace be upon him said:” I was sent but to accomplish the good character”. That means the rejection of the radical change except in the question of belief and the Divine orders.

I. **Is “Sahifat al Medina a Constitution?”**

The Medina has twenty nine (29) different names. Yathrib which means “blaming” and corruption that was why the Prophet peace be upon him changed it into Medina.

The word Medina means a city which is an inhabitant place of greater size, population, or importance than a town or village. In fact, Yathrib was formed of some scattered villages but later on, with the coming of the Prophet, it became a city. According to the concise Encyclopaedia a city is a highly organized centre of population.

A city-state is a political system consisting of an independent city with sovereignty over a fixed surrounding area for which it served as leader of religious, political, economic and cultural life. If we apply this definition on Medina after the emigration of the Prophet, we will find that the building new kind of relationships between the helpers and the emigrants which is brotherhood and building of the Mosque, then the establishment of an independent market as an economic necessity.

In addition to innovating two acts that the Prophet ordered the companions to do. First the counting of the number of inhabitants in Medina which was 10000 among them only 1500 were Muslims, 4000 were Jews and 4500 were pagans. (Abd El-Latif 136).

This counting disproves the claims that the Jews were a minority in Medina and the prophet oppressed them especially after the Banu Quiraydha treason, when the Sentence done by the companion “Saad Bin Moath” was killing all the men of this
tribe who were 800. Nonie Darwish said:” this is the first holocaust against the Jews. How can a Prophet order a massacre of 800 men, even if they tried to kill him? He could have banished them or he could have removed.”!

![Figure1: The inhabitants of Medina in 622 AD.](image)

The Medina was at the time of writing “Sahifat al Medina” a city-state. Before we state the different classifications of this very important historic document whether it was a treaty, a charter, a proclamation or a constitution; We have first prove that it existed because some historians doubt its very existence such as Goeffrey Alderman who says:” Was there a treaty of Medina? We only know this from one set of sources which had their particular biases, their particular agendas. There are some historians who are of the view that there was not a constitution at all, there was not a treaty but this was something made up subsequently. The historian job in those circumstances is extremely difficult.

In this respect, the Jews deny the existence of the whole constitution to justify the Jewish treason because the Banu Quiratha met representatives from Quraysh and
accepted to be their allies despite the fact that they signed the document which banned this and considered Kuraysh the first enemy of Muslims.

Prof. Alderman adds:

I think the Banu Quraidha are probably did side with Kuraysh and this would have been a natural thing to have done. Jews are always looking for allies. In the Diaspora; a cornerstone of Jewish Political Theory that they can meet and make friends with everyone they can meet and make friends with and i think this would have been absolutely natural for them to have done this.

Among Muslim historians themselves there was Muhammad Ben Umar Al-Waqidi who mentioned it as an introduction to speak about the battle of Banu Kaynokaa (one of important Jewish tribes) in his famous book Al-Maghazi (Waqidi,v1,176-177). That narration contradicts the chronological order of the events from one side and provides a justification for the Jewish side to make agreements with the Prophet’s enemies. In this case, if we ignore the accusation of most Muslim scholars who consider Waqidi a liar that was why the orientalists referred to his works especially al-Maghazi so many times; we cannot ignore the document itself. The word “Yathrib” have been mentioned three (3) times in the document; however, the word “Medina” has been mentioned just one time in the last article. So, that indicates that the Sahifa was written a just after the Hidjrah as most of Muslim scholars mentioned it. i.e.; just after six months. Moreover, it is illogic to keep calling the Medina in the old name Yathrib six years after the establishment of the state of Medina.

If the document existed and has been written a few months after the Hidjrah, to identify the appropriate description to the document, we have to compare its content with the other definitions.
1) Is Sahifat al-Medina a charter?

According to the concise Encyclopaedia, a charter is a document granting certain specified rights, powers, privileges, or functions from the sovereign power of a state to a person, corporation, city, or other unit of local organization.

In Magna Carta (1215), King John granted certain liberties to the English people. Elsewhere in Medieval Europe, monarchs issued charters to towns, guilds, universities, and other institutions, granting the institutions certain privileges and sometimes specifying how they should conduct internal affairs. Later, charters were granted to conduct overseas trading companies. For example, the British East Indian Company was granted monopolies in certain areas.

British Colonies in North America were established by charter. Modern charters may be corporate or municipal. A corporate charter, issued by a governmental body, grants individuals the power to form a corporation or Limited Liberty Company. A municipal charter is a law that creates new political subdivisions and allows the people within it to organize themselves into Municipal Corporation, in effect delegating to the people the powers of local self-government.

If we look at the document, we can notice a major difference between Sahifat al Medina and the charter which is the principle of equality versus giving privileges or granting monopolies from the sovereign power of the state which is in most cases a king. Once again, the Prophet was not neither a king nor a tyrant to act like this. A Charter in the western context is different from Sahifa in the Arabian context. The latter in the Arabic language means
the announcement of a written agreement to be read and known to everyone and then to act accordingly. In the western world as the western source declares in the municipal corporation where people can organize themselves in subdivisions is not only incomplete but in many cases incorrect because the charter is a simple model comparing with Sahifa where the relationships are more complicated including zones of integration, others of overlapping as well as of separation as we are going to clarify later on.

2) **Is Sahifat al-Madina a treaty?**

The treaty is a compact made between two or more independent nations with a view to the public welfare. A treaty is an agreement in written form between nation-states (or international agencies, such as the United Nations, that have been given treaty-making capacity by the states that created them) that is intended to establish a relationship governed by International Law.

Starting from the definition, it is true that a new kind of relationships had been established between the several tribes that signed the Sahifa and in fact there are many studies that evaluated it and even compared it within a framework of the International Law such as a Doctorate dissertation entitled: *Peace treaties in Judaism and Islam, a comparative study* was done by Fateh HALIMI. Another interesting work done by Kaddour SALLAT entitled: *The Relationship Between Muslims and Jews through the Light of the Holy Quran and Sunnah*. Both researchers mentioned the Sahifa as an international treaty. For example, Dr. Halimi said:

The treaty of Medina is the first international treaty of Muslims in the origins of international relations between them and the others who belong
to different religions. It is composed of 47 articles, a large part of it deals with

the mechanisms to control the relationship between Muslims from one

side and the Jews and the Pagans from the other side. they aimed to ensure a

peaceful living in Medina for all the sides, therefore; it was considered a
treaty of alliance and defence against the external aggression, and the
organization of economic relationships between Muslims and the others.

In my modest opinion, considering Sahifat al Medina a treaty is partially
correct because it regulated different religious group living together in the
same community. In this respect, the Medina is considered an “International
Community”. The Sahifa in addition to this deals with the notion of
citizenship which is an internal issue. So, Sahifa is more than a treaty.

3) Is Sahifat al-Medina a proclamation?

According to the Hutchinson Illustrated Encyclopaedia of British History, a proclamation is making public announcement or declaring
something publicly or formally. For example, King George the 3rd made a
proclamation that prohibited Europeans from setting on land west of the
Apalachain Mountains. The proclamation gave the Americans Indians land
titles for the first time but angered American colonists who felt Britain was
interfering with their right to govern their own lands.

The proclamation was in large part a reaction to fear of American Indian
hostilities, as seen in the start of Pontiac’s War 1763_65. The proclamation
also established the provinces of East Florida, West Florida, Québec (now
Canada) and Grenada, all formed from new lands acquired by Britain after the
Seven Years War.
A British American scholar, the father of orientalists Lewis Bernard claims that the constitution of Medina was not a treaty in the modern sense, but a unilateral proclamation by Muhammad.

If compare the definition of proclamation with Sahifat al Medina, we will find that Prof. Bernard has taken the lateral translation of the Arabic word Sahifa which means announcement neglecting three crucial points. First of all; the context of Arabia and lack of modern mass media, so this important agreement which all the tribes signed and approved it must be known to everyone, and calling this Sahifa was not the first time. In Mecca, it was a tradition to stick announcements on Qua’aba to declare the decisions of the Qurayshi leaders.

One of them was called also Sahifa and included a set of punishments to weaken the Muslims such as the prohibition of selling to or buying from Muslims; preventing marriages between them (this was already banned between Muslims and pagans ), and importantly by firing them from Mecca to the outside. As a result, Muslims had lived in “Shia’ab of Mecca” (surroundings of Mecca) for three years a miserable life where they ate even the trees’ leaves but Sahifat al Medina put an end to disputes and wars lasted more than 120 years and established peace in Medina.

Sahifat al Medina resembles the proclamation in the way people should be informed but it differs in the form and the content.

4) Is Sahifat al-Medina a constitution?

The constitution is a system of fundamental laws and principles that prescribes the nature, and the limits of a government or another institution. This is a general definition; a legal definition is more precise. So, the
constitution is the basic law or laws of a nation or a state which sets out how that state will be organized by deciding the powers and authorities of government between different political units, and by stating the basic law-making and structural principles of society. It is the primary conduct by which the government of a nation or a state is set out or organized.

The constitution is colloquially referred to as “Law of the Land”; to which all the government, citizens, corporate persons and other laws must differ in the event of any conflict.

The Sahifat al-Medina established new concepts like citizenship although the word citizen was not mentioned in the document and a nation or Ummah which was used with a different meaning. It declares the rights and the duties and the responsibilities of the individuals, the different tribes towards its members, towards each other and towards the whole nation.

Dr. Fethi Osman was one of the early scholars who called this document “Constitution” in his book The State of Ideology. He said:

When the Prophet migrated from Mecca to Medina; he wrote a certain document in which he explained his situation towards each group of the people of Medina: Muslims or non-Muslims and with regard to the Muslims, the relation between those who migrated from Mecca to Medina “Muhadjirin” and the people of Medina who embraced Islam (Al Ansar). This document in which the Prophet indicated that all Muhadjirin and Ansar who becomes Muslims are just brothers and the origin does not make any difference and it indicated that people of Medina who did not become Muslims are under the protection of Muslims and they are responsible for peace, tranquillity
and security and so on. All this indicated in these writings did not mean to be a constitution. It was just a document or writing or a promise or a pledge from the Prophet (Peace be upon him) to the people of Medina but it was called later the “Constitution of Medina” because as any constitution, it indicates the rights and the duties of every group of the Medina including those who emigrated from Mecca.

II. Analysis of the Constitution of Medina

Muslim scholars agree about considering Sahifa a very important document but they disagree about whether it is a revelation like the Quranic verses or it should be classified as an authentic Hadith or it is a human effort “Ijtihad” by the prophet as a human being. Here, we have to distinguish between two kinds of acts of the prophet: based on divine revelation and what was based on human efforts. If we take the first point of view, the Sahifa includes very advanced and deep ideas that are not only still useful after more than fourteen centuries; it can challenge the best and the deepest political, legal, social, military, administrative and strategic studies…

If we take the second point of view which appreciates the prophet’s qualities and exceptional genius, we will demonstrate without any doubt that all the content of this document is true for a simple reason which is the Divine approval of it since there was no correction or blaming or orders to do the opposite like in some cases. For instance, in the story about the blind man, a whole Surrat was revealed “Abasa”. The Quranic verses that criticized a decision had been made by the prophet himself about the captives. So, we agree with the third point of view that considered the Sahifa a human effort by the Prophet after several consultations and it gained a Divine support.
1. The concept of citizenship:

The first article treated the problem of the emigrants or the Muhadjurin in a very short and precise way with giving the conditions in the statement “those who followed them and joined them “identifies the qualities. Then “and laboured with them” that identifies the functions of these citizens. It is possible that a non-Muslim joins the state of Medina and became a citizen and a Muslim do not belong to it.

According to the theory of “Social Contract”, one of the theories that explain the historical birth of the state, the concept of citizenship is fundamental and stands on these rights:

1. The belonging to the nation (Ummah) is stranger than any other political belonging.

2. Citizens have to choose statesmen who are free, wise and capable of holding their political responsibilities and establish justice.

3. The equality between all the citizens in the human dignity and against the law.

4. The limitation of the state’s authority in what is beneficial, good and shared between the citizens?

5. The existence between parallel importance between the citizen’s rights and duties in one hand and the state’s rights and duties in the other hand.

6. The continuous evolution of the content of the mutual rights and duties system between the state and its citizens.

It is worthy to be mentioned that the constitution of Medina does not specify a period of time because this kind of laws of giving the nationality
must focus on the qualities of the citizens, that was why the Prophet peace be upon him left it timeless, however; in the treaty of “Hudaybia”, he limited it by ten years. So, the right to join these great principles is still in use because it a positive invitation for peace at any moment of time.

2. The Rights of the other from the perspective of the Medina Constitution:

The other, in the modern European philosophy, is the opposite of the self. The west invented this concept to define itself as superior by defining the other as inferior; therefore, the other becomes an important factor to emphasize the identity of the self.

Islam affirms the other and does not oppose it because the difference between the human beings is a Divine law. It rejects dealing with the other as inferior because there are shared human values. Therefore, from the Islamic point of view, the other is any human existence except the self, but it differs with it material abilities and mental and ethical competencies, and ideological, political and social starting-points.

The concept of the other goes side by side with the concept of coexistence which is a modern concept in the political and social sciences and defines as the social system that enables the individuals to live together without destroying each other. The term coexistence as it is used at the present time, implies a willingness to live in peace, and perhaps in mutual respect with others. (Bernard 174). It might therefore be useful to begin with a glance at the notion of “Otherness”. (Bernard 174).

Coexistence does not mean the renunciation of any side on his opinion or religion because this is a part of the personality. From an Islamic point of
view, coexistence breaks the obstacles between people, and opens horizons of dialogue and acceptance of the other to reinforce the mutual respect.

3. The Right of the Religious Freedom:

In article 25” … the Jews have their religion and the Muslims have theirs...” this principle is supported by the verse256 in surrat al Baqara ”there shall be no compulsion in religion: true guidance has become distinct from error. But whoever refuses to be led by Satan and believers in Allah has grasped the strong land hold that will never break. Allah is all hearing and all knowing.” It coincides with the notion of “Ummah”.

4. The concept of Ummah:

In article 3:“the constitution of Islamic State of Medina” written by Dr. Muhammad Tahir-ul-Qadri. “The after mentioned communities shall formulate a constitutional Unity as distinct from (other) people.” In another version, it is Article 2 “they are one community (Ummah) to the exclusion off all men”.

The first remark is that there different versions, different translations taking different titles including different numbers of articles. In my opinion, this extremely important document deserves more efforts to unify the different visions at the international level not at the individual translations here or there. A problem imposes itself, which divisions the researchers have to follow? Dr. Hamidullah used various original texts to write a constitution consists of 47 articles. The first part, consisting of twenty three articles deals with the mutual relations between Muslims. The second part, consists of twenty-four articles, is concerned with the relations of Muslims with Jews and non-Muslim inhabitants of Medina.
Dr. Qadri further divided and categorized these articles into sixty-three constitutional articles. This written constitution declares Medina as a state of peace and security, free from all kind of violence and terrorism.

This manuscript clarifies the reason behind the different existing constitutions. It was written as text in a continuous lines without punctuation because the latter started in the era of the third successor Othman Bin Affan (may Allah be pleased with him). The first book that includes the constitution was a biography of the prophet, written by Ibn Ishaq (died in 151h), then Ibn Hisham (died in 213h) included a more detailed copy, then a lot of Islamic scholars like Ibn al-qiam and Ibn Hadjr.

In the modern times, the first scholar who presented this document to the scientific circles in Europe was the German orientalist Wellhausen.
The author of *Islam: A Christian Perspective*, the Bishop Micheal Nazir Ali marked the evolution in the meaning of the concept of Ummah throughout the history of Islam. He said:

“The interesting thing about the Constitution of Medina is that it recognized that all these people: Pagan Arabs as well as the Muslims, the Ansar (helpers) and the Muhajirin (emigrant) and the Chrisian in that city were part of the same Ummah; of the same nation.”

Nowadays, of course, Muslim often use the term Ummah to mean the Muslim community; but that is not how it was used in that very first constitution of an Islamic state.

5. **The Right of the Political Participation:**

In article 24 according to Dr. Hamidullah division: “the Jews shall contribute to the cost of war so long as they are fighting alongside the believers”.

In article 38 “the Jews must pay with the believers so long as war lasts”.

In the Political Thought, it is called the political participation to find the best ways to rule the state in order to face the internal and the external challenges.

So, the Constitution of Medina gives the non-Muslims the same political, religious and economic rights. If we compare these articles with the position of the Jews in Medieval Europe when they were prevented from owning a small piece of land and they were allowed only to work in a very limited economic activities, we will find that throughout the Jewish history, they have never treated in a dignified and fair manner except under Islamic rule not only during the prophetic era but for centuries until the fall of Grenada in Andalusia in 1492.
6. **Is the Muslim migration comparable with the Jewish mass migration to Palestine:**

The Prophet peace be upon him migrated to Medina and established a civil state there as well as the companions who found in Medina a new country that allowed them to practise their religion freely, live with the native inhabitant in peace and participate in the social, political and economic life. In modern times, many European Empires encouraged emigration to their colonies. For instance, the British Empire provided the needed support to declare the state of Isreal for the Jewish people.

<table>
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<tr>
<th>Medina</th>
<th>The Zionist entity</th>
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<tr>
<td><em>A small number of emigrants: 45.</em></td>
<td>_Millions of emigrants.</td>
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<tr>
<td><em>acceptance of the native inhabitants.</em></td>
<td><em>Non-acceptance of the native inhabitants.</em></td>
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<td><em>Temporary residence.</em></td>
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<td><em>a civil state.</em></td>
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<td><em>Pluralistic society.</em></td>
<td>_racist and sectarian society.</td>
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<tr>
<td><em>built on tolerance and coexistence.</em></td>
<td><em>built on killing, banishing the Palestinians.</em></td>
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<tr>
<td><em>Succeeded in creating a civilization.</em></td>
<td><em>Failed in creating a civilization.</em></td>
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Table1: the Medina versus the Zionist entity.

So, the first Islamic State in Medina is incomparable with the temporary and the functional State of Israel which is different from the Diaspora of the Jewish people. The political Zionism is a deviation from religious Zionism that is found in many religious texts of Judaism. So, this is a deviation from religion in order to establish a religious state.
The Security and Defence in the Constitution of Medina:

The security of Medina is the first priority of the constitution and defending the Medina is the duty of all the tribes. The article 38: “the Jews must pay with the believers so long as war lasted”. The defence is a shared responsibility but fighting Kuraysh is the duty of Muslims alone and the Jews and the Pagans are free to participate or not.

Article 39: “Yathrib shall be sanctuary (Haram) for the people of this document”. The security of Medina is extremely important because after drawing the borders, and after a long period of instability and wars, there is a necessity to establish a secure state for its development. If we project this article on the contemporary Muslim States, we will avoid the catastrophic results of the civil wars like in the case of Syria.

The article 17 is one of the most important concerning the military issues. It is composed of three sections:

1. “The peace of the believers is indivisible.”
2. “No separate peace shall be made when believers are fighting in the way of Allah.”
3. “Conditions must be fair and equitable to all.”

If we compare the content of this article alone and two peace treaties: Camp David Accords between Egypt and Israel in September 17th, 1978, and Oslo Accords between the Palestinians and Israel in September 13th, 1993, we will find the opposite. The peace of the Arabs is as weak as it divisible. In addition, the conditions were neither fair nor equitable.
Figure 3: Muslims and non-Muslims in Medina.

They are citizens, consult each other, responsible of spending money and protecting the Medina.

8. The Individual Responsibility about the Crimes and the Punishment:

According to Dr. Hamidullah’s division, there are three articles that abolish the common responsibility of the crime, it replaced by the common responsibility of correcting it. This is just a transformation of the wrong traditions by the right ones; it represents a soft shift from different and changeable loyalties to a unique and a fixed loyalty which is Islam.

In article 25: “the Jews of the B’ Auf are one community with the believers, their freedom and their persons except those who behave unjustly and sinfully, for they hurt but themselves and their families.”

Article 36, section b:’” he who slays a man without warning slays himself and his household, unless it be one who has wronged him, for God will accept that.”

Article 46: “… he who acquires ought to acquire it for himself. God approves of this document.’
9. The Concept of Pluralism in the Constitution of Medina:

The concept of pluralism appeared in the early twentieth century to express the differences between ideologies (capitalism and communism) and values in the political, social and cultural aspects.

On the contrary to what the western thinkers claim that pluralism is a product of the western mind, Islam admitted pluralism in a practical and a large way in the Constitution of Medina which was a starting point to establish this principal between Muslims and non-Muslims not only in the political side but importantly the social, the cultural and the economic sides. Moreover, the Constitution affirmed the previous treaties and considered the allies of any partner as indirect participant in it. It is mentioned in these articles:

1. Article 20, section b:” no polytheist shall take the property of person from Kuraysh under his protection or shall he intervene against a believer.”

2. Article 25: “the Jews of Banu Awf are one community with the believers, the Jews have their religion and the Muslims have theirs.”

3. Article 42: “if any dispute or controversy likely to cause trouble should arise it must be referred to Allah and Muhammad the apostle of Allah. Allah accepts what is nearest to piety and goodness in this document”.

It is clear that Islam admitted the political pluralism based on the fundamental Islamic principles: consultation; equality and justice. The natural result of this is the peaceful coexistence and the mutual respect between the different partial communities.

10. The Concept of Democracy in the Medina Constitution:

Democracy is the rule of the people for the people by the people. from the Islamic point of view, it does not mean exactly consultation because people in the
Islam political system are consulted only on permitted issues. This verse summarised the Islamic consultation “and those who answer the call of their Lord (i.e.to believe that He is the only one Lord, and to worship none but Him alone), and perform As-Salat and who conduct their affairs by mutual consultation, and who spend of what We have bestowed on them”. (Quran42: 38).

Consultation existed in the Pre-Islamic era. In mecca, there were a council called” an-Nadwa” and the leaders of Kuraysh were consulting each other. When they took the decision to kill the Prophet peace be upon him, it was after a consultation and they reached an agreement between the all ten tribes. So, not all the majorities are right.

Article 23” whenever you differ about a matter, it must be referred to Allah and to Muhammad.

Article 42: “a woman shall only be given protection with the consent of her family”.

So, Islam is compatible with Democracy as a means in the executive branch not as an ideology in the legislative branch. There are similarities between Democracy and Consultation that means it is neither a purely western invention nor a secular concept.

11. Major Characteristics of the Constitution of Medina:

1. Written and signed by the Prophet peace be upon him “Muhammad Ibn Abdullah” not “Muhammad the Messenger of Allah” because the civil state includes non-Muslims.

2. Short and even brief, the Arabic original text is composed of about 425 words. It holds a lot of deep meanings that needs experts on Politics, Law, Sociology and
Islamic Studies to work together in order to extract rules that can solve the most serious contemporary conflicts.

3. Flexible, clear and precise. There is no ambiguity that may accept different interpretations of the document.

4. Direct instructions and definite rules such as in: the Jews must pay; shall contribute; it shall not be lawful. Everyone shall have. And so on.

5. Comprehensive to all the general sides of the system. It treated all the aspects of life, even the names of the tribes are mentioned in the Constitution. Each tribe in a separate article. This act seems unnecessary but it is a kind of showing respect to the other to build lasting relationships. In the contemporary historical relationships between Syria and Lebanon, there was a need for a presence of troops from the Syrian Army in Lebanon since 1975 (the civil war) and indeed; they played a very important role. But the problem comes from the lack of any written treaty or agreement that made the Lebanese feel humiliated and asked for a retreat which has had negative consequences. So, many crucial crises could be avoided if Muslims gave importance to the Constitution of Medina from both sides: studying it and then putting it into practice.

III. Post-Modernism and the Constitution of Medina:

1. Modernism:

Modernism is the economic changes that occurred in Europe in the late fifteenth century and early sixteenth century. Some thinkers see that Modernism started in 1436 with the invention of printing. Other thinkers see that it started in 1520 with the Lutheran Revolution against the church. A third group consider 1648, the end of the thirty years war, the real beginning. A fourth one links Modernism with the American
Declaration of Independence in 1776. A last group of historian consider the French Revolution in 1789 the major event that serves as a starting point of this movement.

2. Postmodernism:

Postmodernism is a movement that started after the Second World War. It has the following characteristics:

1. The political and the economic hegemony by the superpowers.
2. All the humanity would recognize the same historical periods, so if the west
3. Recognized the Medieval Age then the Modern followed by the Postmodern period; the other societies inevitably would follow the same steps as if they have the same cultural and social structures. I think this is due to Euro-centrism.
4. “History repeats itself “is true in general situations but if we apply a deep analysis, this statement will be rejected.
5. History is based on a given ideology, and this ideology responds to the problems and the dilemmas regarding to a special cultural system. Here if we repeat the same experiment, we will surely repeat the same errors. This idea lacks the scientific evidence because even in exact sciences; the same experiment in the same conditions gives at certain level different results. In the human sciences and social sciences such as psychology and sociology every case is a case.
6. History of western civilization is related to a western context but Postmodernism transformed the western model as universal.
7. Modernism and Postmodernism are related to factors which are stacked on the western conscious.
8. If Postmodernism is treated out of its context, the result will be a contradiction unless we surrender the universality of the historical western experience.
9. Postmodernism is an evolution in a special way that reflects the western civilization and its entity.

10. If we put Postmodernism in its theoretical and problematic context, we can say that it is result of the previous steps (periods) and it expresses the specific evolution and its own results will shape the coming steps.

11. Focusing on the domains of interest of Postmodernism, a lot of difficulties appear on the surface because it is a historical phenomenon composed of different philosophies.
   
   (1) The philosophy of “Nietzsche” and his famous declaration of the God’s Death in the early nineteenth century.
   
   (2) Existentialism with its different currents mainly of “Sartre” which established the basis for a rebellion against values and fixed norms.
   
   (3) Marxism and its critical inclination.
   
   (4) Structuralism and post-structuralism and their disengaging inclination.
   
   (5) Deconstruction which is based on destroying and breaking up everything, even the mind itself.

   In sum, in Postmodernism; the “All” became separated and scattered elements without any order. That means in state of chaos and a complete disorder. In addition, there are no links at all levels: individuals; society and the state.

3. Deconstruction:

Deconstruction is one of the aims of Postmodernism which persists on deconstructing the references, metaphysics and limits. Postmodernism visualizes the existence and the human being through a vision that reject references, centres, limits and ends.
“To deconstruct a text is to draw out conflicting logics of sense and implication, which the object of showing that the text never exactly means what it says or says what it means”. (Norris, 1988, 7)

4. **Islam and Postmodernism:**

Islam shares with Postmodernism some positive sides which serve in enlightening, liberating and educating the human being. In the other hand, they disagree about some negative points that contradict with the Islamic principles; that was why Islam rejects and strongly oppose some of the postmodern philosophies such as “Deconstruction”\(^1\). In the following part, we are going to compare between Islam and Postmodernism then we will try to benefit from the theory of Deconstruction. The aim of including it is to demonstrate three things. First of all, it is uncompleted theory. Second, we will attempt to apply deconstruction on the social level of the pre-Islamic era. Since we can deconstruct almost everything, and since that period was full of contradicted binaries, let us deconstruct the tribal society and look for it in the Constitution of Medina. Third, we will show in a practical way how the prophet peace be upon him was a great social reformer when he went further than understanding the situation, he provided the substitute: peace instead of war; brotherhood instead of blood ties and so on.

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\(^1\) **Deconstruction** is a form of philosophical and literary analysis derived principally from Jacques Derrida's 1967 work *Of Grammatology*. In the 1980s it designated more loosely a range of theoretical enterprises in diverse areas of the humanities and social sciences, including—in addition to philosophy and literature—law anthropology, historiography, linguistics, sociolinguistics, psychoanalysis, political theory, feminism, gay and lesbian studies. Deconstruction still has a major influence in the academe of Continental Europe and South America where Continental philosophy is predominant, particularly in debates around ontology, epistemology, ethics, aesthetics, hermeneutics, and the philosophy of language. It also influenced architecture (in the form of deconstructivism), music, art, and art critics.
A. Similarities:

There are different common sides between Islam and Postmodernism such as: tolerance, the belief in pluralism and ethnic and racial diversity. In addition, both are against racism.

1. People are equal and in Islam, there is no difference between a white man and a black man or between Arab or non-Arab except in piety.
2. Both are against violence and extremism.
3. They fight against colonialism and all kinds of wars and hegemony. In Islam, there is no holy war; it is an obligation in very specific cases. In Postmodernism, Post-colonialism is a branch that takes the responsibility of defending peoples’ rights in freedom and dignity.
4. Both aim to enlighten, educate and teach peoples.
5. Both support the contact between the different peoples whether they are strong or weak on the basis of knowing each other, integrating and for better understanding of the other that resulted in peaceful coexistence and tolerance.
6. Islam accepts the scientific interpretation and the use of any thought in reading the revelation either it is Quran or Sunna with one condition: any ideology that does not contradict the Islamic beliefs and the uniqueness of Allah. In this respect, Islam agrees with “hermeneutics” or the science of interpreting religious texts on the basis of objectivity and scientific neutrality.

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2 Hermeneutics is the theory of text interpretation, especially the interpretation of biblical texts, wisdom literature, and philosophical texts. The terms "hermeneutics" and "exegesis" are sometimes used interchangeably. Hermeneutics is a wider discipline that includes written, verbal, and nonverbal communication. Exegesis focuses primarily upon texts. Hermeneutic, as a singular noun, refers to a single particular method or strand of interpretation.
7. Islam and Postmodernism cast off extremism; stagnation and indolence and arrogance (mainly in literalism).

8. Islam like Postmodernism believes in "cultural intertextuality" and knowledge is a result of taking from the precedents and giving to the followers and this quite normal.

9. Both accept the difference but here we have to distinguish between two kinds of differences. The first one is only in details as the prophet Muhammad peace be upon him said: "difference is a mercy" because it gives fruitful diversity. The second one is rejected in Islam but accepted in Postmodernism which is related with the origins, i.e.; with the religious principles. Furthermore, it is a difference for the sake of difference.

10. Islam and Postmodernism defend the human being and tribute and glorify him. the Holy Quran includes a lot of verses in which the Almighty dignified the human being among all His creatures.

11. Both defend values and liberties mainly the human rights.

12. Moreover, Islam and Postmodernism refuse expatriation, exclusion and marginalisation and alienation. As a substitute, both support integration and positive globalization.

It is worthy to be mentioned that Islam preceded Postmodernism by fourteen centuries and it was a reality at the practical level, however; it was just an ideological, political and theoretical slogans in Postmodernism.

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3 **Intertextuality** is the shaping of a text's meaning by another text. Intertextual figures include: allusion, quotation, calque, plagiarism, translation, pastiche and parody. An example of intertextuality is an author’s borrowing and transformation of a prior text or to a reader’s referencing of one text in reading another.
B. Differences:

1. Islam disagrees with Postmodernism in many crucial issues that contradict with the fundamental Islamic principles because Islam strongly opposes absurdity, scepticism and atheism which we can find in western non-spiritual philosophies and in the Marxist theory.

2. Islam casts off pessimism, perplexity and despair.

3. Islam prohibits homosexuality which is accepted in postmodernism.

4. Islam rejects the Derridian philosophy of Deconstruction as a kind of destruction since it is not followed by a construction or a reconstruction. What role can this theory play beyond revealing the presence of metaphysics?

   Is it possible to read the Holy Quran referring to the Derridian Deconstruction?

   We believe that it is impossible to study the Holy Quran or any sacred text starting from a deconstructive methodology because the Quran includes facts and religious and legislative fixed structures that do not accept suspicion and scepticism.

5. Deconstruction is an ideology based on rejection and revolution. It criticizes the central concepts in the western thought in particular and the human thought in general such as the language, the mind, history, tradition, the sound and so on.

6. Deconstruction rejects the binaries such as soul and body, life and death, light and darkness; however the Quran is built on a group of binaries like night and day, life

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4 Jacques Derrida (July 15, 1930 in Al-Abiar – October 9, 2004 in Paris) was a French philosopher, born in Algeria. Derrida is best known for developing a form of semiotic analysis known as deconstruction. He is one of the major figures associated with post-structuralism and postmodern philosophy. During his career Derrida published more than 40 books, together with hundreds of essays and public presentations. He had a significant influence upon the humanities and social sciences, including—in addition to philosophy and literature—law, anthropology, historiography, linguistics, sociolinguistics, psychoanalysis, political theory, feminism, and queer studies.
and death, male and female, heaven and hell. The Quran used the binaries in order and harmony and they are either fixed or refer to a fixed centre.

In general, Islam agrees with Postmodernism about some points that serve the human being in both sides: spiritual or material, but disagrees with it about a lot of principles, beliefs, ideas which are harmful for the human being in spiritual, mental and material sides especially the Derridian philosophy of Deconstruction.

C. Deconstruction of the Tribal Society and the Question of Reference in the Light of the Constitution of Medina:

1. The Presence of the Tribal Society in the Constitution of Medina:

The constitution of Medina kept some of the tribal social functions as the following articles indicate.

i) Article 3: “the Kuraysh emigrants according to their present custom shall pay the blood wit they paid in heathenism, every section shall redeem its prisoners with the kindness and justice common among believers”.

ii) Articles 4-8, the same rules are applied on the Jewish tribes; means they would keep the same customs without any change.

iii) Article 15: “Allah’s protection is one; the least of them may give protection to a stranger on their behalf. Believers are friends one to the other to the exclusion of the outsiders.”

This article affirmed the Pre-Islamic of giving protection to the strangers but usually, it was given by the leaders not by the least of them. The Constitution here appreciates the citizens of Medina not only by showing equality in a practical way; it reinforces the belonging to the Ummah that would have positive consequences on social, economic and even psychological aspect of life. It is a profound significance to refer to the least when we speak about
rights as to refer to the «most” powerful when we speak about sub-communities or tribes as Banu Awf which is a big tribe with two characteristics: powerful and wealthy, Arabian but converted to Judaism. So, the choice of it was not arbitrary because this would dignify the weak tribes from one hand. In the other hand, it would serve as shared or a hybrid element in the new society.

iv) Articles 26-35;” … the close friends of the Jews are as themselves.” These articles include allies such as Banu Kaynuka’a and Banu Nadhir who were allies with Kazrudj and Banu Quraytha who were allies with Aws. Islam did not break the previous relationships between the tribes of Medina in a very brief statement, the equality in rights and duties is very clear and there is no privileges at all like the proclamations indicate.

v) Article 41 :” a woman shall only be given protection with the consent of her family.”

vi) Article 45, section b: “everyone shall have his portion from the side to which he belongs.”

**D. The Question of Reference in the Constitution of Medina:**

When Allah legislates any law, allowing or prohibiting something, we have to believe that there is wisdom behind and the objectives of Shari’a which the scholars have extracted them from the sources without any destruction or sceptic analysis. The starting point is always without any kind of doubts because we are dealing with a sacred text, and if we reach a contradiction, we have to accuse our understanding and limited minds and subjective desires.

The goals of the Shari’a including the Islamic Legal System are:

i. The protection of religion.
ii. The protection of the human life.

iii. The protection of the mind.

iv. The protection of the family.

v. The protection of property.

There is extreme point of views within the Islamic Shari’a such as “Literalism”. This movement completely ignore the objectives “Maqasid” by looking at the text and ignoring the context. Literalism is a danger from within because it do not look at the reality of the world. Moreover, it coincides with “Deconstruction” in ignoring the context. Derrida put the condition of deconstructing the text by neglecting history, society, tradition, religion and all what can make the text meaningful. The opposite is to reject the text and stick only on the objectives. As a result, we may use a sacred text like the Quran to reject the Quran itself. So, the text will be a case similar to a civil war, fighting itself by itself and this is what Deconstruction do in a Holy text where there is no place for absurdity and the human contradictions. We can say that Deconstruction, concerning the sacred texts, combine the drawbacks of two extreme groups of Islamic Shari’a.

**Conclusion:**

The rapid development in recent times led to the rise of jostling between the different ethnical, religious groups that resulted in many cases in destroying nations in meaningless conflicts supported by the inclination of defending the identity.

The Constitution of Medina provides an example of the possible and non-Critical relationship with the other. This is a necessity for a good beginning in order to establish a contemporary Islamic Political Thought. In my modest opinion, the problem lies in two major points. First, Islamic Politics have been neglected for
centuries that resulted in Literalism and political unawareness among most of Muslim scholars the fact that they are religiously sincere. Second, the adaptation of Western ideologies regardless to the social aspect and with the ignorance of the great Islamic heritage, we adopt some of our principles as purely western inventions.

Islam took from all the precedent civilizations and paved the way for the following ones but the western orientalists deny the Islamic contribution and it is the duty of Muslims to prove this and to do the knowledge is a sacred duty. Unlike the modern ideologies such as Communism that appeared as a reaction to the unfair treatment of the working class by the Capitalists or as the Enlightenment that appeared as a reaction to the dominance of the Church, Islam has never been a radical change to the Pre-Islamic era which known as” the Age of Ignorance” as some historian claim. The Prophet peace be upon him said: “I was sent but to accomplish the good character.” That means that the previous society was characterized by good qualities especially concerning the social solidarity. So, we can say that the constitution of Medina includes some of the tribal features standing side by side with the pluralistic features. The only radical change was in the monotheistic doctrine that is the basis that does not accept any kind of mid-way.
Introduction:

In the light of the late Middle Ages intellectual development, there was clearly a visible influence of contemporary political philosophers on American revolutionary thought in the eighteenth century. Among major philosophers who dealt with the subject of good government was Thomas Hobbes (1582-1679) who wrote on the topic of contract theory. Hobbes advocated the principle of “consented” mass social contact to guarantee the individual’s right to representation in government.

However, the leading philosopher was John Locke (1632-1704) in his book Two Treatises of Government (1690), he made a substantial contribution to the notion of the “natural rights”. but the most influential philosopher was Montesquieu in his notion of the separation of powers. Another philosopher called James Harrington (1611-1677) added the concept of “rotation” in office. In his book Oceana (1655), Harrington explained that rotating executives in office over regular limited periods of time would remove the risk of monopolization of power by unelected office holders.

There are a number of historical documents considered to be major elements of American revolutionary thought which are: Common Sense, the Declaration of Independence and the Articles of Confederation.

1. Historical Background:

1. Common Sense:

Common Sense is a pamphlet which was written by Thomas Paine (1737-1809). When it was completed in January 1776; it produced an electric effect on American
patriots for its radical message. Unlike the majority of colonial writers, Paine comes out unreservedly for total independence from England. As he put it: “a government of our own is our natural right”. More importantly, in his document, he showed how good government depended on the consent of the governed indicating thereby the influence of past philosophers on him; notably John Locke. (Ferhat 26).

The pamphlet urged the Americans to think in terms of the whole community through the thirteen colonies:

1. It called on them to unite for the sake of order and to elect representatives to act on their behalf.

2. It carried a denunciation of the tyrannical and non-free nature of the British system of government.

3. It made a plea for the colonies to unite for the sake of independence.

4. It represented a call for armed action.

2. The Declaration of Independence:

It came into being in July 1776. It is a 1300 word document that was drafted by five leading revolutionaries, namely: Thomas Jefferson, John Adams, Roger Sherman, Robert Livingston, and Benjamin Franklin. According to Dr. Ferhat, it may be analysed in four parts as follows:

1. It contains a statement of the reasons why it was written.

2. It displays the philosophical nature of the revolution.

3. It states the aim and procedure to be followed, namely: national independence through armed action.
4. It stands as a call for military struggle.

Two of the most important ideas expressed in the Declaration of Independence are that:

1. All men are created equal.

2. They are entitled to: "life, liberty, and the pursuit of happiness.

“The belief in equality for all is central to the idea of democracy in the United States. Although not everyone in the United States has always enjoyed equal rights, the idea of equality stated in the Declaration of Independence has inspired generations of people to fight for their rights and to be tolerant with others.” (Blanchard, Root 15).

3. The Articles of Confederations:

After declaring independence from Britain in 1776, the delegates at the Second Continental Congress immediately set to the task of creating a government, in 1777, Congress submitted the nation’s first constitution, the Articles of Confederation, to the states, who finally ratified it a few years later.

Although the Articles of Confederation was already drafted by mid-July 1776, its adoption was delayed till November 1777 and was not endorsed by the thirteen states until March 1781. The Articles created a confederacy called the United States of America. It represented the main source of legislation and controlled the powers of the Second Continental Congress. So, it come late in effect as the war drew to its end and remained minimally operational only until the endorsement of the more powerful document of the United States Constitution in 1787 (Ferhat 27).
3.1. Problems under the Articles:

Congress proved unable to manage the country’s economic affairs under the Articles of Confederation because most states currencies had become useless due to wartime inflation. Congress printed its own continental dollars to keep the economy alive, but these faltered as well. Congress proved unable to raise enough money from the states, because the federal government had no way of forcing the states to pay taxes. Most states ignored Congress’s attempts to resolve numerous interstate disputes that arose.

4. The Constitution of the United States:

After some failed attempts, finally a convention of states met on 14 May 1787 in Philadelphia to rewrite the Articles of Confederation. Fifty five delegates representing twelve states attended the meeting with Rhode Island staying away. The great majority of the delegates were members of the upper class and gentry with national leaders such as General George Washington, James Madison ‘called the father of the constitution), and Alexander Hamilton. The final draft which became a Federal Constitution of the United States of America was signed in 17 September 1787.

In the course of proceedings, the Convention had to choose between two main propositions which reflected the nation’s intention to set up a strong central government and the wish to preserve the doctrine of states’ rights. The plans were named after the states that suggest them, namely: Virginia and New Jersey. More
importantly, they turned out to represent the interests of the large and small states respectively.

The Virginia Plan advocated the following goals:

1. The creation of a united republic, not just a confederation of independent states.
2. A three-branch government structure; with a single executive, a bicameral legislature, and an independent judiciary.

The legislature would adopt the principle of proportional representation which obviously was meant to favour the large and populated parts of the nation. Additionally, the judiciary would operate directly on the individuals not through the intermediation of the states.

However, the small states preferred the New Jersey Plan. This amounted to an amendment of the Articles of confederation by enhancing its powers while maintaining the principle of state sovereignty. Furthermore, the plan advocated the creation of a unicameral legislature with representation considered on the principle of one state-one vote for the sake of universal equality. So, this approach was clearly not likely to prevent a repetition of earlier weaknesses to the projected federal government.

After long tiring debates over the two options, a compromise was reached along a middle-of-the-road proposal known as the Connecticut Compromise. It included the following principles:

1. A three-branch government structure with an elected single executive, a bicameral legislature with equal state votes at Senate level, and proportional representation in the House of Representatives, and judiciary with direct effect
on individual citizens. Here, it was emphasized that a black slave counted only three-fifths of a white man.

Congress was empowered to tax and regulate all trade. Unlike the preceding Articles of Confederation, the constitution was amendable by a mere two-thirds majority requirement.

A court system was established with a leading Supreme Court at its head to check the constitutionality of laws within a trilateral system of checks and balances among the three branches of government.

5. The Functions of the Three Branches of Government:

A) Functions of the Legislative Branch: Article1 of the Constitution.

1. To borrow and coin money. Article1-Section8.

“To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;”

2. To regulate commerce. Article1-Section8 Clause2: the Commerce Clause. “The Congress shall have Power [...] to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;”

3. To regulate immigration. Article1-Section 9: limits of Congress

“The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.”
4. To test up post office and roads. Section 8 - enumerated powers.

“To establish Post Offices and post Roads;”

5. To create an environment for good commerce. Clause 2: Import-Export Clause.

“No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its [sic] inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.”

6. To maintain army, navy and militias. Section 8

“To provide and maintain a Navy; to make Rules for the Government and Regulation of the land and naval Forces; To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;”

7. To declare war. Section 8 – enumerated powers “To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water; To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;”

8. To conduct impeachments. Section 3 Clause 7: Judgment in cases of impeachment; Punishment on conviction. “Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honour, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.”
1. To oversee the District of Columbia.

2. To make laws limited to the six purposes of the Constitution and these areas. Article 1, Section 8.

“The Congress shall have power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.”

1. Functions of the Executive Branch: the Presidency in Article 2

1. To be Commander in Chief. Section 2, Clause 1: Command of military; Opinions of cabinet secretaries; Pardons

“The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment”.

2. To appoint ambassadors, judges and officers. Section 2, Clause 2: “He shall nominate, and, by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.”
3. To enforce the laws of the United States. Section3

“...he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States. “

4. To sign treaties and receive ambassadors. Section2- The Treaty Clause: “He shall have Power, by and with Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur...”

5. To grant pardons. Section2- Clause1. Pardons.

“...And he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.”

6. To give the state of the union to Congress. Section3- State of the Union, Convening Congress: “He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient

2. **Functions of the Judicial Branch**: Supreme Court in Article3

1. To make appeals from citizens. Section2 Clause2

“...to make principal judgements. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and
maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.”

2. To ensure jury trials. Section 2- Clause 3

“In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.”

3. To uphold the Constitution. Section 3- Clause 2.

“The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.”

All these branches are to uphold and interpret the Constitution not just the Supreme Court. Even at the time of the ratification of the Constitution, there was great concern over the Supreme Court and the judicial overreach or judicial tyranny because judges were appointed of life. Thomas Jefferson said: ”the Constitution is a mere thing of wax in the hands of the Judiciary, which may twist and shape into any form they please.”

3. **The Balance of Power over the Court:**

1. Congress establishes the jurisdiction of the Court.
2. Congress has the power to impeach judges.

<table>
<thead>
<tr>
<th>Congress</th>
<th>President</th>
<th>Judiciary</th>
</tr>
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<tbody>
<tr>
<td>Is designed just slightly more powerful because they are closest to the people: and in keeping the law, powerful.</td>
<td>Is designed to be powerful in war (commander in chief) and balance but the least powerful.</td>
<td>Otherwise medium power.</td>
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_the Senate.

Table 2: The Powers of the three Branches of the Government

A Bill of Rights consisting of the first Ten Amendment was added to the Constitution to fend off eventual opposition from the population at large.
The Constitution became effective in June 1788 when New Hampshire ratified it as the ninth state completing the required two-thirds majority for constitutionality. So, the new constitution gave the nation a strong government. Here, it will be that while the state’s rights doctrine was overlooked, the principle of individual’s rights emerged, and the citizen became the ultimate source of all power

1. **How to Amend the Constitution of the United States of America?**

   Article 5 says how should the Constitution be amended but it did not mention the court at all. It specifies the means by which the Constitution can be changed. Two steps are followed to amend the Constitution: proposing the amendment and then ratifying it.

   1. **Proposing the Amendment:** there are two methods to propose it:

      a. Two-thirds of the state legislature asks Congress to call a national convention to propose amendments (this method has never been used).

      b. Two-thirds of both Houses: Representatives and Senate approve by a two-thirds supermajority vote. The Amendment do not require the signature of the president of the United States and are sent directly to states for ratification.

   2. **Ratifying the Amendment:**

      Article 7 talks about the ratification of the Constitution. There are also two methods to ratify the Amendment.

      1. Ratifying conventions in three-fourths of the states approve it. This method has been used only once to ratify the 21st Amendment about repealing prohibition (18th Amendment).

      2. Three-fourths of the state legislatures approve it.
To Amend the Constitution is not an easy task for many reasons. First, it requires a supermajority vote, two-thirds, just to propose the Amendment. Second, the ratification needs more than the first majority, and to reach 75% of the states or the state legislatures is extremely difficult. That was why from thousands of proposals, only 27 including the Bill of Rights have been ratified. After the assassination of President John F. Kennedy, there were many calls to appeal the second Amendment, and despite the increase of the level of the crime due to the right to have a weapon to every citizen. The legislature sees that this is a protection of the people from being ruled by a tyrant. Even the 22\textsuperscript{nd} Amendment is subject of appeal by people who call for a third term for the president.

3. **The Bill of Rights:**

After the Constitution was approved, many citizens were concerned that it created a strong federal government but it did not protect the basic rights of the people. As a result The Bill of Rights is the first ten Amendment of the Constitution that appeared in September 17\textsuperscript{th}, 1791.

<table>
<thead>
<tr>
<th>Amendment</th>
<th>Content</th>
</tr>
</thead>
<tbody>
<tr>
<td>1\textsuperscript{st} Amendment</td>
<td>People have freedom of religion, speech, press and assembly and the right to petition the Government.</td>
</tr>
<tr>
<td>2\textsuperscript{nd} Amendment</td>
<td>People have the right to have a weapon to protect themselves.</td>
</tr>
<tr>
<td>3\textsuperscript{rd} Amendment</td>
<td>Soldiers cannot take or live in a person’s life.</td>
</tr>
<tr>
<td>4\textsuperscript{th} Amendment</td>
<td>The government cannot arrest a person or search their property unless there is a probable cause.</td>
</tr>
<tr>
<td>5\textsuperscript{th} Amendment</td>
<td>The government must follow the law before punishing a person.</td>
</tr>
</tbody>
</table>
6th Amendment A person has the right to a fair and speedy trial for civil causes.

7th Amendment A person has the right to a jury trial for civil causes.

8th Amendment The government cannot demand excessive bails or fines, or any cruel or unusual punishment.

9th Amendment The Constitution does not include all of the rights of the people and the states.

10th Amendment Any powers that the Constitution does not give to the federal government belong to the states.

Table 3: The Bill of Rights.

4. **Analysis of the Constitution of the United States of America**

1. **The Preamble:**

   “We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”

   The Preamble of the constitution of the United States is composed of 52 words written by Gouverneur Morris, from Pennsylvania, who was extremely talkative, and probably the most profound of all the delegates.” Even though, Morris wrote the preamble in a clear and language, this short document was misunderstood even in the Constitutional Era.” (Bobb 7). It announces a major change in national philosophy opening with the famous words “we the people of the United States”; these words raised a problem of representation and even of legitimacy of the 39 among 55 delegates who signed the document.
These are the six aspects of what the rest of the constitution is designed to support and to guide, and everything else in the constitution is supposed to serve only these purposes which define and limit the remaining 4450 words of the rest of the constitution. So, these words are so important because they are clearly dictate what the rest of the constitution should be guided by, by the way of interpretation. For example, the phrase “to promote the general welfare”, as it understood in 1787, did not mean the modern welfare of nowadays. What that meant was to create fair economic plan where all the parties and citizens of the United States would have access to use the gifts, skills, abilities and talents to pursue the goals that they have in life but not the government hand-outs with association with welfare today.

<table>
<thead>
<tr>
<th>The statement</th>
<th>Misconception by the Anti-Federalists</th>
<th>Current Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>We the people</td>
<td>Argued that the constitution would take away the power from the States and destroy the liberty of the people.</td>
<td>Was a powerful way to announce the American’s new form of government. These 3 words are the argument for a new regime that is in keeping with the principles of the Declaration of Independence.</td>
</tr>
<tr>
<td>To form a perfect union</td>
<td>“Perfect union” ensued that states would gradually be pushed out and more power would be given to the government.</td>
<td>Dr. David Bobb states” this phrase has nothing to do with the future, but everything to do with the past”. The only thing that the constitution was intended to perfect, was the current government under the Articles of Confederation.</td>
</tr>
<tr>
<td>Establish justice.</td>
<td></td>
<td>Make good government and laws.</td>
</tr>
<tr>
<td>Ensure domestic tranquillity.</td>
<td></td>
<td>Ensure peace</td>
</tr>
</tbody>
</table>
Provide for common defence. National security.

Promote the general welfare. This phrase would grant the government too much power. This phrase has to be referenced in the limited government context in which it is written.

And secure the Blessing of Liberty. Freedom.

To ourselves and to our posterity. Family and friends.

Do ordain and establish Give authority.

This constitution. The supreme law of the land.

For the United States of America. For now and for the future.

Table 4: the Preamble of the Constitution of the United States of America.

“but the fact that the phrases are repeated in the text of the Constitution – the Spending Clause of Article1, for example, declares Congress’s power to “provide for the common Defence and general Welfare, and the Fifth Amendment prohibits deprivations of “ liberty” without due process of law- shows that they were intended to be given real effect”. (Liu,Karlan 10).

The Constitution is a plan for government. The Articles of the constitution talk about the duties of the three main parts of the government: the Legislative Branch, the Executive Branch and the Judicial Branch. The articles also talk about the separate powers of the Federal and State government, and how to change the constitution.

B. The Concept of Citizenship in the Constitution of the United States of America:

Amendment 14, Section 1,

“All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they
reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

This section includes the “The Citizenship Clause” or the naturalization clause in the first sentence. The citizenship Rights’ Amendment was ratified in September 7th, 1868 i.e. after more than eighty years of the signing the constitution that was a harmful delay for a right of this importance and it appeared after the civil war and the abolition of slavery in 1865.

It appeared also in Article 2 section1 clause 5: Qualification for Office.

“No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.”

This clause includes the conditions that the President and Vice President must be:

1. Natural born citizens (including naturalization passed from parents)
2. At least thirty-five years old.
3. Inhabitants of the United States for at least fourteen years.

These conditions seems simple and easy for everyone to be a candidate for the presidency, but practically the political parties namely the Republican Party and the Democratic Party dominate the political life and both of them present just one candidate for each term. So, only the most powerful politicians can compete and represent his party. In the other hand, there is a gap in the second Article which is
the lack of the definition of the concept of citizenship due to the powerful existence of racism and the ambiguity of the framers’ attitude towards slavery. In this respect, we can say that letting a problematic issue like slavery without a real solution would increase the severity of the consequences of racism which was already deeply rooted in the American society.

C. The Rights of the Citizens from the Perspective of the Constitution of the United States:

The right to keep and bear arms is granted in the second Amendment: ”A well-regulated militia, being necessary for the security of the Free State, the right of the people to keep and bear arms shall not be infringed”.

After the assassination of the president John F Kennedy, many activists tried to pass an amendment that would repeal the second amendment but they failed. Keeping this right is a grantee of freedom of the people. An armed people could not be ruled by a tyrant.

Based upon surveys, the following are estimates of private firearm ownership in the U.S. as of 2010:

<table>
<thead>
<tr>
<th></th>
<th>Households With a Gun</th>
<th>Adults Owning a Gun</th>
<th>Adults Owning a Handgun</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage</td>
<td>40-45%</td>
<td>30-34%</td>
<td>17-19%</td>
</tr>
<tr>
<td>Number</td>
<td>47-53 million</td>
<td>70-80 million</td>
<td>40-45 million</td>
</tr>
</tbody>
</table>

Table 5: "Firearms Fact Card, 2010.

In 1976, the Washington, D.C. City Council passed a law generally prohibiting residents from possessing handguns and requiring that all firearms in private homes be (1) kept unloaded
and (2) rendered temporally inoperable via disassembly or installation of a trigger lock. The law became operative on Sept. 24, 1976.

On June 26, 2008, the U.S. Supreme Court, in a 5-4 ruling, struck down this law as unconstitutional.

![Figure5: "Uniform Crime Reporting Program, District of Columbia, 1960-2008."]

During the years in which the D.C. handgun ban and trigger lock law was in effect, the Washington, D.C. murder rate averaged 73% higher than it was at the outset of the law, while the U.S. murder rate averaged 11% lower.

D. The Interpretation of the American Constitution:

There are many methods of interpreting the constitution including the current methods: original intent, which seeks to determine the original intent of the founders, and living text where the constitution is a living text with many changes with the time.

1. **Original intent**: requires interpreting the words of the founders but the founders were different people with different intentions. The biggest problem was
Federalism versus Nationalism means should they support a central and a strong
government that the states are supporters or should it be a small government
supporting to the states. Many clauses are compromises between camps. So, these
binaries such as nationalism-federalism and slavery-abolishment and so forth.
This method was not intended by the founders to be the guide because they knew
to what extent these issues were problematic.

2. **Living text:** where the meaning changes with the time. This method opens the
door to two major problems. First, it allows the Congress to pass “informal
amendments” by making laws that can change the original meaning. For example,
the law that the Congress allows the president to send military forces without
permission from the Congress itself in 1973. In this case, the Article1-Section8
that determines the powers of Congress including the declaration of war has been
violated.

The Article3 which tackles the Judiciary branch does not include any thing that
allows the Congress to allow such laws. Moreover, this idea leads to
“interpretations of interpretations” that can creates in turn a problem of the
meaning which is a huge linguistic problem. The political dominance of the three
branches and the use of “playing with the words” resulted in changing the
meaning without changing the original text or the constitution.

James Madison wrote in a letter to Henry Lee in June 25th, 1824: “…the sense,
in which the constitution was accepted and ratified by the nation. In that sense
alone it is the legitimate constitution. And if that be not the guide to expounding it,
there can be no security for a consistent and stable…exercise of its powers”. So, if
the American significant participation in the War in Libya was based on an
“Informal Amendment” that gives the president the right to declare war instead of the Congress and if this law is unconstitutional, thus the war was illegitimate. In this respect, we can say that the constitution became a tool in the hands of the American policy makers to legitimize the American National interests in a Machiavellian way where the constitution is used for justifying the American ends.

Figure 6: Obama and the American Constitution.

Most of what the Federal Government does is unconstitutional.

E. Ambiguity and the Problem of the Meaning in the Constitution of the United States:

In linguistics, meaning is what the source or sender expresses, communicates, or conveys in their message to the observer or receiver, and what the receiver infers from the current context. A non-linguistic meaning is an actual or possible derivation from sentience, which is not associated with signs that have any original or primary intent of communication. It is a general term of art used to capture a number of different
senses of the word "meaning", independently from its linguistic uses. Ambiguity is
doubtfulness or uncertainty of meaning or intention.

Ambiguity means confusion about what is conveyed, since the current context
may lead to different interpretations of meaning. Many words in many languages have
multiple definitions. And Pragmatics is the study of how context affects meaning. The
two primary forms of context important to pragmatics are linguistic context and
situation context. Ambiguity is doubtfulness or uncertainty of meaning or intention.

There are many cases of misinterpretation of the Constitution due, in my opinion,
to two main reasons: citizens’ own desires concerning domestic issues such as the
appeal of the eighteenth Amendment or the “Prohibition of Alcohol” in 1919 which is
the unique Amendment that was appealed by another Amendment (Amendment 21 in
1933). It was appealed because the text was clear enough to prevent any kind of
misinterpretation or reinterpretation. But, this was not the case for the same sex-
marriage and the freedom of religion, speech and press. In the other hand, concerning
the foreign policy, the Supreme Court is no more powerful to declare presidential acts
as unconstitutional.

1. **Domestic Issues:**

   A. **Same Sex-Marriage:**

   In the United Stated of America, there are seventeen states that legalize same sex-
marriage including the District of Colombia in 2014. So, the American states are
strongly divided about this issue.
Map 1: states recognizing same sex-marriage in 2014.

Defenders of the same sex-marriage claim that it is constitutional and indicated in the “equal protection Clause” or Article 14 Section 1:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” What an equal protection!

3. **Freedom of Religion:**

The Amendment 1 of the Bill of Rights in 1791:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”
The first Amendment states that religion and state must be separated, however; for many school children began every day with a “prayer”. In fact, in some states, a prayer was required by law. In 1961, a group of parents in New York send the Department of Education a request to stop this. But after refusing their request, the lower court ruled against the parents and said it was legal for New York to allow prayer in schools as long as no student is forced to participate. The question then come before the Supreme Court: does a voluntary prayer said in public schools violate the first Amendment’s separation of religion and government?. The Supreme Court decided that all prayer, even voluntary prayer in public schools was unconstitutional.(Blanchard, Root 18).

But one of the Founding Fathers acted differently, Thomas Jefferson when he was a governor of Virginia accepted Thanks Giving but when he became a president of the United States, he refused to issue a proclamation of Thanks Giving sending by Congress because he thought that it was unconstitutional. So, the same Amendment was interpreted in different ways!

Thomas Jefferson said in letter to the Dombury Baptists: “… I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should ‘make no law respecting an establishment of religion, or prohibiting the free exercise thereof’, thus building a wall of separation between Church and State.” A question asks itself here: what is the state according to Thomas Jefferson? Is it Virginia or the United States of America?

4. **The Freedom of Speech:**

The first Amendment grantees the freedom of speech, even the speech that some people find offensive. This means Americans must sometimes accept unpopular
speeches in order to preserve the spirit of freedom. The Supreme Court determines what types of speech are covered by the first Amendment. It defines “speech” to be both spoken words and symbolic speech.

In 1960’s, some people began burning the American flag as an expression of protest against the government. This angered people who felt that the flag is a symbol of the United States and should be protected. In response, Congress passed «The Flag Protection Act” in 1989, which made it illegal to burn or to destroy the US flag. However, in 1990, the Supreme Court ruled that “The Flag Protection Act” was unconstitutional. It decided that the burning of the American flag is an example of “symbolic speech” and it is therefore protected by the first Amendment.

5. The Freedom of Press:

The internet has caused much controversy on the subject of using technology especially the mass media in an offensive way. In 1990’s, many people became angry about the amount of the material on the internet that is not appropriate for children. As a result, Congress passed a law that made it illegal to send or to show inappropriate material to people under the age of eighteen. The Supreme Court ruled that the law was unconstitutional in 1997. The Court said that the freedom of press implies to the internet, and since it is impossible to tell the age of people using the internet, the law would violate the rights of adults on the internet (Blanchard, Root 18). So, this decision seems easier than its opposite. Once again, the problem of the meaning imposed itself because for the same concept we may find different definitions that can even contradict each other. Here, what is the definition of “freedom”? And what is the function of “press”?

1. Foreign Issues:
1. **The Declaration of war:**

   In Article1 Section 8 which deals with the powers of Congress; among them the declaration of war that should require the two-thirds in vote by members of both houses: the House of Representatives and the Senate.

   Throughout the American history, Congress declared war only five times:

   1. The war of 1812 against Britain and its colonies in Canada that ended in 1815 despite signing Treaty of Peace in 1814.

   2. The Mexican American War (1846–1848) which was described as the most unjust war.


   4. The First World War.

   5. The Second World War.

   All the other wars such as Vietnam War, Persian Gulf War, War in Afghanistan, Iraqi War, War in Libya were just military engagements. Since 1787, the United States interfered hundreds of times all over the world without Congress approval and without any reaction from the Congress or the Supreme Court to declare these acts as unconstitutional. For example, in Libya, president Obama refused even to ask the Congress’s approval because according to him, what happened in Libya was not a war. So, there is a need to redefine war then!

   Furthermore, the Congress passed a law in 1973 which allow the president to send military forces in case of national emergency and the Congress have to approve it in 60 days, if the Congress refused the president must order the army to stop his
operations and return in 30 days maximum. In sum, the commander in chief has 90 days to finish his war in a very legal way. In the case of Libya, three months were largely sufficient. Was the War in Libya a necessity for the American national security? What dangers Libya represent for the United States?

In fact, this law by Congress contradicts with the principle of “separation of power” because the legislative and the executive branches are working together in this case. In addition, since the Constitution gives the authority to Congress alone to declare war and to make laws, Congress then has not the right to make a law that allow the president to declare a war. So, probably this law was unconstitutional despite the fact that the Supreme Court did not declare this presidential act as unconstitutional.

2. **The constitution of the United States and the Foreign Policy:**

American Democrats and Republicans agree about very little concerning for The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted in policy, war, and emergency powers, but they do agree that the Constitution's ambiguous allocation of foreign policy powers to the legislative, executive, and judicial branches is a problem that must be fixed. For Republicans, the answer has been a reliance on constitutional reinterpretation that might establish a bright line between executive power in foreign policy and war (which they embrace) and national authority to regulate domestic and economic affairs (which they do not). For Democrats, who worry that constitutional ambiguity opens the door for the abuse of executive power, the solution has been to trade formal delegation of power constrained by strict statutory limits on the exercise of that power. These efforts—
Democrats and Republicans alike have failed, each producing results quite the opposite of what was sought.

After setting these debates in their legal, historical, and political context, they should conclude with a solution to this constitutional ambiguity for the benefit of the whole nation, and to preserve the union, choosing the pragmatic way is not always the best one. In the last decades, the Republicans showed a more global treatment concerning foreign policy that was why, most recent wars were in times of Republican administrations such as the Bushes (father and son) but the Democrats preferred other means like choosing to play intermediary roles like making peace treaties like Camp David Accords in time of president Jimmy Carter administration and Oslo Accords in time of president Bill Clinton administration and create and support internal conflicts in Barak Obama administration especially by supporting the so-called the “Arab Spring”. The American scholar and critic Noam Chomsky describes Obama as worse than George W. Bush.

3. **The Constitution of the United States of America and Post-Modernism:**

1. **Is the United States a Democracy or a Republic?**

   If democracy is, as Lincoln defined it, the rule of the people by the people for the people, and if in a Democracy the “majority rule”, why the most important American documents: the Declaration of Independence, the Constitution and the Bill of Rights do not include the word Democracy? The founding fathers were not fans of Democracy. John Adams said: “Democracy never lasts long. It soon wastes, exhausts, and murders itself. There never was a Democracy yet that did not commit suicide.”
James Madison said: “Democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the right of property; and have in general been as short in their lives as they have been violent in their death.” So, the framers of the constitution hated Democracy and instead they have chosen the Republican form of government. The Article 4- Section 4 says clearly: “The United States shall guarantee to every State in this Union a Republican form of government...”. If this is the case, why did the United States declare wars to spread Democracy and liberate people from Dictators in Iraq, Libya and so on? It should start with its own people to benefit from this way of rule. In fact, this was a lie not as President Bush claimed in 2003 during the Iraqi War when described Democracy as a synonym of freedom. What happened was exactly the opposite, the Iraqi people wasted their freedom and the rule of law that they have recognized since the Age of Hammurabi. So, spreading Democracy as the best form of government is to rule the peoples and masses by deception.

2. The Concept of Religion, Justice in the Constitution of the United States of America:

Deconstruction is the philosophical activity initiated by Jack Derrida in France in the late 1960’s. According to Derrida, a text has many meanings and, therefore, there is no definitive interpretation. Deconstruction is characterized by “logocentrism” and the “Metaphysics of the Presence”, results in the preference given to speech over writing and in the assigning meaning to the intention of the speaker.

Derrida applied Deconstruction on the Declaration of Independence and the Constitution of the United States. He reveals his views concerning the existence of
religion despite the first Amendment “congress shall make no law respecting an establishment of religion…” and the non-existence of justice despite the second objective of the Preamble of the United States of America. " We “he people of the United States, in order to form a more perfect union, establish justice…” but the most important criticism was in raising the question of legitimacy of the Constitution itself in his article entitled Sovereignty without Sovereignty.

3. The Question of Legitimacy and Religion in the Constitution of the United States of America:

Derrida revealed the metaphysics of the presence in the text of the constitution that represented the heart of the American Liberal Democracy which supposed to be a secular constitution. Derrida linked the legitimacy of the drafters with presence of religion. He declared in his book Autobiographies that the evidence that religion was present lies in the signatures of the drafters who had no authority given by the people to represent or misrepresent them. Those framers, according to Derrida, were in need to a legal and legitimate witness, and this witness was God. (Derrida 9).

In this respect, in order to deconstruct Derrida’s way of Deconstruction and the illogical logic that he used to attack both: the constitution and religion, we shall follow these steps. First of all, none of the framers pretended that he was a representative of God on earth. Second, signing the Constitution was not the end to be put into practice, there was a long process of convincing people and ratifying it by all the states rather than the three-fourths (9 states). It is true that the Constitution lacked the principal rights and was and still is an incomplete human attempt to reach order and stability but the needed compromise was achieved at the end. Third, the existence of religion was not a weakness because the Declaration of Independence was built on
the principal of preserving not giving the “Natural Rights” which are the right of life, liberty and the pursuit of happiness. Fourth, Derrida in this context meant to criticize Christianity but he generalized his vision towards religions as if it is the only existing religion.

4. **The Concept of Justice in the Constitution of the United States of America:**

Derrida declares that “Yet the Declaration and all constitutions following in its wake, all Bills of Rights, in spite of the limitations imposed upon unconditional justice, continue and will continue to be haunted by the impossible which constitute a part of their structure, as their condition of possibility.” (Derrida 452-3). According to Derrida, justice does not exist at all and it is impossible to achieve it. This point of view reflects the western societies and especially the American society. It is true that there are unjust clauses such as the three-fifths clause and the clause in Article1-Section8 concerning the legalization of slave trade and even of piracy in the same section of the powers of Congress. The abolishment of Slavery in 1865 and the citizenship and considering the immigrants as naturalized citizens in 1868 did not solve the problem for two reasons. Firstly, these amendments were too late, after about a century from ratifying the original document and the constitution itself would be written a long time before in order to avoid unnecessary conflicts. Secondly, the abolishment of slavery did not put an end to racism which is still deeply rooted in the American conscious.

**Conclusion:**

The Constitution of the United States is the supreme law of the land which should be obeyed by the states and citizens and applied by the three branches of the government: legislative, executive and judiciary. The success “relatively” was the
result of the failure of the precedent document which is the Articles of Confederation. The framers learnt from their mistakes and treated the weaknesses of the previous government. The founding fathers were very educated and benefited from other civilizations and used the best of the others’ contributions into practice. It is said that the Constitution of the United States is a lasting document but whatever the principles are, if they are violated and clash with the materialistic gains, they will never be invaluable.

One of the most important principles that the founding fathers defended during and after ratification was preserving the union but this union would be stronger if they solved the problem of slavery earlier. They might avoid the Civil War (1861-1865). What is remarkable also as basic value among some wise people like Benjamin Franklin, James Madison, John Adams, George Washington and others is the ability to make sacrifices to reach compromises and that is crucial for any successful union.

In sum, the Constitution of the United States of America is a fantastic document because the framers were aware enough to avoid the previous failures and to borrow the best ideas and mainly to adapt them to the American society. Unfortunately, it has been violated hundreds of times and reduced into a tool to legalize the policymakers’ materialistic interests.
Chapter 3: The Constitution of Medina versus the Constitution of the United States of America: Comparative Study

Introduction

There are several comparisons between the Islamic and the Western constitutions. The major problem lies in the starting point; i.e. what do we consider a given document. For example, a comparison between the Charter of Medina and the Magna Carta is unfair because it reduces the constitution of Medina into just a document that gave privileges. Another comparison written by Asifa Quraishi antitled: *Interpreting the Qur’an and the Constitution: Similarities in the Use of Text, Tradition, and Reason in Islamic and American Jurisprudence*. In this study, the author compares between the Holy Quran and the American Constitution. A third comparison by Ph. D. Imad-ad-Dean Ahmad, *On the US Constitution From the perspective of the Quran and the Medina Covenant.*

I. The Islamic and the American Political Systems:

A. The Classification of the Political systems:

![Figure 7: the classification of the political systems.](image)
1. **The Islamic Political System:**

Shariah, or the “proper way,” is considered the divine will of Allah as articulated in two canonical sources. The first is the Qur’an, which is considered the perfect expression of Allah’s will for man. Every word is perfect and unalterable except and unless altered by some subsequent word of Allah. While most of the Qur’an’s 6,236 verses are not considered legal text, there are 80 to 500 verses considered instructional or sources for normative law. (CRSP 17).

2. **The Republican Political System:**

According to Micheal Badarik, the Republic is:

1. A political order whose head of state is not a monarch and in modern times is usually a president.

2. A nation that has such political order.

3. A political order in which the supreme power lies in a body of citizens who are entitled to vote for officers and representatives responsible to them.

3. **The Republican Political System:**

According to Lewis Loflin, in a democracy:

- Citizens can elect their leaders
- People have a right to change their leaders
- People choose their leaders through elections which are held frequently.
- Elections are free and fair
- People have civil rights.

Syed Abu A’la MAUDUDI (1903-79) is a prominent South Asian figure made a significant contribution to Muslim revivalism. “Although he criticized western democracy, he never rejected it. Rather, he insisted that it be framed within *tawáhid* on
the grounds that if democracy was understood as a limited form of popular sovereignty, one restricted and directed by God’s law, then there is no incompatibility between it and Islam at all. (Purray 144).

4. why such classification?

<table>
<thead>
<tr>
<th>Islamic Political System</th>
<th>Republican Political System</th>
<th>Democratic Political System</th>
</tr>
</thead>
<tbody>
<tr>
<td>The rule of Allah. Allah said:&quot; I (Allah) created not the Jinn and the mankind except that they should worship Me (alone)&quot;. (Quran 51:56).</td>
<td>The rule of law. But which law? Allah said: “And whosoever does not judge by what Allah has revealed, such are the disbelievers (44)… the wrong-doers(45)… the disobedient(47) (Quran5:44-45-47).</td>
<td>The rule of the majority. But the masses can be easily misled by the excellent speakers. Allah said:” Say:” are those who know equal to those who know not? It is only men of understanding who will remember (Quran 39: 9).</td>
</tr>
</tbody>
</table>

Table 6: The Classification of the Political Systems.

The reason behind the creation of all of the human beings is to worship Allah. The Jews and the Pagans of Medina accepted to be ruled by the constitution of Medina despite the fact that they are religiously different because they found the best principles that secure their rights and grantee justice and security inside it. Allah ordered his messenger to establish justice regardless to race, colour. Allah said:" if you judge, judge with justice between them. Verily, Allah loves those who act justly". (Quran 5:42).

There are many verses that have the same meaning as articles in the Constitution of Medina. For example, Article 40 in the Constitution of Medina: “a stranger under protection shall be as his host doing no harm and committing no crime” gives the same meaning as the following verse in Surat At-Tawba:" And anyone of the polytheists (pagans) seeks your protection, then grant his protection so that he may hear the word of Allah( the Qur’an), and then escort him to where he can be secure, that is because they are men who know not” (6). But the most important in
the Constitution of Medina, in my opinion, is article 42 which tackles the reference in disputes. So, all disputes or controversies should be referred to Allah and Muhammad the apostle of Allah.

**B. Is the Early Migration to the United States comparable with Migration to Medina:**

<table>
<thead>
<tr>
<th>Medina</th>
<th>The United States of America</th>
</tr>
</thead>
<tbody>
<tr>
<td>A limited number of emigrants: only 45 emigrants.</td>
<td>Millions of emigrants.</td>
</tr>
<tr>
<td>All of them were from Mecca.</td>
<td>They were from different countries.</td>
</tr>
<tr>
<td>The cause of migration was the religious persecution in Mecca.</td>
<td>There were different causes; some for a greater economic opportunity, hundreds of thousands of African slaves came to America against their will and only a few came for religious freedom.</td>
</tr>
<tr>
<td>Legitimate migration: after agreements (Bayaa 1,2)</td>
<td>Illegitimate migration: without any agreement with the Native Americans because they were, according to the Europeans, uncivilized.</td>
</tr>
<tr>
<td>A significant role of the society.</td>
<td>A significant role of the society.</td>
</tr>
<tr>
<td>Acceptance of the native inhabitants.</td>
<td>Non-acceptance of the native inhabitants.</td>
</tr>
<tr>
<td>The role of the State is a supporting one.</td>
<td>The role of the State is a supporting one.</td>
</tr>
<tr>
<td>Pluralistic society.</td>
<td>Racist and sectarian society.</td>
</tr>
<tr>
<td>The Prophet wrote immediately “Sahifa” or the constitution of Medina to ensure the rights and the duties of the different citizens and communities.</td>
<td>The early immigrants wrote the Constitution after about two centuries.</td>
</tr>
<tr>
<td>Built on ethical principles</td>
<td>Built on pragmatic principles.</td>
</tr>
<tr>
<td>Succeeded in establishing a great civilization built on tolerance and justice.</td>
<td>Succeeded in establishing a superpower that imposes its will upon the less powerful nations.</td>
</tr>
</tbody>
</table>

Table 7: Medina versus the United States of America.
II. **Comparison between the Constitution of Medina and the Constitution of the United States of America:**

1. **The Concept of Citizenship:**

   The Muslim society moved away from tribalism into pluralism. So, anyone who follows the people of “Yathrib” and joins them will be a full citizen. The Prophet (peace be upon him) said: “there is no difference between a white man and a black man or between a black man and a red man except in Taqwa (fearing Allah)”. This idea is very clear and it is the starting point for building the first state in Medina. In the American constitution, however; the concept of citizenship was ambiguous until 1868 when the fourteenth Amendment appeared and defined “Citizenship” and the “Naturalized Citizenship”. Using the later description is kind of segregation by distinguishing some citizens from the others, and inappropriate in a society that is based on equality.

   The delay of solving the problem of slavery which was a subject of dispute between the Northern and the Southern states was due to many reasons. First, the founding fathers and the delegates who signed the constitution were aristocrats and some of them were slave owners like Thomas Jefferson who had two hundred slaves in his plantations in Virginia and he even had children with one of them. Second, the Northern States strongly opposed the full representation of the slaves and the Southern states preferred to keep things as they are for their economic interests. Third, both Geography and industrialization played an important role in deepening the differences that threatened the union and led to the civil war.
2. **The Concept of Ummah or the Nation:**

   The “Ummah” in Medina did not include only Muslims. Jews and Pagans also were included. The Christians and their allies became a part of this community. The Prophet (peace be upon him) declared that they are one nation. The same idea was stated in the Preamble of the Constitution of the United States “to form a more perfect union”.

   Through the Constitution of Medina, the Prophet (peace be upon him) provided the concept of devolution of powers. The state is represented in this constitution through different levels. First, at the level of the “Ummah” which was composed of the whole community including pagans, Jews and Muslims and a number of tribes were unified under the rule of this constitution. The level of “Medina” is equivalent to the Federal level in the United States where fifty states are unified under the rule of a Federal constitution where the Federal Union is the highest level of belonging to any American citizen.

   Second, at the level of the tribe: where the social relationships play a very interesting role in preserving the stability of the community. In the opposite side, the American society at different and organized levels from the State into the smallest social institution in the Union is characterized by solidarity, giving charities and participating in voluntary activities. So, the same principle is adopted in American society. For example, in case of natural disasters, the American people act immediately and do not wait for the government to act. What makes the United States superpower despite its huge problems, in my opinion is neither the constitution nor the military superiority; it is the significant role of the society that became a part from
the American Culture. This great principle is originally Islamic and the Constitution of Medina included several articles that show clearly this idea. For example, in Article 3:” the Quraysh emigrants according to their present custom shall pay the blood wit within their number and shall redeem the prisoners with the kindness and justice common among believer”. Also, In Article 12, Section 1:”Believers shall not leave anyone destitute among them by not paying his redemption money or blood wit in kindness”.

3. The Question of Justice:

Justice is the highest ethical value in Islam. In the First Islamic State in Medina, there is no discrimination between Muslims and non-Muslims. Any person who commits a crime would be punished even he is a son of one of the believers. The Prophet (Peace be upon him) said:” if Fatima Bint Muhammad stole, I would cut her hand”. This authentic Hadith shows the equality of all citizens before the law. The Prophet said “Bint Muhammad” not the daughter of the Prophet to give the example to the whole humanity that there should be no privileges at all and no exception in applying the Divine Orders.

The constitution of Medina declares this principle strongly not just at the level of the individuals which would affect the family and then the whole society. Unlike the existing political regimes, there is no exception Pardons for individuals who commit crimes whoever the guilty is. There is a difference between political pardon and criminal pardon. In the American Constitution, Article 2, Section 2 that specifies the powers of the president, among his rights giving pardons:” and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment”. Once again, this principal has its origin in Islam. When the Prophet
(Peace be upon him) entered Mecca as a victorious leader, he declared pardon among his political enemies.

In the modern societies that removed some of the fundamental Islamic rules, in the name of defending Human Rights, the rate of crime is dramatically increasing. This case is similar to a chaotic movement where a small deviation from the state of order in the initial state will result in a state of chaos after a while.

The establishment of justice is mentioned also in the Constitution of the United States. The preamble includes “to establish justice” but still the dilemma of slavery and racism made it partial. In this respect, the Republican form of government can decrease the severity of unjust practices if it is applied correctly. Malcolm X said:” Islam kills racism”. In just three words, he diagnosed the problem and gave the solution.

4. The Concept of Pluralism:

The Constitution of Medina established a pluralistic society which is the cornerstone of the new society in order to remove any kind of possible disputes in the future. Coexistence is not just a need between different religious groups; it is a necessity within the same group. Since difference is a human characteristic, what matters here is to recognize, to accept and to respect this difference.

In Medina, disputes between the different tribes were at the top because people who fought each other for more than a century had strong reasons to continue fighting. They accepted the Prophet (Peace be upon him) as a judge who had different beliefs. Pagans and Jews accepted and signed the Sahifa because they understood that this document would protect their lives and properties. The first article gives the conditions clearly:” This is a document from Muhammad the Prophet (governing the relations) between the believers and Muslims of Quraysh
and Yathrib, and those who followed them and joined them and laboured with them”.

- Those who followed them → the emigrants and the residents.
- And joined them → accepted their rules (constitution).
- And laboured with them → the good citizen should work for the benefit of his nation with other citizens who are not necessarily sharing with him the same religious, cultural and even political beliefs.

In the Constitution of the United States of America, there are no pluralistic features but the Bill of Rights mentions in the first Amendment the equality against the law of all religions and there should be no dominant religion to reinforce the religious tolerance by legalising the freedom of worship. These Amendments: 13, 14, 15, 19 hold the same Islamic principles. For example, the Article 41 of the Medina constitution (following the division of Dr. Hamidullah) granted the rights of women centuries before 1920 and their rights are more efficient than voting.

5. The Concept of Security

Both constitutions give much interest to preserving security and stability because without these conditions all aspects of life would be affected negatively. In the Constitution of Medina, Article 39” Yathrib shall be a sanctuary ‘Haram’ for the people of this document”. In the Constitution of the United States many sections and clauses tackle the issue of security such as in Amendment2: “A well-regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear Arms, shall not be infringed”.

6. The Question of Reference:
In order to establish security, there must be a powerful and a legitimate reference that can solve all the possible disputes. In fact, there is an agreement about having this reference but there is a disagreement about its nature. In the Constitution of Medina, Article 23: “Whenever you differ about a matter, it must be referred to Allah and to Muhammad (Peace be upon him). That means that although this constitution is the official document for all the citizens of Medina, the reference in the possible disputes is higher and more sacred than the constitution itself. It is mentioned twice that the reference is Allah and his Messenger. In other words: the Quran and the Authentic Sunnah. In the Constitution of the United States, Article 3, Section 1 – Judicial Powers: “The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish”. The reference here is the Supreme Court in interpreting the American Constitution using the American Constitution itself. This would give much power to the judges. That was why Thomas Jefferson was against this. He said:” the judiciary bodies are supposed to be the most helpless and harmless members of the government. Experience, however; soon showed in what way they were to become the most dangerous... that their decisions … pass silent and unheeded by the public at large…” The question of reference is solved by the framers in Article 5 by allowing the constitution to be amended since it is a human product but they limited it to be only when it is an obligation.

7. The Concept of Defence:

Defence in both constitutions is a common issue and it is a duty that is beyond any religious belonging or materialistic gains that is why it is mentioned several times. In the Constitution of Medina, Article 17:”The peace of the believer is
indivisible. No separate peace shall be made when believers are fighting in the way of Allah. Conditions must be fair and equitable to all”. In the Constitution of the United State, Article1, Section10, in the third clause: “No state shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in War, unless actually invaded, or in such imminent danger as will not admit of delay”.

Another similarity concerning the way the nation should defend itself. Allah said:” "Hold fast, all together, by the rope of Allah and be not divided; and remember the favour of Allah which He bestowed upon you when you were enemies and He united your hearts in love so that by His grace you became as brethren; and you were on the brink of a pit of fire and He saved you from it. Thus does Allah explain to you His Commandments that you may be guided" (Quran 3: 104). In the Constitution of the United States of America, Article1, Section8 about the Powers of Congress includes:

- To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.
- To provide and maintain a navy.
- To make rules for the government and regulation of the land and naval forces.
- To provide for calling forth the Militia to execute the laws of the Union, suppress insurrections and repel invasions.

The major difference concerning defence lies in the aim behind declaring a war. In the Islamic military ethics, the declaration of war is a necessity to prevent
aggression and establish justice. Allah said:” "Permission to fight is granted to those against whom war is made, because they have been wronged—and Allah indeed has power to help them—those who have been driven out of their homes unjustly only because they said 'Our Lord is Allah'. If Allah did not repel some men by means of others, there would surely have been pulled down cloisters and churches and synagogues and mosques, wherein the name of Allah is oft commemorated. Allah will surely help him who helps Him. Allah is indeed Powerful, Mighty. This permission has been granted to those who, if We establish them in the earth, will observe Prayer and pay the Zakat and enjoin equity and forbid evil. With Allah rests the final issue of all affairs” (Quran22: 40-42).

In the other side, the declaration of war has other pragmatic reasons and the Constitution provides the necessary justification. In the Constitution of the United States, Article1, Section 8 concerning the powers of Congress:

a. To define and punish piracies and felonies committed on the high seas, and offenses against the law of Nations.

b. To declare war… and make rules concerning captures on land and water.

These clauses are very dangerous because they show a tendency towards giving the right and duty to Congress to “define” and to “make rules” and this is an attack not a defence and the aim is clearly to legalise the imperial ambitions of the United States.

In sum, both constitutions share the same principles that exist in the Constitution of Medina and supported by Quranic verses and Authentic Hadiths, and exist also in the Preamble of the Constitution of the United
States. We can say that the Constitution of Medina is more universal in presenting a deep and a very strong ideology that can be projected on different contexts, however; the Constitution of the United States is more technical in designing the government and its three branches. The elections and the process that should be allowed is indicated clearly with details in the American Constitution. This technical process is specific and appropriate to the American society. A lot of countries borrowed the American version of the Separation of Powers and the so-called Checks and Balances regardless to whether they are suitable or not.

In the Constitution of Medina, there is no equivalent to the way the leaders should be elected. Dr. Muhammad Asad mentioned a very important point in his book *Government and State in Islam* that the successors of the Prophet were all elected in different ways:

- Abu Bakr was elected by chiefs of Muhajirin and Ansar.
- Omar Ibn Khattab was appointed by Abu Bakr and ratified later by a group.
- Othman Ibn Affan was chosen by the Council of Six that Omar had actually put together before his death.
- Ali Ibn Abu Taleb was elected as a head of state in a congregation at the Mosque of the Prophet where they pledged loyalty to him.

So, their way of election may differ in the same society through time and the appearance of the need to change.

### III. The Presence of Islamic Sources in the American Legal System:
1. **The Jefferson’s Quran:**

   In 1765, Thomas Jefferson visited London and bought the Quran translated into English by George Sale. The two volume copy that has the initials TJ is preserved in the Library of Congress. It was discovered by the first Muslim congressman Keith Ellison. This discovery was in 2007, created a lot of debates within the American circles about whether the Quran influenced Jefferson while writing the Declaration of Independence or not.

![Figure8: the Jefferson’s copy of the Holy Quran.](image)

2. **The Supreme Court Honours the Prophet Muhammad (Pbuh):**

   In the room where the chief justice sits, the frieze which is homage to the ideas and the principals that have been inspired the American Legal System. One of the foundation documents in this frieze is the Holy Quran. Each frieze in the Courtroom measures 40 feet long by 7 feet, 2 inches high and is made of ivory vein Spanish marble.
The South Wall Frieze:

<table>
<thead>
<tr>
<th>Mones</th>
<th>Hammurabi</th>
<th>Moses</th>
<th>Solomon</th>
<th>Lycurgus</th>
<th>Solon</th>
<th>Draco</th>
<th>Confucius</th>
<th>Octavian</th>
</tr>
</thead>
</table>

Figure 9: The South Wall Frieze.

<table>
<thead>
<tr>
<th>Napoleon</th>
<th>Marshell</th>
<th>Blackstone</th>
<th>Grotius</th>
<th>LouisIX</th>
<th>k.John</th>
<th>Charlemagne</th>
<th>Muhammad</th>
<th>Justinian</th>
</tr>
</thead>
</table>

Figure 10: The North Wall Frieze.

Prophet Muhammad (peace be upon him) (c. 570 – 632): The Prophet of Islam.

He is depicted holding the Qur’an. The Qur’an provides the primary source of Islamic
Law. Prophet Muhammad’s teachings explain and implement Qur’anic principles. The figure above is a well-intentioned attempt by the sculptor, Adolph Weinman, to honour Muhammad, and it bears no resemblance to Muhammad. Muslims generally have a strong aversion to sculptured or pictured representations of their Prophet.

In this frieze, the Prophet Muhammad peace be upon him holds the Quran in his left hand, and in his right hand a sword as a symbol of the power of justice.

![Frieze and Seal of the Supreme Court](image)

**Figure 11:** the symbols in the Frieze and the Seal of the US Supreme Court.

The Seal of the Supreme Court of the United States and the frieze have the same symbols: the Holy Quran and the branch of olives that represent peace. In the other hand the sword and the arrows that represent power which is a vital necessity to protect peace. These two pictures show three ideas. Firstly, Islam is a religion of peace because its principles are unchangeable with the wrong deeds by some extremist groups. Secondly, the United States adopted the same principle of owning power to protect themselves but not to use power in unjust wars. Allah said:” permission to fight is granted to those against whom war is made, because they have
been wronged- Allah indeed has power to help them- those who have been driven out of their homes unjustly only because they said ‘Our Lord is Allah’”. Al-Hadj, verses 40.

In 2012, some Muslims in the United States claimed, protested and raised a cause in the Supreme Court to destroy the part of the frieze that shows the prophet Muhammad (peace be upon him). The Supreme Court replied in a practical way by putting this poster in its principal gate. This short statement “Prophet MUHAMMAD honoured by the US Supreme Court as one of the greatest lawgivers of the World in 1935”.

First of all, it starts with the prophet Muhammad then the Supreme Court that can clearly classifies him as a legal reference and he is the most important one with the Holy Quran because most principals in the Preamble of the US Constitution, these 52 words are the most important part, are the same principals in the Quran. Second, the reaction of these Muslims indicates that they did make the difference between this honourable frieze which has no resemblance with the Prophet and the Danish cartoons and this is ironic. In my point of view, fortunately, the Supreme Court rejected this cause and preserved this evidence that strongly supports the clear similarities between the two documents. In addition, we have to look at the Islamic contribution from the perspective of the eighteenth century not from the western hostility towards all what is related with Islam.

It is ironic again, to import the western ideologies with their so called political innovations which are in fact originated in the Islamic World and travelled to Europe then to America through Andalusia. A lot of modern constitutions are adopted from the American constitution or the French one but their technical institutions were
designed for the American or the French societies not for the Arabic or Islamic societies.

Figure12: Adolph A. Weinman (1870-1952), a sculptor and the Poster of the U.S. Supreme Court.

3. Harvard University honoured a Quranic Verse as the greatest legal statement:

This verse 135 from surat An-Nisa was in the entrée of the faculty of Law in Harvard university as the most important statement about justice in the world. It was discovered accidently by a professor from Saudi Arabia called Abdullah Djomo’a
IV. The Projection of Chaos Theory on Deconstruction and Democracy

An interesting quote made by Albert Einstein, “As far as the laws of mathematics refer to reality, they are not certain; and as far as they are certain, they do not refer to reality.”
A. Definition of Chaos:

"Chaos" means "a state of disorder" (However, in chaos theory, the term is defined more precisely. Although there is no universally accepted mathematical definition of chaos, a commonly used definition says that, for a dynamical system to be classified as chaotic, it must have the following properties (Hasslhlblatt 521).

B. Double Simple and Pendulums:

Table 8: Double and Simple Pendulums.

<table>
<thead>
<tr>
<th>Double Pendulum</th>
<th>Simple Pendulum</th>
</tr>
</thead>
<tbody>
<tr>
<td>In physics and mathematics, in the area of dynamical systems, a double pendulum is a pendulum with another pendulum attached to its end, and is a simple physical system that exhibits rich dynamic behaviour with a strong sensitivity to initial conditions. The motion of a double pendulum is governed by a set of coupled ordinary differential equations. For certain energies its motion is chaotic.</td>
<td>A simple pendulum is understood to be composed from a weightless thread or inflexible line with a weight attached to one end; it is considered that the force of gravity acting on the weight has been gathered together to act at one point (Huygens 2).</td>
</tr>
<tr>
<td>Out of control</td>
<td>Under control.</td>
</tr>
<tr>
<td>Non-linear outcomes</td>
<td>Linear outcomes.</td>
</tr>
<tr>
<td>A challenge to Mathematicians and Physicians to measure it.</td>
<td>Measured with exact values.</td>
</tr>
<tr>
<td>Chaotic trajectory.</td>
<td>Ordered trajectory.</td>
</tr>
</tbody>
</table>
The very simple experiment of Simple pendulum and Double pendulum shows clearly the movements of both pendulums.

Figure 15: trajectories of the Simple and the Double Pendulums.

A simple pendulum only swings forwards and back.

The double pendulum seems to swing randomly. But it’s not random, it’s chaotic.
C. The projection of Chaos Theory on deconstruction:

a. The Question of Reference in Democracy:

In mathematics the Lyapunov exponent or Lyapunov characteristic exponent of a dynamical system is a quantity that characterizes the rate of separation of infinitesimally close trajectories. Quantitatively, two trajectories in phase space with initial separation diverge.

<table>
<thead>
<tr>
<th>Chaos Theory</th>
<th>Democracy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Analyse complex systems which have non-linear outcomes.</td>
<td>Applied on complex political systems.</td>
</tr>
<tr>
<td>Sensitive to small changes in the initial condition.</td>
<td>A small percentage (in vote) can decide which side is the winner.</td>
</tr>
<tr>
<td>Gives approximated values.</td>
<td>Gives exact values.</td>
</tr>
<tr>
<td>The referring point is a non-fixed point.</td>
<td>The reference is the people.</td>
</tr>
<tr>
<td>Chaotic trajectory.</td>
<td>Changeable attitude towards an issue or a party …</td>
</tr>
<tr>
<td>The results are out of control.</td>
<td>Unexpected results.</td>
</tr>
</tbody>
</table>

Table 9: Chaos Theory and Democracy.

It is the idea that even when all the variables are fully understood, small changes in their values can result in wildly different results. If we apply this idea to political systems, where the rules of the game feed into changing people's attitudes towards political parties, we may see that the advantages of political science and the types of policy experimentation I have advocated here, may be limited. Nevertheless, chaos theory also explains that patterns can emerge.
Figure 16: Lyapunov\textsuperscript{1} Exponent Graph.

The projection of the Exponent Graph on Democracy leads to the following results:

- The small change in the initial condition results in huge difference in the results that means any deviation even if it is neglected in the beginning can result in considerable and even unexpected results.

- In Islam, allowing and justifying wrong-deeds by the legalizing laws that oppose Shari’a are not acceptable even if they are small deviation. The Prophet (Peace be upon him) said:” the most devilish deeds are beginnings”.

- In contemporary Islamic political systems, many wrong principles have been included in the name of defending the Human Rights; a lot of Divine orders have been disobeyed to imitate the developed countries.

\textsuperscript{1} Aleksander Mikhailovich Lyapunov, (June 6 [O.S. May 25] 1857 – November 3, 1918) was a Russian mathematician, mechanician and physicist. Lyapunov is known for his development of the stability theory of a dynamical system, as well as for his many contributions to mathematical physics and probability theory.
• The third Caliph Omar Ibn Khattab said:” we are people Allah has dignified us by Islam, if we seek dignity elsewhere, He will humiliate us”.

• It is a paradox that at the time Muslims removed the Islamic Principles which are the secret of their power; other non-Muslims recognized the greatness of these principles and adopted them.

B. The projection of Chaos Theory on deconstruction:

“Chaos Theory and Deconstruction have such radically different institutional implications that it can be misleading to emphasize their complexity. While Deconstruction subverts efforts to make itself into a universal system, Chaos Theory – as the term itself suggests – is expectantly regarded as a basis for a new fundamental synthesis”. (Knoespel 102).

<table>
<thead>
<tr>
<th>Chaos Theory</th>
<th>Deconstruction.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Theory in Mathematics.</td>
<td>Theory in Philosophy and Literature.</td>
</tr>
<tr>
<td>Analyse complex systems.</td>
<td>Analyse complex texts.</td>
</tr>
<tr>
<td>Applied in several disciplines.</td>
<td>We can deconstruct almost everything.</td>
</tr>
<tr>
<td>The referring point is non-fixed.</td>
<td>Based on “Self-referring” which is by nature changeable.</td>
</tr>
<tr>
<td>Results in a sum of indefinite number of small and different trajectories.</td>
<td>Results in several possible meanings.</td>
</tr>
<tr>
<td>The trajectories have different directions that can oppose each other.</td>
<td>These meanings can contradict each other.</td>
</tr>
</tbody>
</table>

Table 9: Chaos Theory and Deconstruction.

Projection of “Chaos Theory” on the Different Political Systems:

<table>
<thead>
<tr>
<th>Islamic Political System</th>
<th>Republican Political System</th>
<th>Democratic Political System</th>
</tr>
</thead>
<tbody>
<tr>
<td>Based on order.</td>
<td>Less ordered system.</td>
<td>Based on disorder.</td>
</tr>
<tr>
<td>The reference is Allah and his Messenger.</td>
<td>The reference is the law (the constitution).</td>
<td>The reference is the people.</td>
</tr>
<tr>
<td>Resembles the movement of a “Simple Pendulum”</td>
<td>Less organized than the Islamic Political system because it may be</td>
<td>Resembles the movement of a” Double Pendulum” because it refers to a non-fixed point which is the</td>
</tr>
</tbody>
</table>
Ensure absolute and real freedom by obeying the Divine orders.  
<table>
<thead>
<tr>
<th>Table 10: Chaos Theory and the Political Systems.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure absolute freedom by obeying the Divine orders.</td>
</tr>
<tr>
<td>Stable Political System</td>
</tr>
</tbody>
</table>

The aim projecting Chaos Theory is to demonstrate in a scientific way, by measuring the degree of stability of different ideologies hold by Islamic Political System and Western political systems (Republic and Democracy). By presenting them in an experimental approach comparing the origins and the referring point, we reached the result that is the reference could never been a variable point. If we transform what must be fixed into a changeable value, the result will be out of our expectations. So, for more stable political Systems we need to preserve the society from absurdity created by eliminating values from the lives of ordinary individuals. Thus, preserving the whole nation depend on preserving the most fundamental social units.

V. Questionnaire about the Constitution from Islamic and Western Visions:

1. General Remarks:
   The specimen is composed of 15 teachers: 4 from the department of Law (4/40) and 11 from the department of Political Science (11/19). The percentage of the
teachers who accepted to answer the questionnaire is $15/59=25.42\%$ which exceed $1/5$ (20%).

None! Of the students of both departments (Law and Political Sciences) accepted to answer the questionnaire because, according to them, it was difficult and needed teachers specialized in Constitutional Law.

As a substitute, we asked Master Students from the department of English specialised in Anglo-American Studies. Although those students did not study a lot of constitutions, they accepted to answer the questionnaire.

The number of the master students is $20/35=57.14\% \geq 20\%$.

b. Analysis of the Answers

A. Q1. Do you believe that political pluralism and coexistence with the other are Western products or they have some roots in the Islamic civilization?

<table>
<thead>
<tr>
<th>Teachers</th>
<th>Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 answered: yes political pluralism and coexistence with the other have some Islamic roots.</td>
<td>19 answered yes.</td>
</tr>
<tr>
<td>1 answered: no political pluralism but there was a coexistence with the other.</td>
<td>1 answered no</td>
</tr>
</tbody>
</table>

Table 1: political Pluralism and Coexistence with the other in Islamic and Western Political Systems.
Interpretations 1:
Political pluralism and coexistence with the other are interrelated concepts and the answers are logical.

Results 1:
The answers of the specialized teachers are slightly superior to the answers of the students. Only 1.5% is a neglected difference. They reflect high awareness by students who are supposed to be influenced by the Western Civilization. But the teachers provide convincing justifications. One of the answers goes further to say “the West took Legal Principles from the Islamic Civilization and included its in the modern constitutions”.

B. Q2. If you can pass laws, will you take into consideration the social and the religious aspects? Why or why not?
Table 12: the Importance of the Religious and the Social Aspects while Making a Law.

<table>
<thead>
<tr>
<th>Teachers</th>
<th>Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 answered yes</td>
<td>18 answered yes</td>
</tr>
<tr>
<td>1 answered: I will take into consideration the social aspect without the religious one.</td>
<td>2 answered no.</td>
</tr>
</tbody>
</table>

Figure 18: the Importance of the Religious and the Social Aspects while Making a Law.

**Interpretations 2:**

100% of teachers agree about taking the religious aspect into consideration while making a law. These teachers represent the opinion of the elite.

**Results 2:**

Despite the fact that they belong to departments (Law and Political Science) which teach secular programmes that are based on Western ideologies, their intellectual identity is so influenced by the Islamic Principles.

**C. Q3.** Among the constitutions you have studied, which one is the best according to you? And why?
5 answered the American constitution.
1 answered the British constitution.
1 answered the French constitution.
2 answered none.

<table>
<thead>
<tr>
<th>Teachers</th>
<th>Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 answered the American constitution.</td>
<td>5 answered the British constitution.</td>
</tr>
<tr>
<td>1 answered the British constitution.</td>
<td>4 answered the Islamic constitution.</td>
</tr>
<tr>
<td>1 answered the French constitution.</td>
<td>1 answered the constitution of Carthage.</td>
</tr>
<tr>
<td>2 answered none.</td>
<td></td>
</tr>
</tbody>
</table>

Table 13: The Most Important Constitutions.

Interpretations 3:

The answers of the teachers are more diverse due to their large knowledge about several constitutions especially the Algerian Constitution with its amendments. The American constitution and the British Constitution are present in both lists.

The Islamic Constitution is the best according to 20% of the students despite the fact that they did not study it at all. This percentage may reflect their ambitions or religious beliefs. The answers of the teachers do not include the Islamic Constitution at all because scientifically speaking; they have no idea about the notion of An Islamic constitution.
There are 2 teachers who answered none of all the constitutions that they have studied deserve to be a model and this reflects a high level of intellectual independence and it has a justification in the answers of Q7.

**Results 3:**

The American constitution is classified as the best according to 50% of the students and the Algerian Constitution is classified as the best according to 40% of the students.

Both teachers, and students, in general, answered according to what they know which means that what is considered the best is relative. That is why; there is an increasing need to serious and specialized researches about Constitutional Comparative Studies that compares the Islamic Politics with the Western ones. There is a huge ethical responsibility on the shoulders of Muslim scholars to spread the truth about Islam in general and to focus on the social, political, economic and judiciary aspects using a well oriented mass media and a good educational system (not imported blindly) in order to produce more practical Muslim generations that can show Islam to the whole world in a practical way.

**D. Q4.** Do you think that the problem within the Arabic and Islamic systems in adopting Islamic Politics or in removing it? What are the possible substitutes for the development?

<table>
<thead>
<tr>
<th>Teachers</th>
<th>Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 answered: the problem lies in removing the Islamic Politics.</td>
<td>11 answered: the problem lies in removing the Islamic Politics.</td>
</tr>
<tr>
<td>1 answered: the problem lies in the crisis of identity.</td>
<td>6 answered: the problem lies in adopting the Islamic Politics.</td>
</tr>
<tr>
<td></td>
<td>3 answered the difficulties of applying the Shari’a.</td>
</tr>
</tbody>
</table>
Substitutes are:
Applying Shari’a: 10 answers.
Democratic government: 3 answers.
Combine Islam & Modernity: 1 answer.
Islamic Political Knowledge: 1 answer.

Table 14: The Problems within the Arabic and Islamic Political Systems and the Possible Substitutes.

<table>
<thead>
<tr>
<th>% of People</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teachers</td>
</tr>
<tr>
<td>Students</td>
</tr>
<tr>
<td>Removing Shari’a</td>
</tr>
<tr>
<td>Adopting Shari’a</td>
</tr>
<tr>
<td>Crisis of Identity</td>
</tr>
<tr>
<td>Difficulties of Applying Shari’a</td>
</tr>
</tbody>
</table>

Figure 20: The Problems within the Arabic and Islamic Political Systems.

**Interpretations 4:**

1. Probably all the teachers see that removing Shari’a is the direct cause of the political crises within the Arabic and Islamic World, however; only 55% of the students agree with this.

None of the teachers see that adopting Shari’a is the source of political problems but 30% of the students see that Shari’a is the source of the actually political crises all over the Muslim World.

There is one teacher who linked the political crises with the cultural one mainly the “Crisis of Identity” and this answer is very interesting despite its modest percentage which is only 6.66%.
Results 4:

1. The removing of the Shari’a from the Islamic Political and Judicial systems was gradual since the assassination of the last elected Caliph Abdullah Ibn Zubair in 73H. The question of interpretation of the texts by the scholars to satisfy the rulers is deeply rooted even in the Islamic Political Thought.

   One of the examples that show clearly the deviation from the Prophetic teachings is in establishing monarchies. So, no one can accuse Shari’a as a source of political problems because no one had applied it. The analysis of the 30% of the students who answered in this way shows a misconception about Shari’a among Muslims themselves and needs more efforts and giving much interest to distinguish between what the media spread and what the Shari’a really is.

   Concerning the difficulties of applying Shari’a, I think the first step should be a social reform because the Modern Muslim Societies do not fulfil the conditions of applying Shari’a. That is why; the contemporary attempts failed and gave a very negative image about Islam.

![Image: The Possible Substitutes](image)

Figure 21: The Possible Substitutes

2. The majority of both lists agree about adopting Shari’a as a solution to the political problems but the challenging question is HOW to do? We have to
take into account the 6.66% of the teachers and the 15% of the students who propose a solution which is “Islamic Political Knowledge” that can serve as a platform on which a solid ideological building can hold a real and a strong Islamic state. If we look at the first Islamic state, we will find that the Meccan Era lasted 13 years, was the most difficult period because at that time the Prophet (Peace be upon him) was building the human being who can build the state. In my opinion, the same process (ideological) must be followed to achieve the same results not to import Western Ideologies.

E. Q5. Is Islam compatible with Democracy? And can we consider Consultation “Shura” a kind of Democratic practice?

<table>
<thead>
<tr>
<th>Teachers</th>
<th>Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) 15 answered: Islam is compatible with Democracy.</td>
<td>a) 19 answered: Islam is compatible with Democracy.</td>
</tr>
<tr>
<td>b) 15 answered: Shura is a kind of Democratic practice.</td>
<td>1 answered: Islam is not compatible with Democracy.</td>
</tr>
<tr>
<td></td>
<td>b) 19 answered: Shura is a kind of Democratic practice.</td>
</tr>
<tr>
<td></td>
<td>1 answered: Shura is not a kind of Democratic practice.</td>
</tr>
</tbody>
</table>

Table 15: the Compatibility of Islam and Democracy.

Figure 22: the Compatibility of Islam and Democracy.
Interpretations 5:

Most teachers and students agree that Islam is compatible with Democracy and that Shura is a kind of Democratic practices. Percentages vary between 95% and 100% which reflect the Islamic contribution in this field. In the Pre-Islamic Era, Mecca was a Democracy and there was “Dar An-Nadwa” where the leaders of the tribes were consulting each other before taking any important decision. Even when they decided to kill the Prophet (Peace be upon him), they agreed and chose ten young men (delegates). Each one represented his tribe to ensure the common responsibility. So, the Democratic process of taking a decision does not necessarily mean that it is right.

Results 5:

As a result, Democracy should be limited by a fixed law and partial representation. Without limiting Democracy, what is prohibited can be allowed in the future. For example, Amendment 18 or the Prohibition of Alcohol in 1919 was a public demand but the same people contradicted its first choice just after fourteen years. The result was another Amendment (21) in 1933 that legalized making, selling and drinking alcohol.

The same-sex marriage is another example. It is actually legal in 17 American States but this could never make it right. I believe that democracy must be limited by the Divine law and what is allowed or prohibited is not a subject of discussion or consultation.

It is true that the Federal Constitution of the United States is a rigid constitution and practically very difficult to be amended. It is true also that the Republican form of government is more stable than the Democratic one but still it is incomplete and opened to judicial misinterpretations and political interests.
F. Q6. If we accept that Democracy has recognized evolution and change? Is the ordinary citizen responsible for making change? Or is it above his abilities? Or do things must be relative?

<table>
<thead>
<tr>
<th>Teachers</th>
<th>Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 answered: the citizen can make change.</td>
<td>5 answered: the citizen can make change.</td>
</tr>
<tr>
<td>7 answered: change is above his abilities.</td>
<td>5 answered: change is above his abilities.</td>
</tr>
<tr>
<td>6 answered: things must be relative.</td>
<td>10 answered: things must be relative.</td>
</tr>
</tbody>
</table>

Table 16: the Responsibility of Change: Citizen, Government or Both.

Figure 23: the Responsibility of Change: Citizen, Government or Both.

Interpretations:

The “Arab Spring” and the revolutionary way of imposing the will of the people on the so-called tyrannical regimes raised the question of change and which side is the responsible of making it. Is it by establishing the Democratic form of Government as best substitute or by adopting Political Islam? It is worthy to link the terrorist attacks of 11/9, the war on terror and the Arab “Spring”. In the first notion, America and its “Democracy” were under threat of chosen enemies. In the second, the poor and the weak peoples were in need of the help of the American Democracy to
liberate themselves from tyrants like Saddam. In the third, the weapon this time is the people themselves to overthrow another kind of tyrants like Kaddafi. The common issue between the three cases is Democracy and the worst form of this worst form in my opinion is the “Arab Chaos” that is increasing the existing crises. These protests returned the Arab World back to a primitive (Athenian) Democracy which is inapplicable in the modern world.

Results:

The concept of Democracy has recognized evolution throughout history since the Athenian Direct Democracy of only 10% of the people because in Athens only the male, wealthy and free people had the right to vote but it was called “the rule of the People!” until the Representative (Indirect) Democracy. If the representatives misrepresent the people, it will no more be a Democracy of 10%, it will be a tyranny of less than 1%.

The society is built on the individuals and a good society is the one which produces good citizens. The question of change is controversial because some peoples failed to change their regimes despite their significant sacrifices like the Syrians and others that moved into a worse situation after removing their regimes such as the Egyptians, the Tunisians and the Libyans.

50% of the students see that change is relative between the citizen and the state, however; 46.66% of the teachers see that change is above the abilities of the ordinary citizen. These opinions deal with existing situations but that have nothing to do with the Islamic rule or even the Republican one because the relationship between the governor and the governed is based on the rights and the duties of each side. people can impeach the ruler who does not obey the law. Nowadays, policymakers show that they respect the will of the people and act accordingly but in fact they control and
orientate the masses towards their own desires. The best example is Obama and his invention “the Arab Spring”. In my opinion, he succeeded in misleading all of these peoples.

G. Q7. Do you think that teaching the Constitution of Medina is a necessity? If yes, at what level? At the Primary, middle, secondary school or at the University? Or in a gradual way? What are the aims behind this?

<table>
<thead>
<tr>
<th>Teachers</th>
<th>Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 teachers think that teaching the constitution of Medina is a necessity. 2 teachers did not answer.</td>
<td>All the 20 students think that teaching the constitution of Medina is a necessity.</td>
</tr>
<tr>
<td>2 answered: starting from the Middle School. 1 answered: at the University. 10 answered: at all the levels in a gradual way.</td>
<td>8 answered: at the primary school. 2 answered: at the Middle School. 2 answered: at the Secondary School. 2 answered: at the University. 6 answered: at all the levels in a gradual way.</td>
</tr>
</tbody>
</table>

Table 17: At what Level Including the Constitution of Medina is a Necessity?

Figure 24: At what Level Including the Constitution of Medina is a Necessity?
Interpretations 7:

All the teachers and the students agree about the necessity of teaching the Constitution of Medina but they have different points of views about the level at which the pupils must start studying it. The highest percentage is 66.66% by the teachers who see that teaching the Constitution of Medina should be gradual. Then, 40% of the students see that it should be in the primary school.

Results 7:

If we combine the two highest percentages, we will reach a proposition which is teaching the Constitution of Medina in a gradual way, and we have to start from the Primary School. We strongly support this proposition for two reasons. Firstly, the principle of the constitution would be deeply rooted in the consciousness of the pupils at this very early age. Secondly, choosing the gradual way aims to respect the level by simplifying the information and the age to make it deeper with the growing of the abilities of the pupils.

We can benefit from the American experience in using all the possible means to teach all the levels their Constitution. They benefit even from the walls in restaurants and coffee shops to write the Constitution of the United States in a very attractive way for kids in elementary levels. Unfortunately, in the Islamic World, we still disagree about whether Sahifat Al-Medina is a constitution or not. Even the scholars who considered it a constitution disagree about the number of its articles. These disagreements are harmful and unacceptable and must have an end by experts. Thus, all the Islamic World must adopt just one definition and one division of the original text into constitutional articles.
**General Results:**

Although the number of teachers of both departments: Political Sciences and Law did not exceed the quarter, they answered qualitative answers with providing the necessary justifications. Students of Anglo-American Studies presented good answers regarding to their field and they contributed in reaching the previous results.

Firstly, the Modern Western Civilization benefited from the Islamic Principles and they took from Islam the best content of their constitutions, mainly the American Constitution. So, all the constitutions that took from the American Constitution including the French Constitution should be grateful to the Islamic Legal Sources.

Secondly, in the process of making a law, the religious and the social aspects should be taken into account because each society has its specific features. The principals are universal but the techniques of applying them are changeable through time and place.

Thirdly, people evaluate this or that constitution as the best according to what they know. If they ignored the best, they would adopt the well-known one as the best. Therefore, the Constitution of Medina should be known at the international level as the first written constitution.

Fourthly, the problem in the Arabic and Islamic Political Systems is neither in adopting Shari’a nor in removing it. We cannot apply a system unless we acquire the necessary knowledge and we cannot adopt Shari’a unless we prepare the appropriate social platform.

Fifthly, Democracy has its roots in Islam and Shura is a kind of Democratic practices but Shura differs in its religious limitations. So, Democracy is a consultation of all the people in all issues, however; Shura is limited by what is allowed in Islam.
This gives a large interval for consulting the appropriate people but concerning the prohibited issues, there is no consultation at all.

Sixthly, the concept of Democracy has recognized evolution but there is a difference between consultation and creating a state of chaos. In a healthy Islamic Society, the relationship between the state and the citizen is built on the rights, the duties and the qualification for responsibilities.

Finally, the entire specimen who answered the questionnaire agrees about the necessity of teaching “The Constitution of Medina” but they differ about the level that should be chosen. From the answers, we can extract a proposition that is teaching it in a gradual way.
General conclusion

The constitution of Medina is one of the most important historical documents not only in the Islamic history but in the world history. It is ironic that after more than fourteen centuries, Muslim scholars failed to agree about the classification of the document and even about the number of articles. The Constitution of Medina deserves more organized efforts to unify the terminology within international conferences not just individual works here or there.

By applying the western definitions of charter, proclamation, treaty and constitution on Sahifat Al-Medina, we have proved that it is more than just a treaty, and it functions as any modern constitution.

The analysis of the Constitution of Medina tackles new concepts although they have not been mentioned literally like citizenship and pluralism. In addition to others that have been given new definitions such as Ummah, defence and security.

The application of the theory of Deconstruction reveals tribal features in the Medinian pluralistic society. So, Islam do not carry a revolutionary reaction towards the previous existing systems. Islam affirmed the right traditions, corrected the wrong ones and accomplished the good behaviour from the least of individuals to the most powerful communities.

The constitution of the United States is considered the oldest and the shortest written constitution in the world. It serves as a model by many countries. The analysis of the document shows that this constitution is appropriate for the American society but not necessary for other societies like Algeria that adopted many ideas from the American Constitution.
The analysis of the Constitution of the United States following the same order allows us to wonder why this constitution is considered as a model for a lot of countries. The framers themselves did not pretend that they had invented a perfect document. It was written after more than two centuries after establishing the first colonies. Second, the concept of citizenship was left ambiguous until 1868 with the fourteenth Amendment but still it includes some racist tendencies in distinguishing between the citizen and the naturalized citizen. Third, the question of slavery was a controversial issue that was why the framers delayed it.

The first 52 words of the preamble are forming the most important part. The six principles which are: unity, justice, security, defence, general welfare and liberty are repeated in the rest of the document.

The application of Deconstruction on the American Constitution reveals contradictions in some articles such as the three clauses about slavery, and ambiguity in others such as Amendments: 7, 9, 14, 15 and so on. This ambiguity raised a Linguistic problem about the meaning and even a problem of definition concerning at least two notions: war and piracy.

The comparison between the constitution of Medina and the Constitution of the United States shows clearly the existence of many similarities especially in the six principles in the Preamble. The Constitution of Medina is more universal because it is based on Ideology that can be adopted by different contexts. The Islamic Thought respects the locality of the society since it ruled by these principles. The same idea was applied during the long era of the rise of the Islamic Civilization.

The constitution of the United States is more technical by establishing the government and its three branches and the processes of election, amending, ratifying the
constitution and so on. It is suitable for America in its technical feature but it was wise decision to allow the Amendments. As any human product, it is neither perfect nor complete, but we can say that it extracted its strength and relative stability from the Islamic sources.

The projection of “Chaos Theory” on the two notions: Deconstruction and Democracy led to the following results:

- There are similarities between the two concepts as Alex Thomson said in his book *Democracy and Deconstruction*: “There is no Democracy without Deconstruction”. In fact, both refer to a non-fixed point.
- A small change in the initial conditions leads to considerable difference in the results.
- The reference in a stable political system could never be a variable (non-fixed) point. This result strongly support the suggested classification of the political systems.

The questionnaire that is composed of seven open-ended questions allows us to say that there are Islamic roots in the Western Political System in general and in the American one in particular. Islamic Civilization has contributed in the development of all the fields of knowledge including the Legal and the Political systems. On the other hand, the West appreciates all the contributions even if they carried unjust laws like the Athenian and the Roman constitutions but due to the weakness and the historical illiteracy Muslims themselves ignore their great heritage.

Through studying the Constitution of Medina, we invite researchers to produce more interesting studies on it and on other historical treasures. I believe that they contain the solutions to our most challenging dilemmas. We invite academic circles to
unify their efforts to agree about a unique translation and a unique division of the articles. As a result, all the future studies must have the same starting point which is Sahifat Al-Medina is a constitution it can be more than a constitution because it contains also social articles.

The Constitution of Medina is the oldest constitution in the world history because it appears 1165 years before the American Constitution. It is the shortest constitution because it is composed by only 420 words in the Arabic original version and in English translations there are about 1000 words and it differs from a translation to another.

The American themselves did not deny at that time that they benefited from the previous civilizations and the founding fathers talked about Islam and the prophet Muhammad (peace be upon him) in a very respectful way. A further and a more specialized study is needed to demonstrate that there are Islamic roots in the Constitution of the United States. A linguistic study about how to solve the problem of ambiguity of the meaning and the limits of interpretations will be very helpful.

Finally, interesting results that teachers from two departments: Law and Political Sciences, and Master students from the Department of English agree about the necessity of including THE CONSTITUTION OF MEDINA in the programmes of all the levels. In my humble opinion, including this in the department of English will increase the awareness of the students about the Islamic sources. Students of Foreign Languages must have the necessary Islamic background to be able to make fruitful comparisons and discover how great this religion is.
Translation of the Meanings of the Noble Quran in the English Language by Dr. Muhammad Taqi-ud-Din Al-Hilali and Dr. Muhammad Muhsin Khan.

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Division. Data supplied to Just Facts on June 15, 2010
Believers
Muslims
Kuraysh (the enemy)

The self
The internal self
Believers
Muslims
Jews
Pagans
The external self.

The external other
The internal other (religiously different)

The self and the other in the Constitution of Medina
“The Constitution of Medina”

Translated and divided by Dr. Muhammad Hamidullah.

In the name of God the Compassionate, the Merciful.

(1) This is a document from Muhammad the prophet (governing the relations) between the believers and Muslims of Quraysh and Yathrib, and those who followed them and joined them and labored with them.

(2) They are one community (umma) to the exclusion of all men.

(3) The Quraysh emigrants according to their present custom shall pay the bloodwit within their number and shall redeem their prisoners with the kindness and justice common among believers.

(4-8) The B. 'Auf according to their present custom shall pay the bloodwit they paid in heathenism; every section shall redeem its prisoners with the kindness and justice common among believers. The B. Sa ida, the B. ‘l-Harith, and the B. Jusham, and the B. al-Najjar likewise.

(9-11) The B. 'Amr b. ‘Auf, the B. al-Nabit and the B. al-'Aus likewise.

(12)(a) Believers shall not leave anyone destitute among them by not paying his redemption money or bloodwit in kindness.

(12)(b) A believer shall not take as an ally the freedman of another Muslim against him.

(13) The God-fearing believers shall be against the rebellious or him who seeks to spread injustice, or sin or animosity, or corruption between believers; the hand of every man shall be against him even if he be a son of one of them.

(14) A believer shall not slay a believer for the sake of an unbeliever, nor shall he aid an unbeliever against a believer.

(15) God’s protection is one, the least of them may give protection to a stranger on their behalf. Believers are friends one to the other to the exclusion of outsiders.

(16) To the Jew who follows us belong help and equality. He shall not be wronged nor shall his enemies be aided.

(17) The peace of the believers is indivisible. No separate peace shall be made when believers are fighting in the way of God. Conditions must be fair and equitable to all.

(18) In every foray a rider must take another behind him.

(19) The believers must avenge the blood of one another shed in the way of God.
(20)(a) The God-fearing believers enjoy the best and most upright guidance.

(20)(b) No polytheist shall take the property of person of Quraysh under his protection nor shall he intervene against a believer.

(21) Whoever is convicted of killing a believer without good reason shall be subject to retaliation unless the next of kin is satisfied (with blood-money), and the believers shall be against him as one man, and they are bound to take action against him.

(22) It shall not be lawful to a believer who holds by what is in this document and believes in God and the last day to help an evil-doer or to shelter him. The curse of God and His anger on the day of resurrection will be upon him if he does, and neither repentance nor ransom will be received from him.

(23) Whenever you differ about a matter it must be referred to God and to Muhammad.

(24) The Jews shall contribute to the cost of war so long as they are fighting alongside the believers.

(25) The Jews of the B. ‘Auf are one community with the believers (the Jews have their religion and the Muslims have theirs), their freedmen and their persons except those who behave unjustly and sinfully, for they hurt but themselves and their families.

(26-35) The same applies to the Jews of the B. al-Najjar, B. al-Harith, B. Sai ida, B. Jusham, B. al-Aus, B. Tha’labá, and the Jafna, a clan of the Tha’labá and the B. al-Shuṭayba. Loyalty is a protection against treachery. The freedmen of Tha ‘labá are as themselves. The close friends of the Jews are as themselves.

(36) None of them shall go out to war save the permission of Muhammad, but he shall not be prevented from taking revenge for a wound. He who slays a man without warning slays himself and his household, unless it be one who has wronged him, for God will accept that.

(37) The Jews must bear their expenses and the Muslims their expenses. Each must help the other against anyone who attacks the people of this document. They must seek mutual advice and consultation, and loyalty is a protection against treachery. A man is not liable for his ally’s misdeeds. The wronged must be helped.

(38) The Jews must pay with the believers so long as war lasts.

(39) Yathrib shall be a sanctuary for the people of this document.

(40) A stranger under protection shall be as his host doing no harm and committing no crime.

(41) A woman shall only be given protection with the consent of her family.
(42) If any dispute or controversy likely to cause trouble should arise it must be referred to God and to Muhammad the apostle of God. God accepts what is nearest to piety and goodness in this document.

(43) Quraysh and their helpers shall not be given protection.

(44) The contracting parties are bound to help one another against any attack on Yathrib.

(45)(a) If they are called to make peace and maintain it they must do so; and if they make a similar demand on the Muslims it must be carried out except in the case of a holy war.

(45)(b) Every one shall have his portion from the side to which he belongs.

(46) The Jews of al-Aus, their freedmen and themselves have the same standing with the people of this document in purely loyalty from the people of this document. Loyalty is a protection against treachery. He who acquires ought acquires it for himself. God approves of this document.

(47) This deed will not protect the unjust and the sinner. The man who goes forth to fight and the man who stays at home in the city is safe unless he has been unjust and sinned. God is the protector of the good and God-fearing man and Muhammad is the apostle of God.
The Constitution of Islamic State of Madina

The First Written Constitution Of Human History

An excerpt from the book "Constitutional Analysis of the Constitution of Madina" written by Dr. Muhammad Tahir-ul-Qadri

Article 1. Constitutional Document

This is a constitutional document given by Muhammad (SAW), the prophet, (Messenger of God).

Article 2. Constitutional Subjects of the State

(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. (All these communities shall be the constitutional subjects of the state.)

Article 3. Formation of the Constitutional Nationality

The aforementioned communities shall formulate a Constitutional Unity as distinct from (other) people.

Article 4. Validation and Enforcement of the former tribal laws of blood money for the emigrant Quraysh

The emigrants from Quraysh shall be responsible for their ward and they shall, according to their former approved practice, jointly pay the blood money in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom. Moreover, the deal among the believers shall be in accordance with the recognized principals of law and justice.

Article 5. Validation of the former laws of blood money for Banu Auf

And the emigrants from Banu Auf shall be responsible for their ward and they shall, according to their former approved practice, jointly pay the blood money in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom. Moreover, the deal among the believers shall be in accordance with the recognized principles of law and justice.

Article 6. Validation of the former laws of blood money for Banu Harith

And the emigrants from Banu Harith shall be responsible for their ward and they shall, according to their former approved practice, jointly pay the blood money in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom. Moreover, the deal among the believers shall be in accordance with the recognized principles of law and justice.

Article 7. Validation of the former laws of blood money for Banu Saida
And the emigrants from Banu Saida shall be responsible for their ward and they shall, according to their former approved practice, jointly pay the blood money in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom. Moreover, the deal among the believers shall be in accordance with the recognized principles of law and justice.

**Article 8**

**Validation of the former laws of blood money for Banu Jusham**

And the emigrants from Banu Jusham shall be responsible for their ward and they shall, according to their former approved practice, jointly pay the blood money in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom. Moreover, the deal among the believers shall be in accordance with the recognized principles of law and justice.

**Article 9**

**Validation of the former laws of blood money for Banu Najjar**

And the emigrants from Banu Najjar shall be responsible for their ward and they shall, according to their former approved practice, jointly pay the blood money in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom. Moreover, the deal among the believers shall be in accordance with the recognized principles of law and justice.

**Article 10**

**Validation of the former laws of blood money for Banu Amr**

And the emigrants from Banu Amr shall be responsible for their ward and they shall, according to their former approved practice, jointly pay the blood money in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom. Moreover, the deal among the believers shall be in accordance with the recognized principles of law and justice.

**Article 11**

**Validation of the former laws of blood money for Banu Nabeet**

And the emigrants from Banu Nabeet shall be responsible for their ward and they shall, according to their former approved practice, jointly pay the blood money in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom. Moreover, the deal among the believers shall be in accordance with the recognized principles of law and justice.

**Article 12**

**Validation of the former laws of blood money for Banu Aws**

And the emigrants from Banu Aws shall be responsible for their ward and they shall, according to their former approved practice, jointly pay the blood money in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom. Moreover, the deal among the believers shall be in accordance with the recognized principles of law and justice.

**Article 13**

**Indiscriminate rule of law and justice for all the communities.**

And every group shall secure the release of its captives ensuring that an indiscriminate rule of law and justice is applied among the believers.

**Article 14**

**Prohibition of relaxation in execution of law**
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  
Prohibition of Unjust favouritism  
A believer shall not form an alliance with the associate of (another) believer without the (latter’s) consent.

Article 16  
Collective resistance against injustice, tyranny and mischief  
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.

Article 17  
Prohibition of killing of a Muslim by a Muslim  
A believer shall not kill (another) believer (in retaliation) for an unbeliever, nor help an unbeliever against a believer.

Article 18  
Guarantee of equal right of life protection for all the Muslims  
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).

Article 19  
Distinctive identity of the Muslims against other constitutional communities.  
The believers shall be the associates of one another against all other people (of the world).

Article 20  
Non-Muslim minorities (Jews) have the same right of life protection (like Muslims)  
A Jew, who obeys us (the state) shall enjoy 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 21  
Guarantee of peace and security for all the Muslims bases on equality and justice.  
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.

Article 22  
Law of relief for war allies  
Every war ally of ours shall receive relief turns (at riding) at all military duties.

Article 23  
Law of vengeance for the Muslims in case bloodshed in the way of Allah  
The believers shall execute vengeance for one another for the bloodshed in the way of Allah.
Article 24  
Islam is the best code of life  
All the God-fearing believers are under the best and most correct guidance of Islam.

Article 25  
Prohibition of providing security of life and property to the enemy  
No idolater (or any non-believer among the clans of Madina) shall give protection for property and life to (any of the) Quraysh (because of their being hostile to the state of Madina) nor shall intervene on his behalf against any believer.

Article 26  
Execution of the law of retaliation for a Muslim murder.  
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.

Article 27  
No protection or concession for the doer of mischief and subversion against the constitution.  
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).

Article No. 28  
The final and absolute authority in the disputes vests in almighty Allah and Hazrat Muhammad (SAW).  
When anyone among you differs about anything, the dispute shall be referred to Almighty Allah and to the Prophet Muhammad (SAW) (as all final and absolute authority is vested in them).

Article No. 29  
Proportionate liability of non-Muslim citizens (the Jews) in bearing the war expenses.  
The Jews (non-Muslim minorities) will be subjected to a proportionate liability of the war expenses along with the believers so long as they (the Jews) continue to fight in conjunction with them.

Article No. 30  
Guarantee of freedom of religion for both the Muslims and non-Muslim minorities (the Jews)  
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. The right shall be conferred on their associates as well as themselves except those who are guilty of oppression or the violators of treaties. They will bring evil only on themselves and their family.

Article No. 31  
Equality of rights for the Jews of Banu Najjar with the Jews of Banu Awf
Article No. 32
Equality of rights for the Jews of Banu Harith with the Jews of Banu Awf
The Jews of Banu Harith shall enjoy the same rights as granted to the Jews of Banu Awf.

Article No. 33
Equality of rights for the Jews of Banu Sa'ida with the Jews of Banu Awf
The Jews of Banu Sa'ida shall enjoy the same rights as granted to the Jews of Banu Awf.

Article No. 34
Equality of rights for the Jews of Banu Jusham with the Jews of Banu Awf
The Jews of Banu Jusham shall enjoy the same rights as granted to the Jews of Banu Awf.

Article No. 35
Equality of rights for the Jews of Banu Aws with the Jews of Banu Awf
The Jews of Banu Aws shall enjoy the same rights as granted to the Jews of Banu Awf.

Article No. 36
Equality of rights for the Jews of Banu Tha'laba with the Jews of Banu Awf
The Jews of Banu Tha'laba shall enjoy the same rights as granted to the Jews of Banu Awf except who are guilty of oppression or violate treaties, they will bring evil only on themselves and their family.

Article No. 37
Equality of rights for Jafna, the branch of Banu Tha'laba, with the Jews of Banu Awf
Jafna, a branch of Banu Tha'laba, shall enjoy the same rights as granted to Banu Tha'laba.

Article No. 38
Equality of rights for the Jews of Banu Shutayba with the Jews of Banu Awf
The Jews of Banu Shutayba shall enjoy the same rights as granted to the Jews of Banu Awf. There shall be complete compliance (with this constitution) and no violation (of its clauses).

Article No. 39
Equality of rights for all the associates of the tribe Tha'laba
All the associates of Banu Tha'laba shall enjoy the same rights as granted to Banu Thalaba.

Article No. 40
Equality of rights for all branches of the Jews
All sub-branches of the Jews shall enjoy the same rights as granted to them (the Jews).

Article No. 41
Final command and authority in military expeditions vests in the prophet Muhammad (SAW)
Verily, none among the allies shall advance (on a military expedition) without the prior permission of the Prophet Muhammad (SAW) (in whom vests the final command and authority).

**Article No. 42**

**No exception from the law of retaliation**

There shall be no impediment on anyone who wished to avenge a wound.

**Article No. 43**

**Responsibility of Unlawful Killing**

Whoever commits an unlawful killing shall be responsible for it himself with his family members but he is exempted in case he kills a cruel. Verily, Allah (is the Trust Helper) support those who adhere completely to this constitution.

**Article No. 44**

**Separate liability of war expenses**

The Jews and the Muslims shall bear their own war expenses separately.

**Article No. 45**

**Compulsory mutual help to one another in case of war.**

There shall be mutual help between one another against those engage in war with the allies of this document.

**Article No. 46**

**Mutual consultation and honourable dealing**

There shall be mutual consultation and honourable dealing between the allies and there shall be the fulfilment not the violation, of all pledges.

**Article No. 47**

**Law of prohibition of treachery and help of the oppressed**

No one shall violate the pledge due to his ally and verily; help shall be given to the oppressed.

**Article No. 48**

**The Jews (non-Muslim minorities) shall also extend financial support to the state during the war period.**

The Jews (non-Muslims minorities) along with the believers shall extend financial support to the state during the war period.

**Article No. 49**

**Prohibition of Fighting and bloodshed among the various communities of the state.**

The valley of Yathrib is sacred and there shall be prohibition of fighting and bloodshed among the various communities of the state.

**Article No. 50**

**Equal right of life protection shall be granted to everyone, who has been given the constitutional shelter.**

A person given constitutional shelter shall be granted an equal right of life protection as long as he commits no harm and does not act treacherously.

**Article No. 51**

**Law of shelter for the women**

A woman shall not be given any shelter without the consent of her family.
Article No. 52  
**Authority of Allah and the prophet Muhammad (SAW) shall be final and absolute authority in all disputes instigating any quarrel.**

And verily if any dispute arises among the parties to this document from which any quarrel may be feared, it shall be referred to God and to Muhammad (SAW), the Messenger of God, for the final and absolute decision. Verily, God is the Guarantee for the faithful observance of the contents of this constitution (which shall be enforced by the state).

Article No. 53  
**No refuge for the enemies of the state nor for their allies.**

There shall be no refuge for the Quraysh (the enemies of the state) nor for their allies.

Article No. 54  
**Joint responsibility of defense in case of an attack on the state.**

The Muslims and the Jews shall be jointly responsible to defend (the state of) Madina against any outside attack.

Article No. 55  
**Incumbency of observance of the treaty of peace for every ally.**

It shall be incumbent upon the Jews to observe and adhere to any peace treaty they are invited to participate in. Likewise, it shall also be incumbent upon the Muslims to observe and adhere to any peace treaty, they are invited to.

Article No. 56  
**No treaty shall suspend or negate the responsibility of the protection of Deen.**

(Likewise, it shall be incumbent upon the Muslims also to observe and adhere to any peace treaty that they are invited to), but no treaty will restrain them from fighting for the protection of their Deen.

Article No. 57  
**Every party to treaty shall be responsible for the defence of its facing direction.**

Every party to the treaty shall be responsible for the measures and arrangements of the defence of its facing direction.

Article No. 58  
**The basic constituent members of this document and their associates shall possess the equal constitutional status.**

The Jews of Aws (one of the basic constituent members of this document) and their allies shall possess the same constitutional status as the other parties to this document, with a condition that they should thoroughly sincere and honest in their dealing with the parties.

Article No. 59  
**No party shall have any right of violation of the constitution.**

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.

Article No. 60  
**Favour of Almighty Allah will be subject to the observance of the constitution.**
Verily, God is the Guarantee for the faithful observance of the contents of this constitution (which shall be enforced by the state).

**Article No. 61**

No traitor or oppressor shall have the right of protection under this document.

Verily, this constitutional document shall not protect any traitor or oppressor.

**Article No. 62**

All peaceful citizens would be in a save and secure protection.

Verily, whoever goes out (on a military expedition) shall be provided with security and whoever stays in Madina shall have (likewise), except those who commit oppression and violate the contents of this constitution.

**Article No. 63**

Allah and his Prophet Muhammad (SAW) are the protectors of the peaceful citizens of Madina who abide by the constitution.

Verily, Allah and the Prophet Muhammad (SAW), the Messenger of God, are the protectors of good citizens and of those who fear from Allah.
Cass Gilbert (1867-1934), architect of the Supreme Court Building, selected Adolph A. Weinman (1870-1952), a respected and accomplished Beaux-Arts sculptor, to design the marble friezes for the Courtroom. Weinman’s training emphasized a correlation between the sculptural subject and the function of the building. Gilbert relied on him to choose the subjects and figures that best reflected the function of the Supreme Court Building. Faithful to classical sources and drawing from many civilizations, Weinman designed a procession of “great lawgivers of history” for the south and north walls to portray the development of law. Each frieze in the Courtroom measures 40 feet long by 7 feet, 2 inches high and is made of ivory vein Spanish marble.

Weinman’s sculpture begins on the South Wall Frieze with *Fame* and moves from left to right. Included among the great lawgivers are allegorical figures whose names are included below the images in italics.

**Menes** (c. 3200 B.C.) First King of the first dynasty of ancient Egypt. He unified Upper and Lower Egypt under his rule and is one of the earliest recorded lawgivers. Menes is shown in the frieze holding the *ankh*, an Egyptian symbol for life.

**Hammurabi** (c. 1700s B.C.) King of Babylon credited with founding the Babylonian Empire. He is known for the Code of Hammurabi, one of the earliest known legal codes. The first stone of the Code depicts him receiving the law from the Babylonian Sun God.

**Moses** (c. 1300s B.C.) Prophet, lawgiver, and judge of the Israelites. Mosaic Law is based on the Torah, the first five books of the Old Testament. Moses is depicted in the frieze holding two overlapping tablets, written in Hebrew, representing the Ten Commandments. Partially visible from behind Moses’ beard are Commandments six through ten.

**Solomon** (c. 900s B.C.) King of Israel and renowned judge. His name, meaning “figure of the wise man,” has become synonymous with “judicial wisdom.”

**Lycurgus** (c. 800 B.C.) Legislator of Sparta. Lycurgus is credited with being one of the reformers of Sparta’s constitution. He left Sparta after convincing the Spartan leadership not to change his laws until he returned, but he never did.

**Solon** (c. 638 - 558 B.C.) Athenian lawgiver. He was appointed *archon*, an officer of state, and was charged with remodeling the Athenian constitution in 594 B.C. He was instrumental in codifying and reforming Athenian law, often revising the laws of Draco. His name has come to mean “a wise and skillful lawgiver.”

**Draco** (c. 600s B.C.) One of Solon’s legal predecessors in Athens. Around 620 B.C., he committed an Athenian code of laws to paper for the first time. His code included many strict penalties and death sentences, often for what seemed to be minor offenses. Thus, the word “draconian,” meaning harsh or cruel, is derived from his name.
Confucius (551 - 478 B.C.) Chinese philosopher whose teachings stressed harmony, learning, and virtue. Within 300 years of his death, the Chinese State adopted his teachings as the basis for government. Although officially abandoned by the Chinese government in 1912, Confucianism continues to have an influence throughout the world.

Octavian (63 B.C. - 14 A.D.) or Augustus. First Emperor of the Roman Empire. He brought widespread reforms to many facets of Roman life. He supported the concept of using previous opinions of leading jurists to aid in resolving new disputes.

The North Wall Frieze proceeds from right to left, starting with Philosophy:

Justinian (c. 483 - 565) Byzantine Emperor from 527 until his death. He ordered the codification of Roman Law and published Corpus Juris Civilis. This work was instrumental in preserving Roman law and encompassed what has become known as the Justinian Code.

Muhammad (c. 570 - 632) The Prophet of Islam. He is depicted holding the Qur’an. The Qur’an provides the primary source of Islamic Law. Prophet Muhammad’s teachings explain and implement Qur’anic principles. The figure above is a well-intentioned attempt by the sculptor, Adolph Weinman, to honor Muhammad and it bears no resemblance to Muhammad. Muslims generally have a strong aversion to sculptured or pictured representations of their Prophet.

Charlemagne (c. 742 - 814) or Charles I (the Great). King of the Franks and Roman Emperor. Charlemagne was reportedly an avid student who became an eloquent speaker of several languages and supported learning and literature throughout his realm. Under his leadership, most of Western Europe was united by 804 becoming the foundation for the Holy Roman Empire. He was also a reformer of legal, judicial, and military systems.

King John (1166 - 1216) born John Lackland. King of England from 1199 until his death. His policies and taxation caused his barons to force him to have his seal affixed to the Magna Carta. This document, depicted in the frieze as a scrolled document in King John’s hand, is regarded as the foundation of constitutional liberty in England.

Louis IX (c. 1214 - 1270) King of France who was canonized as St. Louis in 1297. He led the 7th and 8th Crusades and created the first court of appeals known as the “Curia Regis” or “King’s Court.”

Hugo Grotius (1583 - 1645) or Huig de Groot. Dutch scholar, lawyer, and statesman. He is depicted holding De jure belli ac pacis (Concerning the Law of War and Peace), one of the first books on international law, which he wrote in 1625.

Sir William Blackstone (1723 - 1780) English law professor and jurist. He wrote Commentaries on the Law of England (1765 - 1769), which has had a major influence on English and American Law.

John Marshall (1755 - 1835) Fourth Chief Justice of the United States, from 1801 to 1835. His 1803 opinion in Marbury v. Madison stated that the Supreme Court of the United States had the authority to determine the constitutionality of a law, establishing the power of judicial review for the Court.

Napoleon (1769 - 1821) Emperor of France from 1804 to 1815. He ordered and directed the recodification of French Law into what became known as the Code Napoleon or Civil Code. Published in 1804, this code formed the basis for modern civil law. Napoleon, at St. Helena, is reported to have said, “My glory is not to have won forty battles; for Waterloo’s defeat will destroy the memory of as many victories. But what nothing will destroy, what will live eternally, is my Civil Code.”
Would you please answer the following questions with showing your point of view.

Q1: Do you believe that political pluralism and coexistence with the other are Western products or they have some roots in the Islamic civilization?
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Q2: If you can pass laws, will you take into consideration the social and the religious aspects? Why or why not?
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Q3: Among the constitutions you have studied, which one is the best according to you? And why?
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Q4: Do you think that the problem within the Arabic and Islamic systems in adopting Islamic Politics or in removing it? What are the possible substitutes for the development?
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Q5: Is Islam compatible with Democracy? and can we consider Consultation “Shura” a kind of Democratic practice?
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Q6: If we accept that Democracy has recognized evolution and change? Is the ordinary citizen is the responsible for making change? Or is it above his abilities? Or do things must be relative?
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Q7: Do you think that teaching the Constitution of Medina is a necessity? if yes, at what level? At the Primary, middle, secondary schools or at the University? Or in a gradual way? What are the aims behind this?
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ل الاستخدام التالي مع إبداء وجهة النظر وتقديم الاقتراحات

هل تؤمن بأن التعددية السياسية والتعايش مع الآخر هي أفكار عربية محضة أم أن لها جذور في الحضارة الإسلامية?

أين تقيم بين القوانين هل ستراضي الجانبيين الدينی والمصري؟ أم أن لا؟ ولماذا؟ هل الاختلاف الميجاميسية يستوجب اختلاف التشريعات؟

من بين الدستور الذي درستها ماهو أحسن دستور من وجهة نظرك ولماذا؟

الإجتماعي والإسلامي تكمن في تبني السياسة التشريعية أم في استيدها؟ وماهي البدياية الممكنة

أي أن الإسلام والديمقراطية يمكن أن يتوافق في نظام سياسي واحد؟ وللتي يمكن اعتبار شكل من أشكال الممارسة الديمقراطية؟

إذا صح أن الديمقراطية قد تطورت وتغيرت وتعدمت مفاهيمها، هل المواطن العادي هو المسؤول عن أحداث التغيير أم أنه ليس في مناول يده أم أن الأمر يعني أن تكون نسبية؟.....

هل تعتقد أنه من الضروري تنبرس دستور المدينة أو ما يعرف ب "وثيقة المدينة؟" لأبذا؟ إذا كان الجواب نعم في أي طور يجد الاعراف؟ الابد.

الدستور من المنظورين الإسلامي والمصري، موقع الحقوقي، العلاقات بينarto.