



Historical perspective on Magna Carta

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Abstract: This Article seizes upon the 800th anniversary of the Magna Carta to draw attention to important problems associated with the contemporary rule of law. In particular, the Article discusses the rule of law as a systematically undersupplied public good. The Article then notes the insufficiency of standard incentive-based responses to rule of law problems. It has been echoed in the US declaration of Independence and the Universal declaration of Human Rights, stating that everyone, even monarchs, must obey the law.

Key words: Universal declaration, Human Rights, Magna Carta

Introduction : Magna Carta (Latin for "the Great Charter"), also called Magna Carta Libertatum (Latin for "the Great Charter of the Liberties"), is a charter agreed by King John of England at Runnymede, near Windsor, on 15 June 1215. First drafted by the Archbishop of Canterbury to make peace between the unpopular King and a group of rebel barons, it promised the protection of church rights, protection for the barons from illegal imprisonment, access to swift justice, and limitations on feudal payments to the Crown, to be implemented through a council of 25 barons. Neither side stood behind their commitments, and the charter was annulled by Pope Innocent III, leading to the First Barons' War. After John's death, the regency government of his young son, Henry III, reissued the document in 1216, stripped of some of its more radical content, in an unsuccessful bid to build political support for their cause. At the end of the war in 1217, it formed part of the peace treaty agreed at Lambeth, where the document acquired the name Magna Carta, to distinguish it from the smaller Charter of the Forest which was issued at the same time. Short of funds, Henry reissued the charter again in 1225 in exchange for a grant of new taxes; his son, Edward I,

repeated the exercise in 1297, this time confirming it as part of England's statute law.

History of 13th century: Magna Carta originated as an unsuccessful attempt to achieve peace between royalist and rebel factions in 1215, as part of the events leading to the outbreak of the First Barons' War. England was ruled by King John, the third of the Angevin kings. John and his predecessors had ruled using the principle of "force and will", taking executive and sometimes arbitrary decisions, often justified on the basis that a king was above the law.

John had lost most of his ancestral lands in France to King Philip II in 1204 and had struggled to regain them for many years, raising extensive taxes on the barons to accumulate money to fight a war which ultimately ended in expensive failure in 1214. Following the defeat of his allies at the Battle of Bouvines, John had to sue for peace and pay compensation. John was already personally unpopular with many of the barons, many of whom owed money to the Crown, and little trust existed between the two sides.

John held a council in London in January 1215 to discuss potential reforms, and sponsored discussions in Oxford between his agents and the rebels during the spring. Both sides appealed to Pope Innocent III for assistance in the dispute. During the negotiations, the rebellious barons produced an initial document, which historians have termed "the Unknown Charter of Liberties", which drew on

Henry I's Charter of Liberties for much of its language; seven articles from that document later appeared in the "Articles of the Barons" and the subsequent charter.

Great Charter of 1215: John met the rebel leaders at Runnymede, a water-meadow on the south bank of the River Thames, on 10 June 1215.



Runnymede was a traditional place for assemblies, but it was also located on neutral ground between the royal fortress of Windsor Castle and the rebel base at Staines, and offered both sides the security of a rendezvous where they were unlikely to find themselves at a military disadvantage. Here the rebels presented John with their draft demands for reform, the "Articles of the Barons". Stephen Langton's pragmatic efforts at mediation over the next ten days turned these incomplete demands into a charter capturing the proposed peace agreement; a few years later, this agreement was renamed Magna Carta, meaning "Great Charter".

The Articles of the Barons, 1215, held by the British Library

By 15 June, general agreement had been made on a text, and on 19 June, the rebels renewed their oaths of loyalty to John and copies of the charter were formally issued.

Great Charter of 1216: Although the Charter of 1215 was a failure as a peace treaty, it was resurrected under the new government of the young Henry III as a way of drawing support away from the rebel faction. On his deathbed, King John appointed a council of thirteen executors to help Henry reclaim the kingdom, and requested that his son be placed into the guardianship of William Marshal, one of the most famous knights in England. William knighted the boy,

and Cardinal Guala Bicchieri, the papal legate to England, then oversaw his coronation at Gloucester Cathedral on 28 October.

The young King inherited a difficult situation, with over half of England occupied by the rebels. He had substantial support though from Guala, who intended to win the civil war for Henry and punish the rebels. Guala set about strengthening the ties between England and the Papacy, starting with the coronation itself, during which Henry gave homage to the Papacy, recognising the Pope as his feudal lord. Pope Honorius III declared that Henry was the Pope's vassal and ward, and that

the legate had complete authority to protect Henry and his kingdom.

Great Charter of 1217:



The Charter of the Forest, 1217, held by the British Library

In February 1217, Louis set sail for France to gather reinforcements. In his absence, arguments broke out between Louis' French and English followers, and Cardinal Guala declared that Henry's war against the rebels was the equivalent of a religious crusade. This declaration resulted in a series of defections from the rebel movement, and the tide of the conflict swung in Henry's favour. Louis returned at the end of April, but his northern forces were defeated by William Marshal at the Battle of Lincoln in May.

Meanwhile, support for Louis' campaign was diminishing in France, and he concluded that the war in England was lost. He negotiated terms with Cardinal Guala, under which Louis would renounce his claim to the English throne; in return, his followers would be given back their lands, any sentences of excommunication would be lifted, and Henry's government would promise to enforce the charter of the previous year. The proposed agreement soon began to unravel amid claims from some loyalists that it was too generous towards

the rebels, particularly the clergy who had joined the rebellion.

Great Charter of 1225:



The 1225 version of Magna Carta issued by Henry III, held in the National Archives

Magna Carta became increasingly embedded into English political life during Henry III's minority. As the King grew older, his government slowly began to recover from the civil war, regaining control of the counties and beginning to raise revenue once again, taking care not to overstep the terms of the charters. Henry remained a minor and his government's legal ability to make permanently binding decisions on his behalf was limited. In 1223, the tensions over the status of the charters became clear in the royal court, when Henry's government attempted to reassert its rights over its properties and revenues in the counties, facing resistance from many communities that argued—if sometimes incorrectly—that the charters protected the new arrangements. This resistance resulted in an argument between Archbishop Langton and William Brewer over whether the King had any duty to fulfil the terms of the charters, given that he had been forced to agree to them. On this occasion,

Henry gave oral assurances that he considered himself bound by the charters, enabling a royal inquiry into the situation in the counties to progress.

Two years later, the question of Henry's commitment to the charters re-emerged, when Louis VIII of France invaded Henry's remaining provinces in France, Poitou and Gascony. Henry's army in Poitou was under-resourced, and the province quickly fell. It became clear that Gascony would also fall unless reinforcements were sent from England. In early 1225, a great council approved a tax of £40,000 to dispatch an army, which quickly retook Gascony. In exchange for agreeing to support Henry, the barons demanded that the King reissue Magna Carta and the Charter of the Forest. The content was almost identical to the 1217 versions, but in the new versions, the King declared that the charters were issued of his own "spontaneous and free will" and confirmed them with the royal seal, giving the new Great Charter and the Charter of the Forest of 1225 much more authority than the previous versions.

The barons anticipated that the King would act in accordance with these charters, subject to the law and moderated by the advice of the nobility. Uncertainty continued, and in 1227, when he was declared of age and able to rule independently, Henry announced that future charters had to be issued under his own seal. This brought into question the validity of the previous charters issued during his minority, and Henry actively threatened to overturn the Charter of the Forest unless the taxes promised in return for it were actually paid. In 1253, Henry confirmed the charters once again in exchange for taxation.

In 1258, a group of barons seized power from Henry in a coup d'état, citing the need to strictly enforce Magna Carta and the Charter of the Forest, creating a new baronial-led government to advance reform through the Provisions of Oxford. The barons were not militarily powerful enough to win a decisive victory, and instead appealed to Louis IX of France in 1263–1264 to arbitrate on their proposed reforms. The reformist barons argued their case based on Magna Carta, suggesting that it was inviolable under English law and that the King had broken its terms.

Great Charter of 1297: statute



1297 version of Great Charter, on display in at the National Archives Building in Washington, D.C.

King Edward I reissued the Charters of 1225 in 1297 in return for a new tax. It is this version which remains in statute today, although with most articles now repealed.

The Confirmatio

Cartarum (Confirmation of Charters) was issued in Norman French by Edward I in 1297. Edward, needing money, had

taxed the nobility, and they had armed themselves against him, forcing Edward to issue his confirmation of Magna Carta and the Forest Charter to avoid civil war. The nobles had sought to add another document, the De Tallagio, to Magna Carta. Edward I's government was not prepared to concede this, they agreed to the issuing of the Confirmatio, confirming the previous charters and confirming the principle that taxation should be by consent, although the precise manner of that consent was not laid down.

With the confirmation of the Charters in 1300, an additional document was granted, the Articuli super Cartas (The Articles upon the Charters). It was composed of 17 articles and sought in part to deal with the problem of enforcing the Charters. Magna Carta and the Forest Charter were to be issued to the sheriff of each county, and should be read four times a year at the meetings of the county courts. Each county should have a committee of three men who could hear complaints about violations of the Charters.

14th–15th centuries:



Magna carta cum statutis angliae (Great Charter with English Statutes), early 14th-century

During the reign of King Edward III six measures, later known as the Six Statutes, were passed between 1331 and 1369. They sought to clarify certain parts of the Charters. In particular the third statute, in 1354, redefined clause 29, with "free man" becoming "no man, of whatever estate or condition he may be", and introduced the phrase "due process of law" for "lawful judgement of his peers or the law of the land".

Between the 13th and 15th centuries Magna Carta was reconfirmed 32 times according to Sir Edward Coke, and possibly as many as 45 times. Often the first item of parliamentary business was a public reading and reaffirmation of the Charter, and, as in the previous century, parliaments often exacted confirmation of it from the monarch. The Charter was confirmed in 1423 by King Henry VI. By the mid-15th century, Magna Carta ceased to occupy a central role in English political life, as monarchs reasserted authority and powers which had been challenged in the 100 years after Edward I's reign. The Great Charter remained a text for lawyers, particularly as a protector of property rights, and became more widely read than ever as printed versions circulated and levels of literacy increased.

16th century:





A version of the Charter of 1217, produced between 1437 and c. 1450

During the 16th century, the interpretation of Magna Carta and the First Barons' War shifted. Henry VII took power at the end of the turbulent Wars of the Roses, followed by Henry VIII, and extensive propaganda under both rulers promoted the legitimacy of the regime, the illegitimacy of any sort of rebellion against royal power, and the priority of supporting the Crown in its arguments with the Papacy.

Tudor historians rediscovered the Barnwell chronicler, who was more favourable to King John than other 13th-century texts, and, as historian Ralph Turner describes, they "viewed King John in a positive light as a hero struggling against the papacy", showing "little sympathy for the Great Charter or the rebel barons". Pro-Catholic demonstrations during the 1536 uprising cited Magna Carta, accusing the King of not giving it sufficient respect.

The first mechanically printed edition of Magna Carta was probably the Magna Carta cum aliis Antiquis Statutis of 1508 by Richard Pynson, although the early printed versions of the 16th century incorrectly attributed the origins of Magna Carta to Henry III and 1225, rather than to John and 1215, and accordingly worked from the later text. An abridged English-language edition was published by John Rastell in 1527 and, in 1534, George Ferrers published the first unabridged English-language edition of Magna Carta, dividing the Charter into 37 numbered clauses.

At the end of the 16th century, there was an upsurge in antiquarian interest in England. This work concluded that there

was a set of ancient English customs and laws, temporarily overthrown by the Norman invasion of 1066, which had then been recovered in 1215 and recorded in Magna Carta, which in turn gave authority to important 16th century legal principles..

17th–18th centuries: In the early 17th century, Magna Carta became increasingly important as a political document in arguments over the authority of the English monarchy. James I and Charles I both propounded greater authority for the Crown, justified by the doctrine of the divine right of kings, and Magna Carta was cited extensively by their opponents to challenge the monarchy.

Magna Carta, it was argued, recognised and protected the liberty of individual Englishmen, made the King subject to the common law of the land, formed the origin of the trial by jury system, and acknowledged the ancient origins of Parliament: because of Magna Carta and this ancient constitution, an English monarch was unable to alter these long-standing English customs. Although the arguments based on Magna Carta were historically inaccurate, they nonetheless carried symbolic power, as the charter had immense significance during this period; antiquarians such as Sir Henry Spelman described it as "the most majestic and a sacrosanct anchor to English Liberties".

Sir Edward Coke was a leader in using Magna Carta as a political tool during this period. Still working from the 1225 version of the text—the first printed copy of the 1215 charter only emerged in 1610 – Coke spoke and wrote about Magna Carta repeatedly. His work was challenged at the time by Lord Ellesmere, and modern historians such

as Ralph Turner and Claire Breay have critiqued Coke as "misconstruing" the original charter "anachronistically and uncritically", and taking a "very selective" approach to his analysis. More sympathetically, J. C. Holt noted that the history of the charters had already become "distorted" by the time Coke was carrying out his work.

In 1621, a bill was presented to Parliament to renew Magna Carta; although this bill failed, lawyer John Selden argued during Darnell's Case in 1627 that the right of habeas corpus was backed by Magna Carta. Coke supported the Petition of Right in 1628, which cited Magna Carta in its preamble, attempting to extend the provisions, and to make them binding on the judiciary. The monarchy responded by arguing that the historical legal situation was much less clear-cut than was being claimed, restricted the activities of antiquarians, arrested Coke for treason, and suppressed his proposed book on Magna Carta. Charles initially did not agree to the Petition of Right, and refused to confirm Magna Carta in any way that would reduce his independence as King.

Modern legacy:



The Magna Carta Memorial at Runnymede, designed by Sir Edward Maufe and erected by the American Bar Association in 1957. The memorial stands in the meadow known historically as Long Mede: it is likely that the actual

site of the sealing of Magna Carta lay further east, towards Egham and Staines.

Magna Carta continues to have a powerful iconic status in British society, being cited by politicians and lawyers in support of constitutional positions. Its perceived guarantee of trial by jury and other civil liberties, for example, led to Tony Benn's reference to the debate in 2008 over whether to increase the maximum time terrorism suspects could be held without charge from 28 to 42 days as "the day Magna Carta was repealed". Although rarely invoked in court in the modern era, in 2012 the Occupy London protestors attempted to use Magna Carta in resisting their eviction from St. Paul's Churchyard by the City of London. In his judgment the Master of the Rolls gave this short shrift, noting somewhat drily that although clause 29 was considered by many the foundation of the rule of law in England, he did not consider it directly relevant to the case, and the two other surviving clauses actually concerned the rights of the Church and the City of London.

Magna Carta carries little legal weight in modern Britain, as most of its clauses have been repealed and relevant rights ensured by other statutes, but the historian James Holt remarks that the survival of the 1215 charter in national life is a "reflexion of the continuous development of English law and administration" and symbolic of the many struggles between authority and the law over the centuries. The historian W. L. Warren has observed that "many who knew little and cared less about the content of the Charter have, in nearly all ages, invoked its name, and with good cause, for it meant more than it said".



It also remains a topic of great interest to historians; Natalie Fryde characterised the charter as "one of the holiest of cows in English medieval history", with the debates over its interpretation and meaning unlikely to end. In many ways still a "sacred text", Magna Carta is generally considered part of the uncodified constitution of the United Kingdom; in a 2005 speech, the Lord Chief Justice of England and Wales, Lord Woolf, described it as the "first of a series of instruments that now are recognised as having a special constitutional status". The document also continues to be honoured in the United States as an antecedent of the United States Constitution and Bill of Rights. In 1976, the UK lent one of four surviving originals of the 1215 Magna Carta to the United States for their bicentennial celebrations and also donated an ornate display case for it. The original was returned after one year, but a replica and the case are still on display in the United States Capitol Crypt in Washington, D.C.

Celebration of the 800th anniversary:

The plan for four surviving original copies of Magna Carta to be brought together in 2015, at the British Library in collaboration with Lincoln Cathedral and Salisbury Cathedral and supported by the law firm Linklaters. The 800th anniversary of the original charter occurred on 15 June 2015, and organisations and institutions planned celebratory events. The British Library brought together the four existing copies of the 1215 manuscript on 3 February 2015 for a special exhibition. British artist Cornelia Parker was commissioned to create a new artwork, Magna Carta (An Embroidery), which was unveiled at the British Library on 15 May 2015 and will remain

on display until 24 July. The artwork is a copy of an earlier version of this Wikipedia page (as it appeared on the document's 799th anniversary, 15 June 2014), embroidered into the form of a tapestry. On 15 June 2015, a commemoration ceremony was conducted in Runnymede at the National Trust park, attended by British and American dignitaries. The copy held by Lincoln Cathedral was exhibited in the Law Library of Congress in Washington, D.C., from November 2014 until January 2015. A new visitor centre at Lincoln Castle will also be opened for the anniversary. The Royal Mint will release a commemorative two-pound coin. In 2014, Bury St Edmunds in Suffolk celebrated the 800th anniversary of the barons' Charter of Liberties, said to have been secretly agreed there in November 1214.

Conclusion: The Magna Carta was the foundation of democracy in England. It has been echoed in the US declaration of Independence and the Universal declaration of Human Rights, stating that everyone, even monarchs, must obey the law. It led the way towards Parliament and fair taxation and it has helped to limit royal power and prevent tyrannical leaders such as King John. In the future, some argue that a new, modern style of Magna Carta is required to outline our digital rights online. Because the Magna Carta that was written 800 years ago was and still is a powerful symbol of liberty

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