



# **Freedom of Religion in the 1945 Constitution and the Medina Charter: A Comparative Analysis in the Perspective of Siyasah Dusturiyah**

**Fauzan Fadhlurrahman,<sup>1\*</sup> Beni Ahmad Saebani,<sup>2</sup> Yana Sutiana<sup>3</sup>**

<sup>1,2,3</sup> UIN Sunan Gunung Djati Bandung, Indonesia

\* Corresponding Author, Email: fauzanfadhlurrahman9898@gmail.com

Received: January 2026; Accepted: January 2026; Published: January 2026

**Abstract:** This study aims to analyze the concept of religious freedom in the 1945 Constitution of Indonesia and the Medina Charter from the perspective of Siyasah Dusturiyah (Islamic Constitutional Law). Using a comparative, normative, and juridical approach, this research examines the similarities and differences in the principles of religious freedom between these two constitutional documents. The findings reveal that both the Medina Charter and the 1945 Constitution guarantee religious freedom within the framework of national unity and integrity. The Medina Charter, as the first written political document in Islamic history, recognizes non-Muslims as part of the ummah (nation) and guarantees their right to practice their religion freely, as stated in Articles 1 and 25. Similarly, the 1945 Constitution affirms religious freedom in Article 29 paragraph (2) and Chapter XA Article 28E paragraph (1). From the perspective of Siyasah Dusturiyah, both documents reflect the principles of shura (consultation), justice ('adl), and *maslahah* (public interest) in regulating religious freedom. The study concludes that the principles of religious freedom in Islam, as manifested in the Medina Charter, are highly relevant to and compatible with the constitutional framework of modern Indonesia. This research contributes to the theoretical development of Islamic constitutional law and provides practical insights for strengthening religious freedom policies in Indonesia.

**Keywords:** 1945 Constitution; Comparative Constitutional Law; Medina Charter; Religious Freedom; Siyasah Dusturiyah.

## **1. Introduction**

Freedom of religion is one of the most fundamental human rights. This right is inherent in every individual as an inalienable part of human dignity. In the modern context, the principle of religious freedom has become a universal value recognized by the global community. This is reflected in the Universal Declaration of Human Rights (UDHR) of 1948 and the International Covenant on Civil and Political Rights (ICCPR) of 1966, which affirm that everyone has the right to freedom of thought, conscience, and religion (Faturohman et al., 2024).

For the Indonesian people, religious freedom occupies a crucial role in national life. The founding fathers recognized that Indonesia is a highly diverse nation, encompassing ethnicity, culture, and religion. Within this diversity, they agreed to place the value of Belief in the One Almighty God as the foundation and moral direction of national life. This principle was then incorporated into the Pancasila and affirmed in Article 29 paragraphs (1) and (2) of the 1945 Constitution of the Republic of Indonesia, which states that "The State is based on Belief in the One Almighty God," and that "The State guarantees the freedom of every citizen to embrace their own religion and to worship according to their religion and beliefs" (Fatmawati, 2011).

This constitutional formulation affirms that religious freedom in Indonesia is not only a personal right, but also an obligation of the state to guarantee, protect, and facilitate a peaceful and equal religious life. This concept also reflects the balance between individual rights and social responsibilities, between freedom and order.

However, in social reality, religious freedom in Indonesia often faces various challenges. Cases of discrimination against minority groups, closures of houses of worship, bans on certain sects, and even belief-based persecution persist. These phenomena demonstrate the gap between ideal legal norms and actual socio-political practices. In this context, it is crucial to reexamine the meaning and application of religious freedom from the perspective of constitutional law and Islamic values as the nation's moral and ethical guide.

Islam itself holds a noble view of religious freedom. Islamic teachings prohibit compulsion in religion, as stated in the words of Allah SWT:

لَا إِكْرَاهٌ فِي الدِّينِ ۖ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيْرِ

"There is no compulsion in (adhering to) the religion (Islam), indeed the difference between the right path and the wrong path is clear." (QS. Al-Baqarah [2]: 256)

This verse emphasizes that faith is a matter of the heart and conscience, not the result of pressure or coercion. This value of freedom is not only theological but also social—namely, recognizing the right of others to believe and worship according to their own beliefs.

The Prophet Muhammad (peace be upon him) also set a clear example of tolerance and respect for differences. During his preaching, he never forced anyone to convert to Islam, but instead invited them through wisdom and example. This spirit of tolerance was later embodied in the Medina Charter—a political document drafted by the Prophet after his migration to Medina.

The Charter of Medina was a social agreement between Muslims, Jews, and various tribes in Medina that regulated communal life in a pluralistic society. This document is often referred to as the first written constitution in Islamic history because it contained basic principles of government, justice, and guaranteed religious freedom (El Hakim, 2015). One of its articles states that "The Jews have their religion, and the Muslims theirs," indicating a recognition of the plurality of beliefs and the right to live peacefully side by side (Abdillah & Khalil, 2025).

The Prophet Muhammad's commitment to protecting the rights of non-Muslim groups is also affirmed in his hadith:

مَنْ قَتَلَ مُعَاهِدًا لَمْ يَرَخِ رَائِحَةَ الْجَنَّةِ

"Whoever kills a mu'āhad—that is, a non-Muslim who is under the treaty and protection of the state—will not smell the fragrance of Paradise."

This hadith emphasizes that their safety and rights are guaranteed by the state. Thus, the Medina Charter not only served as the basis for establishing an Islamic political order but also serves as historical evidence that religious freedom is a fundamental principle of the Islamic system of government.

The Medina Charter and the 1945 Constitution share a common vision: to create a peaceful, just, and equitable social life within the framework of God. Within the framework of Islamic Constitutional Law (Siyāsah Dustūriyyah), religious freedom is part of the objectives of sharia (maqāṣid al-syāri'ah) to safeguard religion (hifz al-dīn) and the public good (maṣlahah 'āmmah). Thus, Islam does not reject diversity, but rather regulates it to create a balance between rights and responsibilities in social life (Jailani, 2016).

In the modern era, the idea of religious freedom has once again become a crucial issue in various countries, including Indonesia. The world faces two extreme currents: first, secularism, which excludes religion from the public sphere; second, religious exclusivism, which rejects plurality in the name of purity of faith. Indonesia is striving to find a middle ground between the two, by making God's values the moral foundation of the state without using them as a tool of coercion against its citizens.

Through a comparative approach between the Indonesian Constitution and the Medina Charter, this research seeks to explore the harmony of Islamic values with the principles of modern

constitutional law. This approach is expected to enrich understanding of how religious freedom is positioned fairly within Indonesia's pluralistic and religious legal system.

This research uses a normative juridical approach. This approach places legal norms as the primary focus of the study, relying on written legal materials such as legislation and court decisions. Therefore, this research relies more on conceptual and theoretical library research, rather than empirical fieldwork.

This research is also expected to address the academic concerns frequently raised among Islamic legal scholars, that Islamic constitutional law is considered theocentric and incompatible with modern democracy. However, the Medina Charter proves otherwise—that Islam has recognized the principles of constitutionalism, justice, and interfaith tolerance from its inception. By understanding these two legal systems side by side, it is hoped that a new understanding of how Islamic values can contribute to strengthening religious freedom and a civilized constitutional life in Indonesia will emerge.

Hans Kelsen is known as one of the great figures in the field of legal theory, particularly in his thinking on constitutional theory. One of his important contributions was the idea of a hierarchy of legal norms, known as Stufenbau Theorie. This theory explains that the legal system is structured in stages, where each norm has a related position within a hierarchical structure. Within this framework, the constitution occupies the highest level in a country's legal system. According to Kelsen, the constitution serves as a source of legitimacy for the legal norms below it, so that each norm is only valid if it is in line with the constitution (Kelsen, 2017).

Kelsen also emphasized that the constitution is not merely a written document containing basic provisions, but rather a legally binding norm. The constitution serves as the primary guideline for the formation of lower-level legal norms, such as laws, government regulations, and subordinate regulations. He stated, "The constitution is the foundation of the entire legal system, serving as the supreme norm that cannot be changed by other norms except through mechanisms determined by the constitution itself."

One of the key elements in Kelsen's theory is the concept of the Grundnorm, or basic norm. A Grundnorm is a fundamental norm that is not derived from other norms but serves as the basis for legitimacy for the entire legal system. In the context of modern states, the Grundnorm is often identified with the constitution itself. This basic norm provides validity for all legal regulations within a system (Kelsen, 2017).

John Locke (1632–1704) is known as one of the most influential thinkers in the history of Western political philosophy. His thinking laid the foundation for the development of classical liberalism, social contract theory, and human rights. One of his greatest contributions was the idea of religious freedom and tolerance, which he outlined in his monumental work, *A Letter Concerning Toleration*. This work became a significant milestone in the history of modern political thought because it was the first to systematically emphasize the separation of religious and state affairs (Dunn, 2022).

According to Locke, religious matters fall within the realm of human conscience, while the state is only authorized to regulate worldly matters such as security, justice, and social welfare. For Locke, the state has no authority to determine the truth of faith or impose a particular belief on its citizens. Thus, Locke makes a clear distinction between "civil authority" and "spiritual authority." The government is solely responsible for maintaining social order, while the church is a voluntary association of individuals who share the same beliefs.

In his *Letter on Toleration*, Locke asserted that true faith cannot grow from coercion, because belief is an inner matter that cannot be imposed by external power. He wrote that "God does not will compulsion in religion; true faith can only arise from free belief." Therefore, coercion in religion is not only ineffective but also contrary to the moral principles of religion itself (Magnis-Suseno, 1987).

Franz Magnis-Suseno explains that Locke's thinking on religious freedom marks a crucial shift in the history of political philosophy: from a theocentric to an anthropocentric perspective. According to Magnis-Suseno, Locke viewed the individual as the center of morality and the source of legitimacy

for power. Within this framework, religious freedom is an expression of human moral autonomy, where each person has the right to determine their own path of faith without external pressure.

Meanwhile, Bagus Takwin calls Locke a pioneer in connecting the concept of freedom with human rationality. According to him, Locke's idea of tolerance is rooted in the belief that humans are rational beings capable of independently determining truth. Therefore, religious freedom also represents a form of respect for human rational capacity (MADUNG, 2013).

Siyasah Dusturiyah is a branch of the science of siyasah fiqh which focuses on the discussion of statecraft or constitution in the Islamic view. The word "siyasah" means politics or management of public affairs, while "dusturiyah" comes from the term "dustur" which means constitution or basic law. Thus, siyasah dusturiyah can be interpreted as statecraft politics or constitutional system in Islam. This science focuses on the fundamental principles that govern the relationship between the ruler and the people, the structure of government, and the decision-making mechanism in the country based on Islamic law (Iqbal, 2016).

One of the main principles in siyasah dusturiyah is the concept of shura or consultation. Shura is a deliberative process that involves various parties to reach a common consensus. In the Islamic system of government, shura is an important means to ensure the participation of the people in the decision-making process and to uphold the accountability of leaders. This is in line with the words of Allah in the Quran Surah Ash-Shura verse 38: "And their affairs (are decided) by consultation among themselves."

In addition, siyasah dusturiyah also emphasizes the importance of the value of justice ('adl) in all aspects of government. Justice is the main foundation in every policy and decision made by the ruler. This is as commanded by Allah in Surah An-Nisa verse 58: "Indeed, Allah commands you to deliver the trust to those who are entitled to it, and when you judge between people, judge with justice."

Another principle in siyasah dusturiyah is maslahah or public benefit. All policies made by the government should be directed towards realizing the goodness and welfare of the wider community. In the tradition of ushul fiqh and fiqh siyasah, this principle is emphasized through important rules:

الْحُكْمُ يَدْعُورُ مَعَ الْمَصْلَحَةِ وُجُودًا وَعَدَمًا

"al-hukmu yadūru ma'a al-maṣlahah wujūdan wa 'adaman" which means "a policy and legal provisions depend on the presence or absence of benefits."

This principle emphasizes that public interest must take precedence over personal or group interests. In this context, the government is obligated to ensure that every policy it adopts brings real benefits and prevents harm to the public.

Effectiveness theory is an important approach in legal studies that emphasizes the ability of norms or regulations to achieve established goals and have a real impact on society. According to Soerjono Soekanto, there are five main factors that influence legal effectiveness: the law itself, law enforcement factors, facilities and infrastructure factors, community factors, and socio-cultural factors (Soekanto & Tjandasari, 1987).

In the context of research on religious freedom in Indonesia, effectiveness theory is highly relevant as an analytical tool to assess the extent to which legal norms, principles, and policies related to religious freedom are effectively implemented. Indonesia, as a pluralistic society, faces significant challenges in implementing religious freedom. Although the 1945 Constitution and various laws and regulations guarantee the right to religious freedom, social reality demonstrates numerous obstacles (Fuah, 2024).

## 2. Research Methods

This research uses a qualitative approach with a normative juridical method. This approach places legal norms as the primary focus of the study, relying on written legal materials such as legislation and historical documents. This type of research is classified as library research, with

conceptual and theoretical elements (Kostere & Kostere, 2021). The method employed is a comparative, descriptive-analytical approach. Researchers not only describe phenomena as they exist but also analyze them in depth to discover specific meanings, relationships, or patterns (Nabdi et al., 2022). The comparative method is used to compare the principles of religious freedom in the Medina Charter and the 1945 Constitution.

Data sources used in this study are divided into two categories: primary and secondary. Primary data were obtained from the text of the Medina Charter, the 1945 Constitution of the Republic of Indonesia, and the Quran and its translation. Secondary data consisted of literature, scientific journals, constitutional law books, and documentation relevant to the themes of religious freedom and Islamic constitutionalism. Data collection techniques were conducted through documentation studies, namely collecting, recording, and analyzing relevant documents. Data analysis used the Miles and Huberman model, which includes three stages: data reduction, data presentation, and conclusion drawing. This process was interactive and ongoing throughout the research, allowing for a continually evolving understanding of the phenomenon under study.

### 3. Results and Discussion

#### 3.1. The Concept of Religious Freedom in the Medina Charter

The Medina Charter, comprising 47 articles, was the result of a consensus between the Prophet Muhammad and the inhabitants of Medina, who came from diverse backgrounds. The Charter demonstrates that the Prophet Muhammad laid down basic principles such as mutual respect, equality, freedom, justice, peace, deliberation, and security. The Medina Charter is a living historical document that clearly demonstrates how the Prophet Muhammad respected the principles of freedom, order, and justice in life and, through these agreements, created a unified front against external attacks (Shomad, 2013).

One of the principles of freedom enshrined in the Medina Charter is freedom of religion. The pluralistic society of Yathrib before the arrival of Islam often led to divisions and wars. Conflicts between the Aus and Khazraj tribes, two major tribes at the time, were frequent, even leading to bloodshed. Seeing the realities of Yathrib society, the Prophet Muhammad (peace be upon him) took action to implement two reforms. First, uniting the Aus and Khazraj tribes into a single bond of faith in Islam. Second, regulating the relationship between Muslims and non-Muslims (Ichrom, 2020).

Article 25 of the Medina Charter states:

وَإِنَّ يَهُودَ بَنِي عَوْفٍ أَمَّةٌ مَعَ الْمُؤْمِنِينَ لِلْيَهُودِ دِينُهُمْ وَلِلْمُسْلِمِينَ دِينُهُمْ وَمَا إِلَيْهِمْ وَأَنفُسُهُمْ وَإِنَّهُ مَنْ ظَلَمَ وَأَنْثَمَ فَلَا يُؤْتَخُ إِلَّا نَفْسَهُ وَأَهْلَ بَيْتِهِ

Translation of Article 25: a. The Jews of the tribe of Auf are one nation-state (ummah) with believing citizens (Muslims) b. The Jews are free to embrace their religion as Muslims are free to embrace their religion c. This freedom also applies to the followers of their allies, and themselves d. Except if someone causes disturbance and commits a crime, which befalls the person concerned and his family.

Article 25 of the Medina Charter demonstrates the Prophet's deep respect and recognition of non-Muslims in Medina. When viewed and understood, this article grants religious freedom to the people of Medina, while also granting non-Muslims the freedom to practice their own beliefs and religious teachings. Religious freedom manifests itself in respecting the beliefs of others and properly honoring the customs and traditions of religious communities and other communities (Nurjanah, 2019).

In addition to regulating religious freedom, the Medina Charter also recognized the *de jure* existence of non-Muslims. Jews and non-Muslims of Medina were an integral part of the nation-state (ummah) alongside the believers. As stated in Article 1 of the Medina Charter, which states:

إِنَّهُمْ أُمَّةٌ وَاحِدَةٌ مِنْ دُونِ النَّاسِ

"Indeed, they are a nation (ummah) free from (the influence and power of) other people."

Apart from Article 1, the recognition of non-Muslims as part of the nation-state (ummah) together with Muslims is also emphasized in Article 25 which reads:

وَإِنَّ يَهُودَ بَنَى عَوْفٍ أُمَّةٌ مَعَ الْمُؤْمِنِينَ

"The Jews of the tribe of Auf are one nation-state (ummah) with believing citizens."

The above description shows that the Medina Charter contains a principle of freedom, which in this case is freedom of religion in the midst of the heterogeneous and pluralistic life of the Medina community. Religious freedom that lives and is implemented within the framework of national unity and integrity is clearly visible in the Shahifatul Madinah (Medina Charter) through the articles contained therein. Through the Medina Charter, the Prophet Muhammad created an extraordinary benefit for all the people of Medina, namely in uniting the diverse population of Medina (Pasaribu & Yusrianto, 2025).

### 3.2. The Concept of Freedom of Religion in the 1945 Constitution

Indonesia, as a country that adheres to constitutionalism, places the constitution as the highest source of law, serving as the foundation for national and state life. Since its founding, Indonesia has declared itself a constitutional state. This is evident in the Preparatory Committee for Indonesian Independence (BPUPKI), established by Japan to prepare for Indonesian independence (Frinaldi & Nurman, 2005).

Indonesia officially had a constitution on August 18, 1945, with the ratification of the 1945 Constitution by the Preparatory Committee for Indonesian Independence (PPKI). The 1945 Constitution became Indonesia's first constitution, regulating the basic principles of the state. The 1945 Constitution of the Republic of Indonesia is the constitution for the Indonesian state and serves as a written basic law whose position and function are binding for the government, state institutions and other institutions, as well as all Indonesian citizens. It contains norms or rules that must be obeyed and implemented (Mawalidin, 2021).

Freedom of religion and worship is a mandate of the 1945 Constitution of the Republic of Indonesia. This is regulated in Article 29 paragraph 2 of the 1945 Constitution of the Republic of Indonesia which reads:

"The state guarantees the freedom of every citizen to embrace their respective religion and to worship according to their religion and beliefs."

This verse shows that Indonesian citizens have the freedom to practice their religion and to practice their respective religious teachings. Besides being a constitutional mandate, religious freedom in Indonesia is also a part of human rights that must be protected and fulfilled by the state. Religious freedom as part of human rights is regulated in Chapter XA concerning Human Rights, Article 28E paragraph 1 of the 1945 Constitution of the Republic of Indonesia, which states that, "everyone has the right to embrace a religion and worship according to their religion" (Fatmawati, 2011).

Regulations guaranteeing the right to religion in Indonesia are crucial, given Indonesia's pluralistic nature, especially as it recognizes several religions as valid and thriving. Religious freedom in Indonesia is a form of mutual respect and appreciation for the diversity of beliefs among citizens. By respecting and appreciating these differences, citizens can live side by side and collectively realize the ideals of the nation and state (Faturohman et al., 2024).

Indonesia recognizes six religions: Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism. The existence of religious diversity in Indonesia does not necessarily lead to national divisions, but rather serves as a shared strength, fostering tolerance and diversity, thus fostering unity.

This is reflected in the third principle of the state philosophy, "The Unity of Indonesia".

a. Comparative Analysis: Similarities and Differences

From the analysis conducted, it can be concluded that both the Medina Charter and the Indonesian Constitution share similarities in guaranteeing religious freedom within the framework of societal unity. The following are the main similarities and differences:

b. Equality:

Guarantee of Freedom of Religion as a Fundamental Right

Both documents recognize religious freedom as a fundamental right of every individual. The Charter of Medina explicitly states, "Jews are free to practice their religion, just as Muslims are free to practice theirs." Similarly, the 1945 Constitution affirms that "the state guarantees the freedom of every citizen to practice their respective religion".

### 3.3. Context of Association and Unity

Religious freedom is guaranteed in both documents within the context of national unity. The Medina Charter states that the Jews constitute "one nation-state (ummah) with believing citizens," while the 1945 Constitution places the guarantee of religious freedom within the framework of Pancasila, with its principle of "Indonesian Unity."

1) Recognition of Plurality

Both recognize the plurality of religions and beliefs within society. The Medina Charter acknowledged the existence of Jews, Ansar, Muhajirin, and various tribes. The 1945 Constitution recognizes six official religions and allows for other faiths.

2) Non-Discrimination Principle

Both documents emphasize the principle of non-discrimination in the exercise of religious rights. There is no preferential or discriminatory treatment based on a person's religious affiliation.

3) The Role of the State as a Protector

The state/government plays a role as protector and guarantor of religious freedom. In the Medina Charter, the Prophet Muhammad, as head of state, guaranteed protection for all groups. The 1945 Constitution explicitly guarantees religious freedom.

a. Difference:

The Medina Charter is contractual in nature (an agreement between communities made by mutual agreement), while the 1945 Constitution is a modern state constitution that was drafted through the process of state formation and is the highest basic law.

The Medina Charter regulates relations between religious groups more specifically and in detail, naming specific tribes and groups. The 1945 Constitution, meanwhile, regulates matters in a general and inclusive manner without explicitly naming any particular religion or group.

### 3.4. Historical and Geographical Context

The Medina Charter was born in 7th-century Arab society within the unique socio-political context of that era. The 1945 Constitution was born in 20th-century Indonesia, within the context of independence from colonialism and the formation of a modern nation-state.

a. Religious Group Coverage

The Medina Charter explicitly mentions certain religious groups (Islam and Judaism in particular), while the 1945 Constitution is more inclusive of all religions recognized and developing in Indonesia.

b. Protection Mechanism

Piagam The Medina Charter provides a more direct protection mechanism through bilateral agreements between groups. The 1945 Constitution provides protection through a more complex national legal system, including laws, regional regulations, and judicial institutions.

c. Industrial Policy Perspective

From the perspective of Siyasah Dusturiyah, these two constitutional documents reflect the fundamental principles of Islamic constitutional law. These principles can be analyzed as follows:

1) The Principle of Shura (Deliberation)

The principle of shura is reflected in the process of drafting both documents, which involved various parties and reached a common consensus. The Medina Charter was the result of deliberations between the Prophet Muhammad and various groups in Medina, including the Muhajirin, the Ansar, and the Jews. The drafting process involved negotiations and agreements from all parties involved, reflecting a democratic and participatory spirit. Similarly, the 1945 Constitution was the result of an agreement reached by the nation's founders through the BPUPKI (Community Development Advisory Board) and PPKI (Community Development Advisory Board) sessions. Its drafting process involved discussion, debate, and compromise from various groups with diverse backgrounds. This aligns with Allah's word in Surah Asy-Shura, verse 38, which emphasizes the importance of deliberation in governing common affairs.

2) Principle of Justice ('Adl)

The principle of justice is deeply embedded in both documents. The Medina Charter guarantees fair treatment for all groups regardless of religion. Articles in the Medina Charter stipulate equal rights and obligations for all parties, including in matters of security, defense, and dispute resolution. There is no discrimination based on religion in access to justice and legal protection. The 1945 Constitution also guarantees equality before the law for all citizens, as stipulated in Article 27 paragraph (1), which states that "All citizens are equal before the law and government and are obliged to uphold the law and government without exception." This principle aligns with Allah's word in Surah An-Nisa verse 58, which commands to uphold justice in every decision (Safriani, 2019).

3) The Principle of Maslahah (Public Benefit)

The principle of maslahah serves as the philosophical foundation of both documents. The Medina Charter was drafted to create a peaceful and prosperous life for all the diverse inhabitants of Medina. Its primary objectives were to prevent conflict, maintain collective security, and establish a stable social order. Every provision in the Medina Charter was directed toward realizing the welfare of the entire community, not just one particular group. Similarly, the 1945 Constitution aims to protect the entire Indonesian nation and promote general welfare, as stated in the Preamble to the 1945 Constitution. Freedom of religion is guaranteed not only as an individual right, but also as part of efforts to create a harmonious and prosperous society. This is in line with the Islamic jurisprudence principle that states "al-hukmu yadūru ma'a al-maṣlaḥah" (law depends on the welfare). In this context, the guarantee of religious freedom is a manifestation of efforts to achieve maslahah 'ammah (general welfare) (Iqbal, 2016).

4) The Principle of Hifz al-Din (Safeguarding Religion)

One of the objectives of sharia (maqasid al-syariah) is to safeguard religion (hifz al-din). Both documents reflect this principle in different yet complementary ways. The Medina Charter safeguards religion by granting each group the freedom to practice its teachings without interference. This does not mean ignoring Islam as the majority religion, but rather demonstrates Islam's maturity in respecting differences. The 1945 Constitution safeguards religion by placing the value of Belief in the One and Only God as the first principle of Pancasila and making it the foundation of the state. The state not only guarantees religious freedom but also protects religious life from threats and disruption. This demonstrates the state's recognition of the importance of religion in society and its commitment to protecting it.

5) The Principle of Wasathiyyah (Moderation)

Both documents reflect the principle of wasathiyyah, or moderation in religion. The Medina Charter demonstrates a moderate stance by not forcing Islam on non-Muslims, but also not leaving them without rules. There is a balance between religious freedom and social responsibility. The 1945 Constitution also reflects moderation by not making Indonesia a

secular state that completely separates religion from the state, but also not making it a theocracy that imposes a single religion. Indonesia chooses a middle path by recognizing religious plurality while maintaining divine values as the nation's moral foundation. This is an example of the application of the wasathiyyah principle in the context of a modern state (Pasaribu & Yusrianto, 2025).

**d. Contemporary Relevance and Implementation**

The principles of religious freedom in the Medina Charter are highly relevant to the modern Indonesian context. Indonesia, a pluralistic and diverse society, requires a strong constitutional foundation to guarantee religious freedom while maintaining national unity. The historical experience of the Medina Charter demonstrates that recognizing plurality and guaranteeing religious freedom actually strengthens social cohesion and political stability (Assya'bani, 2018).

However, the challenges of implementing religious freedom in Indonesia remain quite complex. Cases of discrimination against minority groups, restrictions on the establishment of houses of worship, and religious-based conflicts persist in various regions. This highlights the need to strengthen the implementation of constitutional norms through clearer implementing regulations, consistent law enforcement, and increased public awareness of the importance of religious tolerance (Mendrofa, 2024).

From the perspective of Siyasah Dusturiyah, the state has an obligation to protect minority rights and prevent the tyranny of the majority. This principle aligns with the hadith of the Prophet Muhammad, which emphasizes the protection of mu'ahad (non-Muslims protected by the state). Therefore, the Indonesian government needs to continue strengthening policies and programs that support religious harmony, interfaith dialogue, and tolerance education.

Some concrete steps that can be taken include:

**1) Strengthening Regulation**

There needs to be harmonization of laws and regulations at the central and regional levels regarding religious freedom. Regulations that are discriminatory or contrary to the constitution must be revised or revoked.

**2) Consistent Law Enforcement**

Law enforcement officials must act firmly and fairly against violations of religious freedom, whether committed by individuals, groups, or state officials. There must be no compromise when it comes to acts of intolerance and discrimination.

**3) Public Education and Awareness**

Education for tolerance and religious harmony must be integrated into both formal and informal educational curricula. The public needs to be equipped with a proper understanding of plurality and the importance of respecting differences.

**4) Intensive Interfaith Dialogue**

Interfaith dialogue forums need to be continuously facilitated and strengthened. Constructive dialogue can build shared understanding and reduce prejudice between religious groups.

**5) Empowerment of Religious Institutions**

Religious institutions need to be encouraged to play an active role in promoting the values of religious tolerance and moderation. Religious leaders have a strong influence in shaping the attitudes and behavior of their congregations.

**e. Theoretical and Practical Contributions**

This research provides a theoretical contribution to the development of Islamic constitutional law (Siyasah Dusturiyah) and constitutional law. By comparing the Medina Charter and the 1945 Constitution, this research demonstrates that the principles of Islamic constitutionalism do not conflict with those of modern constitutionalism. Rather, Islamic values can enrich and deepen understanding of constitutionalism, which focuses on justice, participation, and the public good.

Practically, this research provides insights for policymakers, academics, and legal practitioners on how the principles of religious freedom can be effectively implemented in pluralistic societies. The

experience of the Medina Charter can serve as inspiration for designing more inclusive and equitable policies.

Furthermore, this research also shows that Islam has a long and rich tradition of constitutionalism. The Charter of Medina, the first constitutional document in Islamic history, demonstrates that Islam has, from its inception, recognized the principles of the rule of law, the division of powers, the protection of citizens' rights, and religious tolerance. This refutes the view that Islam is incompatible with democracy and modern constitutionalism (El Hakim, 2015).

#### 4. Conclusion

This study concludes that both the Medina Charter and the 1945 Constitution are strongly committed to guaranteeing religious freedom within the context of unity. The Medina Charter, as the first constitutional document in Islam, laid a solid foundation for recognizing religious plurality and guaranteeing the right to worship for all groups. The principles contained in the Medina Charter, particularly Articles 1 and 25, demonstrate the Prophet Muhammad's inclusive vision for building a peaceful and prosperous society amidst diversity.

The 1945 Constitution, as the constitution of the modern state of Indonesia, adopts a similar principle by guaranteeing freedom of religion through Article 29 paragraph (2) and Article 28E paragraph (1). This constitutional guarantee reflects the awareness of the nation's founders that freedom of religion is a fundamental human right and is key to creating unity in diversity.

From a Siyasah Dusuriyah perspective, these two constitutional documents reflect the fundamental principles of Islamic statecraft: shura (deliberation), 'adl (justice), maslahah (public welfare), hifz al-din (protecting religion), and wasathiyyah (moderation). These principles are not only historically relevant but also highly applicable in the context of modern statecraft. This research demonstrates that the Islamic values in the Medina Charter are compatible with the principles of modern constitutionalism and can make a significant contribution to strengthening democracy and protecting human rights in Indonesia.

The main similarities between the two documents lie in: (1) the guarantee of religious freedom as a fundamental right; (2) the context of unity and oneness in diversity; (3) the recognition of religious plurality; (4) the principle of non-discrimination; and (5) the role of the state as a protector of religious freedom. Meanwhile, the main differences lie in the form of the documents, the specificity of the regulations, the historical-geographical context, the scope of religious groups, and the protection mechanisms.

To achieve effective guarantees of religious freedom, a strong commitment is required from all parties: the government, civil society, religious leaders, and academics. The government needs to strengthen policies that support tolerance and interfaith dialogue, civil society needs to actively advocate for the protection of minority rights, religious leaders need to promote the values of religious moderation, and academics need to continue developing studies that enrich the understanding of religious freedom in Indonesia's diverse context.

This study recommends that: (1) harmonization of laws and regulations related to religious freedom be carried out at all levels; (2) law enforcement be carried out consistently and without discrimination; (3) tolerance education be integrated into the national education curriculum; (4) interfaith dialogue be facilitated intensively and continuously; and (5) religious institutions be empowered to promote the values of religious tolerance and moderation.

By understanding and implementing the principles of religious freedom enshrined in the Medina Charter and the 1945 Constitution, Indonesia can serve as a global example of how a Muslim-majority country can guarantee religious freedom, respect plurality, and build a peaceful and prosperous society. This research lays the groundwork for further study on how Islamic values can contribute to the development of constitutionalism and the protection of human rights in the modern era.

## References

Abdillah, F. N., & Khaliq, M. N. (2025). Kebebasan Beragama Dalam Bingkai Persatuan Dan Kesatuan: Relevansi Pasal 1 & 25 Piagam Madinah Dan Konstitusi Di Indonesia. *J-CEKI: Jurnal Cendekia Ilmiah*, 4(2), 3273–3281. <https://doi.org/https://doi.org/10.56799/jceki.v4i2.8333>

Assya'bani, R. (2018). Hak Asasi Manusia (HAM) dalam Islam: Menelusuri Konsep HAM dalam Piagam Madinah. *AL-FALAH: Jurnal Keislaman Dan Kemasyarakatan*, 18(2), 152–175.

Dunn, J. (2022). *John Locke; Sebuah Pengantar Singkat*. BASABASI.

El Hakim, H. M. I. (2015). *Prinsip Konstitusionalisme Dalam Piagam Madinah Dan Relevansinya Bagi Konstitusi Indonesia*. Universitas Airlangga.

Fatmawati, F. (2011). Perlindungan Hak Atas Kebebasan Beragama dan Beribadah dalam Negara Hukum Indonesia. *Jurnal Konstitusi*, 8(4), 489–520.

Faturohman, F., Febriyanti, A. N., & Hidayah, J. (2024). Kebebasan Beragama Sebagai Bagian Dari Hak Asasi Manusia. *Aliansi: Jurnal Hukum, Pendidikan Dan Sosial Humaniora*, 1(3), 312–323.

Frinaldi, A., & Nurman, S. (2005). Perubahan Konstitusi Dan Implikasinya Pada Perubahan Lembaga Negara. *Jurnal Demokrasi*, 4(1).

Fuah, M. (2024). Efektivitas dan fungsi hukum dalam masyarakat perspektif Filsafat Hukum. *Desiderata Law Review*, 1(2), 35–44.

Ichrom, M. (2020). Hak Sipil Agama (HSA) Dalam Piagam Madinah. *Mumtaz: Jurnal Studi Al-Quran Dan Keislaman*, 4(02), 233–256.

Iqbal, M. (2016). *Fiqh Siyasah Konstekstualisasi Doktrin Politik Islam*. Kencana.

Jailani, I. A. (2016). Piagam madinah: Landasan filosofis konstitusi negara demokratis. *Al-Daulah: Jurnal Hukum Dan Perundangan Islam*, 6(2), 269–295. <https://doi.org/https://doi.org/10.15642/ad.2016.6.2.269-295>

Kelsen, H. (2017). *General theory of law and state*. Routledge.

Kostere, S., & Kostere, K. (2021). *The generic qualitative approach to a dissertation in the social sciences: A step by step guide*. Routledge.

MADUNG, O. G. N. (2013). *Filsafat Politik: Negara dalam Bentangan Diskursus Filosofis*. Penerbit Ledalero.

Magnis-Suseno, F. (1987). Etika politik: prinsip-prinsip moral dasar kenegaraan modern. (No Title).

Mawalidin, J. (2021). Konsistensi Konstitusi Indonesia Dalam Pelaksanaan Judicial Review Undang-Undang. *Politica: Jurnal Hukum Tata Negara Dan Politik Islam*, 8(1), 43–63.

Mendrofa, O. O. (2024). Pembatasan Kebebasan Beragama Berdasarkan Teori Keadilan Dan Hak Asasi Manusia. *Milthree Law Journal*, 1(1), 30–61. <https://doi.org/https://doi.org/10.70565/mlj.v1i1.2>

Nabdi, S., Boujraf, S., & Benzagmout, M. (2022). Evaluation of rural-urban patterns in dietary intake: A descriptive analytical study—Case series. *Annals of Medicine and Surgery*, 84, 104972.

Nurjanah, E. (2019). Piagam Madinah Sebagai Struktur Masyarakat Pluralistik. *Al-Tsaqafa: Jurnal Ilmiah Peradaban Islam*, 16(2), 210â – 214.

Pasaribu, F. I., & Yusrianto, E. (2025). Piagam Madinah dan Isu-Isu Utama Moderasi Beragama. *Arus Jurnal Sosial Dan Humaniora*, 5(3), 3882–3891. <https://doi.org/https://doi.org/10.57250/ajsh.v5i3.1819>

Safriani, A. (2019). Komparasi Konstitusi Negara Modern antara Indonesia dan Korea Selatan. *Mazahibuna: Jurnal Perbandingan Mazhab*.

Shomad, B. A. (2013). Piagam Madinah dan Resolusi Konflik. *Al-Adyan: Jurnal Studi Lintas Agama*, 8(2), 53–66.

Soekanto, S., & Tjandasari, H. (1987). Pengendalian Sosial. *Jakarta: CV Rajawali*.



© 2026 by the authors. Submitted for possible open access publication under the terms and conditions of the Creative Commons Attribution (CC BY SA) license (<https://creativecommons.org/licenses/by-sa/3.0/>).