

An essay on the magna carta



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The Magna Carta is widely considered to be one of the most important documents of all time, and is seen as being fundamental to how law and justice is viewed in countries all over the world. Prior to the Magna Carta being created there was no standing limit on royal authority in England. This meant that the King could exploit his power in whatever way he saw fit, as he was not subject to any laws[1].

This paper will examine the Magna Carta, the reasons for its creation, its impact on England and whether it fulfilled its purpose or not. I will be making the argument as to why it has gone above and beyond its original intentions and has over time paved the way for liberty. The most important part of the Magna Carta is clause 39, and is as follows “ No free man shall be seized or imprisoned, or striped of his rights or possessions, or outlawed or exiled. Nor will we proceed with force against him. Except by the lawful judgement of his equals or by the law of the land. To no one will we sell, to no one deny or delay right or justice[2].” Now given at the time this wasn’t considered particularly important but over time it became interpreted as guaranteeing individual rights and liberty. This has also been exported into other nation’s constitutions, particularly Western countries namely the United States in the form of the Bill of Rights.

The Magna Carta finds its roots in early 13th century England under the rule of King John. Traditionally considered to be a ruthless, authoritarian king[3], John had a myriad of issues facing England when he took the throne and it seems that much of the resentment towards him is unwarranted. It is worth noting that England was practically bankrupt due to John’s brother, King Richard incurring exuberant costs from going on Crusade and later ransom

from captivity at the hands of the Holy Roman Empire[4]. After Richards's death due to injuries sustained while fighting in France, King John faced adversity from the French and English nobility who had supported John's nephew the young Arthur of Brittany. When Arthur was killed in an altercation while under the custody of John, many implicated John in the killing. Soon afterward the French attacked and took Normandy from English hands[5]. As a result of this John began to raise taxes to build an army to retake Normandy. The end result of the war was disastrous, the English army was left in ruin and country had all but run out of money. Upon returning to England King John was faced with rebellion from his barons and found that he had very few allies left. In 1215 these baronial rebels forced King John to sign the Magna Carta[6], literally meaning the "Great Charter[7]". These 25 barons sought to outline the unwritten customs that had in effect governed the country for centuries and put them into written law that would have to be observed by the king. Now at the time of its inception the charter wasn't meant to be a principle of law that would apply to everyone, it was simply a way that the ruling elite of the time, the barons could put some limits to the king's power. The charter itself was really the product of difficult back and forth negotiations between King John's government and the barons, both really wanting to avoid civil war and trying to find a compromise. The enshrinement into law of feudal custom and the operation of the legal system, one which even the king would have to abide by was the driving force behind most of the clauses. Once brought into law it was made clear that certain aspects were to be made more important and are considered to be the main reason why the barons wanted such legislation in the first place. The biggest issue was the oppressive taxation that King John imposed to

fight against the French. Despite making significant advancements in the revenue system within England there had been a general sense of growing discontent with the arbitrary way the royalty imposed heavy taxes. In truth there was little John could do given how the coffers had been drained from his aforementioned brother and from his father, Henry II's forays into France[8]. As such it isn't very surprising that more periods of high taxation was all that was needed to incite the barons to revolt and force John into signing. The charter made it clear that the monarchy would have to follow some set of rules regarding taxation and other customs according to the nobles. These included the protection of the English church, the special significance of London and the rights accompanying its status. Others are concerned with family law, transportation across England and what I see as being the most important the clauses dealing with justice. Again I will refer back to clause 39 which is interpreted today as being concerned with what is known as habeas corpus. The immediate impact of this clause was not felt by a great many people, for at the time it was of course intended for those of high privilege. As such at the time it was more of a settlement between the royal head of state and England's most powerful families. The barons wanted a kind of safeguard against a reckless king having seen far too much of what can happen when one spends with abandon as many kings before John had, while not wanting to go so far as to replace the king himself. The Magna Carta itself was in a rather precarious situation as only weeks after being signed by King John it was denounced by pope Innocent III as having been forced on the king[9], and John was happy to agree and renounce it as well. This led to the barons inviting the French king, Philip to invade and take the crown. A civil war ensued and the fate of the charter was in question. The

rebellion ended with the death of King John in 1216, this left the throne to his son 9 year old Henry III. The nobles agreed that young Henry should be the one to take the throne, as despite being the son of the king whom they had despised, they weren't about to abandon the lines of succession with regard to heredity. The Magna Carta was reaffirmed by Henry with the key focus being on a good reliable government led by the king. Eventually Henry began to deviate from the guidelines the charter had laid out for him and once again the barons went into open rebellion. The rebellion was put down but only on the condition that the king would adhere to the charter once again. This is important as it set a precedent by which other English kings could not simply ignore the Magna Carta and do as they pleased, out of risking open rebellion. The charter comes in prominence again with the reign of Henry III's son, Edward I. Once again frustration mounted over the heavy tax burden the king set upon the country and Edward had to admit that he was in fact bound by the Magna Carta, thus giving concession to the nobles. By this time the charter had become prominent enough that certain clauses pertaining to individual liberty were become common practice. As free men in England could enjoy the rights set forth in the Magna Carta. The structure of the charter is as such that it has an open-ended nature allowing for small tweaks and revisions at times when it is warranted.

Over time we see events of great importance in England with the Magna Carta being the backbone of the movements. This is apparent with attempts to limit the royal powers of kings following Edward I. It isn't until the late 14th century do we see however the charter being used in such an all-encompassing way. Under King Edward III the Magna Carta was proclaimed

to be the law of the land and that no other law present or future could challenge it. We also see the first instances of the Magna Carta affecting general law, including the expansion of clause 39 making it in effect the due process that all men would be condition to if subject to the justice system. It is around this time that we see the gradual shift from the charter serving only the purpose of giving power to the nobles against the crown, to a general defense of human liberty in England. This can only be seen as a good thing as until this time the charter by and large only served the privileged few. The common people were subject to mistreatment at the hands of those in power in England for a very long time, the idea that they now have rights was an entirely new concept but one that gradually began to take hold, as the Magna Carta was reinterpreted.

When taking into account the Magna Carta the role the English church played is one of great import[10]. It is explicitly stated in the charter that the church be given full freedom and unimpaired liberty, the fact that this is mentioned long before any mention of liberties for the freemen of England is important to take into account[11]. Of course it is hard to say that King John considered these clauses a concession, as the church already possessed many liberties given their unique position within England. The church had an expectation that they could practice their spiritual tasks without interference from the king. Society in this period had many dependencies on the church and as such it made sense for the king to observe the freedoms the church enjoyed rather than infringe upon them and threaten the peace that the church held in the kingdom. King John seemed to regard the freedom of the church as something of paramount import in England, even deferring to the

pope on several occasions. The evolution of the Magna Carta can also be attributed to the privileged status of the church itself. The type of freedom that those within the church enjoyed was outlined in the charter and a connection was made between this and the clauses dealing with the freemen, or the individual. This is important because without the church there would simply be no precedent for liberty in England.

The Magna Carta then can be seen as a very important step towards liberty, especially considering the time when it was written. Its evolution from a document which was originally intended to force King John to consult the nobility on issues pertaining to taxes and justice in the realm, to the cornerstone of individual liberty is of great importance. The novel view that a king should be respectful of the rights of the nobility and church would be extrapolated into one in which all people regardless of birthright would be protected by law. As such I would say that yes the Magna Carta has indeed served its purpose and then some. Its continuing influence can be seen even today, enshrined in constitutions all over the western world[12]. The gradual shift in England towards individual rights and movement of government towards democracy can be attributed to the Magna Carta. As because individuals gained more rights including the common people this lead to the rise in the democratic process, including the creation of the English parliament where commoners could participate in government. Looking back however on its inception it is hard to say that the barons really had a specific goal in mind with the Magna Carta's creation. The extent to which King John was an evil, tyrannical king seem to have been blown way out of proportion, given the circumstances I don't see how he could have changed much of

what he did during his reign. The idea that the barons were these visionaries thinking well ahead of their time is laughable, and seems more likely that they were simply distrustful of King Johns rule and were looking out for their own short-term interests. That is not to say of course that there weren't some good ideals enshrined within the charter as it is apparent that there were, only that the majority of what was actually included seemed to be a result of various motivations on the part of upset barons. One of the most important aspects of the Magna Carta, and its most enduring is the idea of due process. Now granted due process and the subsequent trial by jury were not of any great importance to the barons at the time of the charters writing, although given the framework it is hard not to say that a few of them weren't thinking ahead of what may become of it. This malleable framework provided just what subsequent generations needed to reinterpret certain clauses within the charter and make them take on a more general meaning apply to a much larger spectrum. The effects of continued reinterpretations have been profound on western society, first in the form of Habeas Corpus which served to strengthen what due process had already given the general populace. The point being that after Magna Carta and all its various iterations people had a series of natural rights and liberty by law, these influences have helped shape constitutions and how countries are governed today.

[1]Jenkins, " A Short History of England," 65 – 72

[2]" Magna Carta 1215"

[3]Warren “ King John” 174 - 181

[4]Jenkins “ A Short History of England” 65 - 72

[5]Warren “ King John” 76 - 93

[6]“ Roger of Wendover: Runnymede 1215” last modified June 1997

[7]Danziger&Gillingham “ 1215 The Year of Magna Carta” 255 - 277

[8]Jenkins “ A Short History of England” 57 - 65

[9]Thorne E. Samuel et al “ The Great Charter” 16 - 17

[10]Danziger&Gillingham “ 1215 The Year of Magna Carta” 137 - 153

[11]“ Magna Carta” 1215

[12]Hindley “ The Book of Magna Carta” 193 - 201