

Why Is Magna Carta Significant?



Magna Carta Represents Core Principles of Justice

»» by The Honorable John Roberts

During 2014, we have marked a number of significant anniversaries. Fifty years ago Congress passed the Civil Rights Act. Seventy years ago allied forces stormed Normandy to restore liberty to Europe. Two hundred years ago a very prominent lawyer and Supreme Court advocate, Francis Scott Key, witnessing the Battle of Fort McHenry, penned the Star Spangled Banner. And of course, 225 years ago our Constitution first took effect. Each of these anniversaries commemorates remarkable individuals pursuing lofty objectives beyond their own interests. In the case of Magna Carta, however, we commemorate something quite different. In 2015, we will celebrate not so much what happened eight centuries ago, as what has transpired since that time.

In considering Magna Carta's significance, I will point out three ways in which Magna Carta has been invoked over time to sustain the progress of free societies, and explain why it remains relevant today.

First, Magna Carta, especially in its early years, was invoked to foster government unity in times of crisis. When 9-year-old Henry III succeeded King John, his guardians promptly reissued

Magna Carta to consolidate support of the barons. When Henry III reached majority in 1225, he reissued it again. Before Magna Carta, English kings maintained loyalty through fear and favor. They did so afterward as well. But after the meeting at Runnymede, a new element was added to the equation: King John's successors could invoke Magna Carta as a means of bolstering allegiances. And when they reconfirmed the charter, they were, whether they liked it or not, embedding the rule of law as a unifying force in English society.

Second, Magna Carta contributed to the rise of representative government. English kings met with barons before King John's meeting at Runnymede. But Magna Carta signified an enlarged role for the meetings of the barons in counsel. During the reigns of Henry III and Edward I, those counsels coalesced into Parliament, in which knights and burgesses as well as bishops and barons participated in the deliberations.

Magna Carta had a third effect that has special resonance in our own country: It kindled America's own Declaration of Independence. The American colonists embraced Magna Carta as a charter of rights that followed the



English flag to the new world. It strongly influenced William Penn's vision of good government. John Rutledge, the Supreme Court's second chief justice who served only for a few months, called the principles embedded in Magna Carta the foundations of our law. The Massachusetts Assembly declared that the Stamp Act was illegal because it was against the Magna Carta and the natural rights of Englishmen and, therefore, null and void. John Adams likewise asserted that Britain's restrictions on the jurisdiction of the colonial courts violated the Great Charter.

From our perspective today, 800 years later, we can see that Magna Carta originally resolved a futile squabble between a venal king and selfish barons, with eyes fixed on their own interests. But an 800-year commemoration invites us to take a long view, and we know Magna Carta became a crucial building block in developing the notion of a government bound by the rule of law. What Professor Dick Howard described as "the road from Runnymede" has been neither straight nor smooth, nor has it reached a final destination. But what is important is that Magna Carta's core principles of justice remain relevant today and worth defending.

John Roberts is Chief Justice of the United States. These comments were adapted from a speech delivered to the American Bar Association House of Delegates at the American Bar Association Annual Meeting, August 11, 2014, in Boston.



Transcending Its Times

»» by Carolyn Harris

Magna Carta is the earliest example of a King of England accepting limits on his power imposed by his subjects. Previous English kings, such as John's great-grandfather, Henry I, had issued coronation charters explaining how they intended to rule, but these kinds of provisions were not presented to a monarch by his barons until 1215.

Neither John nor his subjects anticipated a lasting significance for Magna Carta beyond the political circumstances of their times, but successive generations found new meaning in the Great Charter. John's son-in-law, Simon de Montfort, 6th Earl of Leicester was inspired by Magna Carta to draft the 1258 Provisions of Oxford, which called for Parliament to meet three times per year and impose checks and balances on the king's power. Henry VIII's Chancellor, Sir Thomas More, attempted to challenge the king's supremacy as Head of the Church of England by invoking Magna Carta's promise of freedom for the English Church.

Magna Carta assumed its modern significance in the seventeenth century when renowned jurist, Sir Edward Coke, argued that the Charter ensured that not even the king was above the law. Since Coke's *Institutes of the Lawes of England* became the standard legal text throughout the English speaking world, his views on Magna Carta influenced the political development

of the thirteen colonies and the Declaration of Independence in the United States of America.

Today, Magna Carta is celebrated for setting key legal precedents. The

Charter codified the right to due process, trial by jury, and freedom from arbitrary penalties. As one of the seminal documents in Western history, Magna Carta has had a profound effect on popular culture. King John, his discontented barons, and the Great Charter remain well-known even as other aspects of English medieval history have faded into comparative obscurity. Magna Carta continues to transcend its times.

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Magna Carta Is Worth Studying

»» by Kent Worcester

The Great Charter was the product of a very different world from our own. It was drafted by noblemen and Church leaders who would have been puzzled by the suggestion that their Latinate legal document pointed the way to contemporary conceptions of freedom, equality, and democracy. However, in attempting to limit and constrain the power of the monarchy, and to assert the central role of the law in guiding the affairs of the state, the architects of Magna Carta helped establish certain principles that continue to inspire movements for constitutional law, due process, and human rights across the globe.

Strictly speaking, the Anglo-American legal tradition begins not with Magna Carta but with the Kentish laws of

the seventh century, most notably the Old English legal code prepared by the court of King Aethelbert of Kent around 602 AD. Indeed, nearly 150 law codes and edicts were issued in England between the early seventh century and June 15, 1215, when Magna Carta was sealed on the banks of the Thames by representatives of the Crown. The Charter of Liberties, proclaimed by Henry I in 1100, represents a particularly noteworthy example of this literature. But Magna Carta is not only the most famous of these formative legal texts but also the most ambitious, and the most sweeping, and almost certainly the most profound from a theoretical standpoint. Magna Carta is worth studying, therefore, not only as a source of many of our core ideas about criminal justice, but also

as a window onto a radically different epoch, one in which political and legal conflict centered around questions of ancient customs, access to forests and rivers, and inherited privileges.

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more than Chapter 33's order to take down the fish weirs from the Thames River. Redirecting the fish created local problems, specific issues. To understand this is to get past the delusional mythology of "ancient and eternal rights" and instead think about how rights are understood by the peoples of the past. Perhaps more importantly, we can understand that no rights are ever established without conflict, and that rights cannot be guaranteed unless there is some means of enforcing them against brute power.

So by all means teach Chapter 39. But really, it's all about the fish weirs.



It's All About the Fish Weirs

»»» by H. Robert Baker

We all know Magna Carta's more famous clauses. Perhaps none is more significant than Chapter 39, which guarantees that no free man shall be imprisoned or prosecuted "except by the lawful judgment of his peers and by the law of the land." Here is an ancient expression of modern ideals! It directly informs the Supremacy Clause (Article VI) of the Constitution, and we can find its historical residue in the Suspension Clause (Article I, Section 10) and the Trial by Jury Clause (Article III, Section 2).

We teach Magna Carta's famous chapters with good reason. Introducing students to an eight-hundred-year-old document usually demands we bow to contemporary relevance. Well, trial by jury and habeas corpus are supremely relevant in an age of chilling calls for indefinite detention, torture, and targeted assassinations. Against the cry of "present necessity," Magna Carta is a reminder that bulwarks of liberty have deep roots.

Useful this may be, but it distorts Magna Carta's real historical meaning. The barons who confronted King John were not populists and certainly not philosophers, and jury trials and

habeas corpus meant very different things in their medieval context.

The chapters in Magna Carta—even the famous chapters—were about specific grievances, not abstract principles. Nothing drives this point home

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Etching Borders in Land and Time: Magna Carta and the Definition of "We the People"

»»» by Elizabeth F. Cohen

Much like in the United States, generations of refinement and jurisprudential interpretation have contributed to the common law tradition of which Magna Carta is an integral part.

Among the questions about Magna Carta that the document itself does not fully answer is the question of who enjoys the rights it lays out. The document states "free men," but questions about who that included remained.

The question was only authoritatively answered centuries later, after the union of the Scottish and English crowns of 1603. Like many disputes, the court case that settled the question of who would be a British subject revolved around the right to inherit and own property. Property ownership has long been one of the hallmarks of citizenship. To be "in the allegiance" of the king meant enjoying protection of one's property and owing duties of allegiance to the king. Edward

Coke authored the commentary on the case, *Calvin's Case*, which told the British who they were. What is interesting about the case is that it invokes a popular principle for deciding citizenship: *jus soli*. This says that people born in a territory will be citizens. But Coke adds something to the principle. He says that the only people who could be considered "natural born citizens" were people born on the territory after the exact moment at which the Scottish and English crowns were united. The borders were etched not only in the land, but also in time. People born at the wrong time were disqualified.

The flip side of this is that subjecthood was not a voluntary or a consensual arrangement. One was born into allegiance and this status could not be foresworn. One's lifelong rights and obligations (or the lack thereof) were assumed at the moment of birth and lasted beyond one's death, through the point at which one's property and debts had been dispersed. When we say, "we the people," it often conjures images of agreement and freely offered consent. Yet in the British tradition on which U.S. citizenship was modeled, membership in "the people" did not start out as a matter of choice. Rather it was entirely the product of when and where one was born.

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Reflections from the Other Side of the Pond, Eight Centuries Later

»»» by The Honorable Roger Gregory

Eight hundred years ago in a meadow called Runnymede, on the banks of the Thames west of London, an army of defiant barons forced King John to endorse a written enumeration of articles confirming their

By no means was this a perfect document. Although it spoke of rights, it favored the property interests of rich barons who suffered under the king's oppressive takings and taxes, and not the poor who suffered under a harsh feudal system.

ancient liberties and rights. The document, along with later amendments and additions, would come to be known as Magna Carta (the Great Charter).

By no means was this a perfect document. Although it spoke of rights, it favored the property interests of rich barons who suffered under the king's oppressive takings and taxes, and not the poor who suffered under a harsh feudal system. Also, it was tainted with

anti-Semitic references and outright sexist provisions. But it was the first time that any government had issued a document guaranteeing certain immutable rights of the governed. And that was seismic.

Ripples from this massive wave would later cross the Atlantic and inspire the formation of the constitutional republic we cherish today in America. Chapter 39 of Magna Carta set forth an essential principle that was directly borrowed by our founders and enshrined into our Bill of Rights—the Rule of Law. This hallmark of our government ensures that one's life, liberty, or property cannot be deprived without the due process of the law. America continues to enjoy the blessings of this rich legacy.

Magna Carta was for England, and later for people around the world, what President Lyndon Johnson said Lexington and Concord were for the American Revolution and Selma was for the American civil rights movement—a turning point—where "history and fate meet at a single time, in a single place to shape a turning point in man's unending search for freedom."

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