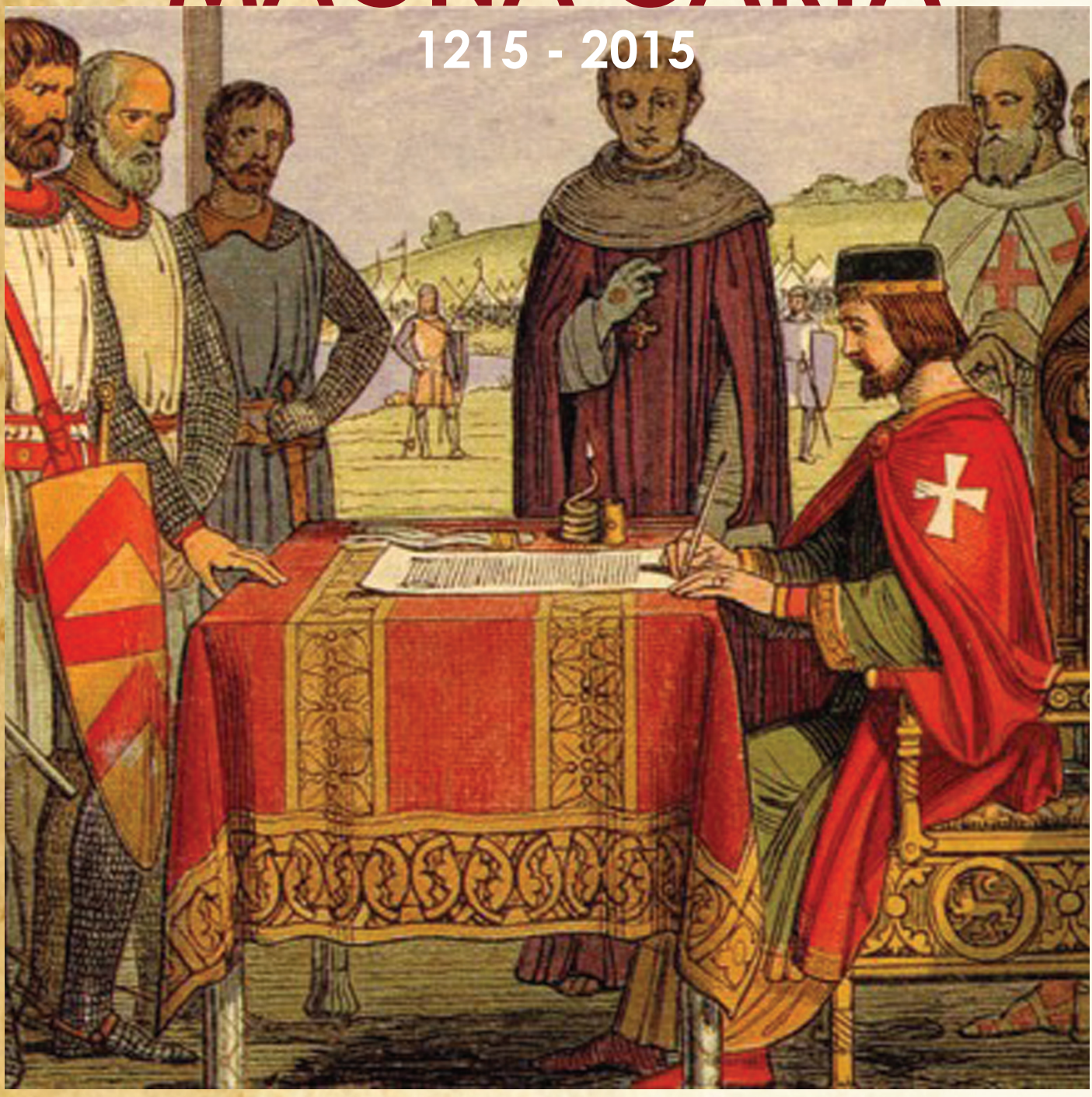
the **barrister**

MAGNA CARTA

1215 - 2015



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Magna Carta 1215 to 2015

By Alistair MacDonald QC, Chairman of the Bar Council of England and Wales

The origins of Magna Carta lie in the disastrous defeat of King John at the Battle of Bouvines, in Northern France, which was the culmination of a financially ruinous campaign when he was attempting to regain the French possessions of his forefathers.

John returned to England, therefore, with his tail between his legs. The war had essentially made him bankrupt and so it was that he needed the financial support of the nobles, who were, in that feudal society, those who ended up paying taxes of all sorts to the King.

However, by this stage, the barons were completely fed up with John. He had behaved in a high handed, cruel and imperious manner and had extracted large amounts of money from them. They were determined therefore to bring him to heel.

They seized the city of London and, in an act of unbelievable defiance for the time, renounced their oaths of allegiance to the king and elected a new leader. The seizure of the city that was, by far and away the largest in England, left John in a hopeless position and drove him to reverse his original refusal to negotiate with his subjects. Extensive discussions followed, which were conducted in the Temple, the place where, even in 1215, the lawyers were already established.

The fruit of those discussions was Magna Carta. It was designed to give the barons, and other subjects, rights that could be enforced against the Crown. This was a revolutionary concept in an age in which the king considered that he ruled by divine right and was answerable only to God.

So, what about the contents of Magna Carta itself. Although it contained 63 clauses when it was first granted, only three of those remain part of English law. One defends the liberties and rights of the English Church, another confirms the liberties and customs of London and other towns, but the third is the most famous:

No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment 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.

Buried deep in Magna Carta, this clause was given no particular prominence in 1215, but its intrinsic adaptability has allowed succeeding generations to reinterpret it for their own purposes. In the 14th century, parliament saw it as guaranteeing trial by jury; in the 17th century, Sir Edward Coke saw it as a declaration of individual liberty in the conflict of Parliament with Charles I and it has echoes in the American Bill of Rights (1791) and the Universal Declaration of Human Rights (1948).

Magna Carta also stated that no taxes could be demanded without the 'general consent of the realm', meaning the leading barons and churchmen. It re-established privileges, which had been lost, and it linked fines to the severity of the offence with the result that the livelihood of the payer was not imperiled. Because John had agreed to the document, the Barons renewed their oaths of allegiance and all was back to the established order.

This was all, however, very short lived. John immediately sent messengers to the Pope requesting him to annul Magna Carta. The Barons refused to surrender the city of London until Magna Carta had been implemented and there was a stand-off.

Now, bearing in mind that Magna Carta has been sealed on 15 June, it is remarkable that Pope Innocent III, alarmed by the terms of the Charter, issued a Papal Bull, annulling it on 24th August 2015. Innocent described it as "illegal, unjust, harmful to Royal rights and shameful to the English people." He said it was "null and void of all validity forever."

The barons again renounced their allegiance to the Crown and invited the son of the French king to take the throne. An invasion took place and there was a civil war going on when John died of dysentery in King's Lynn on the night of 18 October 1216.

So, given that the Pope annulled Magna Carta a few months after it was sealed and declared it void forever, how can it be that we are celebrating the contents of a document that, if it had any validity, was only of any effect for 9 weeks, 800 years ago at that?

The answer is that Henry III, who succeeded John at the age of 9, or at least his advisors, realising stability was an absolute necessity, revived and re-issued Magna Carta in November 1216. In 1297, Edward I enrolled the charter on the statute book of English law thus incorporating it formally into law.

So why is this apparently insignificant piece of parchment, no bigger than a dishcloth, of such colossal importance today? Well, first because it placed limits upon the Crown when it came to exercise its prerogatory rights. But it also led to a much more wide-ranging development. Because it had been explicitly granted in return for the payment of tax, it paved the way for the first Parliament to be summoned in order that approval could be given, by the nation, to the granting of tax-raising powers to the king. And because any king is powerless without money, the fact that the king has to seek the approval of the people for the levying of tax means that they were forever thereafter subject to the will of the people, expressed through Parliament, whenever money was needed. And kings, even more than ordinary people need money, and lots of it.

But that is to look at Magna Carta in a literal sense. I take the view that, whatever the limitations are on the actual words, it is the spirit of Magna Carta that has had most influence. The fact that the Crown in England and Wales has, from a very early date, been used to having

to go to Parliament to seek approval for its actions, has engendered a sense, in the executive, of restraint and what we would now call proportionality. Magna Carta exemplifies an ethos within which executive action has been framed. It enshrines the concept of the rule of law, which retains centrality in the establishment and maintenance of a fair and tolerant society. That is, what I might call its philosophical legacy.

But that philosophical legacy is broader than it first appears. It carries with it what I might call the functional or practical legacy of Magna Carta.
It is, for example, a lot harder to work long hours and sacrifice many of the enjoyments of family life rather than it is simply to point a knife or a gun at a shopkeeper and demand the takings from the till. So, why is it that people, en masse, do not simply commit crime to finance their lives rather than working for their living? Why is it that individuals generally, if grudgingly, pay their taxes?

I suggest it is because, although people are never 100% contented with their lot, in general terms, they take the view that the society in which they live is equitable, tolerant and fair. And one of the chief reasons why they think that is that they know that no-one is above the law. In other words, the principals enshrined in Magna Carta have led to the very practical doctrine of accountability.

This is a critical feature of a fair society. And so it is that, instead of committing crime in order to survive, people will go to work, pay their taxes and behave in a more or less civilized fashion. In addition, if you want a government contract, you don't have to pay a series of bribes to obtain it. And that allows good businesses to thrive and society generally, to function in a satisfactory way.

Magna Carta also specifically provided that you could not be deprived of your liberty unless through a lawful decision of your peers. In other words, unlike some jurisdictions, you do not live in fear of the knock on the door in the middle of the night and being whisked away to prison without any judicial input as to the cogency of the evidence upon which you are being held and without any timetable by which proceedings, in public, can be conducted to decide whether you are guilty of any offence. And, here we are in classical Magna Carta territory because we know that the charter provides you with a guarantee of access to justice as well. That is why the Bar has been so opposed to the effects of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and the huge hike in court fees, as these strike at the very substance of that Magna Carta promise.

If we move to the next level of the importance of the rule of law, it is its importance in the establishment and maintenance of effective and efficient means of dispute resolution. It is essential that there is a settled body of contract law governing the making and breaking of contracts. There must be a body of law to allocate blame and damages in personal injury cases. There must be law to protect those who have original ideas so that they can profit from their ingenuity thus promoting the intellectual advancement of mankind. And so it goes on, through every phase of the process by which disputes are settled and the consequences worked out, not by the use of violence, but by the employment of the impartial intellect. Again, in that way, business can prosper and society thrive.

For all these reasons, I am convinced that the principles enshrined in Magna Carta are as important today as they were in 1215. It is a terrible irony that, as we celebrate Magna Carta, it is being undermined by an executive which pays lip service to its principles. If the legacy of Magna Carta is to last another 800 years, it requires everyone with a sense of history and an understanding of the critical importance of the rule of law to our society to stand up and fight for it. The liberties conferred by this great document were hard won. We owe it to posterity to ensure that they are not lost in our time.

The Church and Magna Carta: a Hereford perspective.

By Canon Chris Pullin, Canon Chancellor, Hereford Cathedral

We tend to think of Magna Carta as a series of agreements and concessions wrung out of King John by exasperated barons, and that is what it is. In effect it was a peace treaty between John and the large number of magnates who had thrown off their allegiance to him. What is less well recognised is the role that the Church played in bringing that treaty to birth.

Medieval bishops were men of great power and influence, sometimes of noble birth. In most cases they were highly educated, skilled in diplomacy, advisers to the crown, and active in politics. Their estates were valuable, and supplied men for military service. At the same time, they served the wider Catholic Church and thus had duties and obligations far beyond their own country.

John had troubles enough with the loss of his ancestral lands in France, and the challenge of raising money to regain them, without taking on the Church as well. However when Pope Innocent III overruled his candidate for Archbishop of Canterbury in 1206 by appointing Cardinal Stephen Langton, a serious falling out took place. Langton was a noted scholar who took a particular interest in questions about the just ordering of society. John barred Langton from the kingdom and seized the property of the archbishopric. The pope responded in 1208 by placing an 'interdict' on England which forbade the clergy from performing any of their duties except baptism and granting absolution of sins to the dying. The churches were effectively closed. Many bishops (including Giles de Briouze, Bishop of Hereford) joined Langton in exile in France. John's reaction was to confiscate all church lands, gaining their considerable income for himself, and thereby filling his war chest without resorting once more to his disgruntled barons.

In 1213 pressure from rebellion at home and the threat of French invasion prompted John to make peace with Innocent III. Langton was accepted, church property returned and the interdict lifted. Additionally, John took the extraordinary step of accepting the pope as his feudal overlord, surrendering England and Ireland to papal authority. No English king had ever done such a thing, and it was deeply resented – but it gained him a supremely powerful ally.

That is the background to the Church's collaboration in the production of the 1215 Magna Carta. When the crisis came Langton, with his active interest in the just ordering of society, acted as peace-maker and negotiator between king and barons, and is credited as one of the authors of the 1215 charter. As the barons took counsel Langton is believed to have produced a copy of the Coronation Charter of Henry I, the Charter of Liberties, and encouraged them to study it as a model (although more than a century old) to guide them.

That Magna Carta's first clause is 'The English Church shall be free' reflects the recent power-struggle with John. But free from what, or for what? As with several other fine sentiments expressed in Magna Carta there is no detail to back it up. The freedom was understood, presumably, to refer to the making of appointments and the holding of lands and property. It is one of the few unrepealed clauses remaining, but with the Crown constitutionally involved in episcopal appointments, and the Church Commissioners answerable to parliament for the assets of the Church of England, one wonders why it hasn't been repealed as well!

Writing as I do with a Hereford perspective on the story, the role of bishop Giles de Briouze (or Braose) is worth recounting. Giles' father, William, had been one of John's foremost counsellors, rewarded with castles, land in the Welsh Marches and Ireland, and high office. For reasons that are still somewhat obscure John turned against William and his entire family and set about destroying them. William was deprived of his office as Sheriff of Gloucester and of his lands and castles. His wife Maud and eldest son (also William) were imprisoned by John and starved to death. Following his return from the exile caused by the interdict, Giles was the only bishop required to pay scutage (a type of tax) in May 1214 – the others were all let off because of the income they had lost during the interdict. When Giles' father died John demanded a vast sum of money from him to allow

Canon Chris Pullin, Canon Chancellor, Hereford Cathedral and Rosalind Caird, archivist Viewing a page of the Magna Carta held in Hereford cathedral

him to claim his inheritance, and four years later in 1215 Giles was still trying to regain the castles his family had lost, the draining effort of which was a contributory factor to his death at the end of that year. In December 1214 Giles had been forced to act as a witness to a charter in which John deprived his widowed sister of all her proper inheritance from her husband. Small wonder he joined the rebel barons; he was the only bishop who did.

On May 5th 1215 the rebel barons formally indicated their rebellion, and on May 10th it was Giles who represented them in negotiations with the king at Windsor. The bishop and his supporting barons extracted a promise from the king in advance that 'he would not arrest or disseise them or their men nor would he go against them by force of arms except by the law of the land and judgement of their peers in his court'. We recognise in that promise a powerful foreshadowing

of clause 39 of Magna Carta, so it's tempting to think that some of that charter's most famous words might have been penned by none other than Bishop Giles de Briouze of Hereford, who now lies buried close to the high altar of his cathedral.

A reading of the 1215 charter quickly reveals how many of its clauses

Hereford Cathedral
The Bishops Palace

were related directly to the moment, with (for instance) named hostages to be released and named Poitevin favourites to be removed from office. One of those named favourites was Engelard de Cigogné, the Sheriff of Gloucester (and thus usurper of the Briouze family) whose responsibilities at that moment covered Herefordshire as well. He was the recipient of the writ (we call it The King's Writ) held by Hereford Cathedral, the only document known definitely to have been written at Runnymede in June 1215. It was a note swiftly sent out to all sheriffs instructing them to make specific preparations for the new legislation (which would follow). Given that John appealed to his overlord the pope to overturn Magna Carta within weeks of sealing it it's one of the few pieces of evidence that any official attempt at implementing its provisions was made. Hereford's writ is the only one that has survived (although there are enrolled chancery copies of a few others that were sent out). It is dated June 20th – the day after the rebels renewed their oaths of loyalty to John and copies of the charter began to be prepared.

With Giles de Briouze and the King's Writ, Hereford Cathedral has powerful reminders of the Church's role in the story of the first Magna Carta and its implementation, and they add substance to our celebrations in this 800th anniversary year.

Hereford Cathedral
Choir

Magna Carta and human rights

By Andrew Caplen, President the Law Society of England and Wales

Of all the events taking place during my year as President of the Law Society of England and Wales, the 800th anniversary of the sealing of Magna Carta is undoubtedly the one of greatest constitutional significance. It is a valuable opportunity to remind ourselves of the importance of the rule of law as being the basis of a free, fair and prosperous society - because the Magna Carta is universally recognised as being the foundation stone that supports the fundamental civil liberties enjoyed by democratic countries across the world. In fact, many see the 'Great Charter' as the starting point for human rights, the most fundamental of documents in the protection of the people from the powers of government.

This year also sees a general election in the UK. As part of its election campaign the Conservative Party has pledged to 'scrap' the Human Rights Act, and replace it with a Bill of Rights. At the same time, in its current position as the leading party, it has been instrumental in the promotion and celebration of Magna Carta in its 800th year. Is there a troubling contradiction here?

For the last two years I have been a member of the Magna Carta 800th Committee. We have described this historic document as being "the most valuable export of Great Britain to the rest of the world." Indeed, having enshrined the rule of law in our society, for centuries it has influenced constitutional thinking worldwide including in France, Germany, Japan, the United States, India, Latin America and Africa.

Magna Carta was central to both the American Declaration of Independence and Constitution, as well as to the UN Declaration of Human Rights in 1948. Speaking at the UN General Assembly as the UN Declaration was submitted, Mrs. Eleanor Roosevelt said that:

"We stand today at the threshold of a great event both in the life of the United Nations and in the life of mankind. This declaration may well become the international Magna Carta for all men everywhere."

The Magna Carta is far from being relevant purely in history lessons. It is being used continually, 800 years after it's creation, to defend some of the most prominent human rights battles in the most modern of democratic societies. An example; over 200 writs of Habeas Corpus have been submitted on behalf of detainees at Guantanamo Bay. Habeas Corpus, or "The Great Writ", is a legal instrument first guaranteed following the sealing of Magna Carta, it's purpose being to prevent the state from holding prisoners in extrajudicial detention - which is, of course, exactly what Guantanamo Bay was created to do. Now in the (slow) process of being closed down, the challenges against the legality of Guantanamo Bay continue to focus upon the violation of these most basic of human rights principles.

Today, in our own jurisdiction, it is the Human Rights Act (HRA), along with the UN Declaration of Human Rights, that is the closest descendant of the Magna Carta. The HRA ensures that the rights included in the European Convention on Human Rights are enshrined in UK law. The Convention was, of course, established following the Second World War in order to protect the rights of people over the powers of governments. It was designed be utilised by the young and the elderly, the rich and the poor, citizens and foreign nationals, prisoners and ordinary members of the public. We ourselves will, hopefully, never need to rely upon it - but every year there are hundreds of people who do.

The Law Society is proud of the universal protection that the HRA ensures, of Britain's role in the creation of an EU-wide Court of Human Rights and of the decisions that have been made by that court. We believe that plans to replace it could result in a diminution of this universal protection and potentially be an attack upon the principles of Magna Carta itself.

It is not just the Human Rights Act that is being held up by the weight of Magna Carta though. In January of this year, Lord Pannick QC referred to the Great Charter in the House of Lords while criticising the government's plans to limit Judicial Review. Part 4 of their Criminal Justice and Courts Bill will make it more difficult to challenge unlawful decision-making by government and public bodies. When they have behaved unlawfully, it is surely right that the courts should be able to say so - after all it is a right that can be traced back to the provisions of that 1215 document.

Other legal concerns relating to fundamental rights have also became prominent in the UK news this year. For example, the government recently announced plans to introduce legislation to regulate the use of pre-charge extended bail - specifically to limit it being extended beyond a 28-day limit. Placing a person on unlimited bail is seen by many as violating the principle outlined in Article 39 of Magna Carta that 'no freeman shall be taken or imprisoned or disseised or exiled or in way destroyed, nor will we go upon him nor send upon him, except by lawful judgment of his peers or by the law of the land.'

The government's increases to court fees, in some cases by as much as 600%, has also been seen as an assault on the basic principles of access to justice and of Magna Carta. The hikes in fees will surely have the effect of making the civil courts a preserve of the rich, leaving

small companies crippled by unpaid monies owed to them by larger companies and private individuals unable to afford legal redress. Treating access to justice as a number on a balance sheet is not only abandoning the principles of Magna Carta - it is selling them.

Promoting and supporting the Magna Carta as part of our commitment to the rule of law and access to justice has been - and will remain - a key priority of my year as President of the Law Society. This is why we are both celebrating and commemorating this so-important anniversary. We have already called on our members for Human Rights Act case studies. The Graham Turnbull Human Rights essay competition has a Magna Carta theme. Upcoming events include a speech by the Master of the Rolls Lord Dyson on 22 April at Chancery Lane, Magna Carta Day in June, and a continued defence of the need for the Human Rights Act.

In this 800th year since the sealing of this great document, we are concerned that the HRA, our closest relative to the Magna Carta, faces repeal. As the world looks to Britain as the forerunner of human rights, dilution of the rights of our own citizens does not set a good example. Does it undermine our moral authority to speak up against abuses elsewhere? Does it allow other countries to justify their misconduct by pointing to our own less clear example?

Human rights should never be used as a political tool in any country, particularly in the UK. The discussion should be around changes broadening guarantees of rights rather than seeking to limit them - especially in a year when we are celebrating the birth of our fundamental freedoms. It is surely what the remembrance of Runnymede deserves.

Engraving of Magna Carta published by John Pine (1690-1756) in 1733

This year sees the anniversary of an Act of great constitutional significance – an Act which enhanced judicial independence.

By Andrew Ridgeway, Chairman of the Judicial Appointments Commission

At this point you may be expecting mention of Magna Carta; but 2015 is also the anniversary of another complex constitutional settlement. It is 10 years since the Constitutional Reform Act (CRA) 2005 was passed, an Act which gave greater effect to the doctrine of separation of powers - providing for a new and more transparent relationship between the executive, the legislature and the judiciary.

This Act reformed the office of Lord Chancellor and established the Lord Chief Justice as head of the judiciary of England and Wales. It was also under this Act that the Judicial Appointments Commission was established to take responsibility for selecting candidates for judicial office out of the hands of the Lord Chancellor and to make the appointments process clearer and more open, transparent and accountable.

The JAC began to operate in April 2006 and for nine years has been selecting judges for courts and tribunals across England and Wales, and for some tribunals whose jurisdiction extends to Scotland or Northern Ireland. This includes High Court judges, Presidents of Tribunals and the full range of judicial roles in the Crown and County courts as well as the tribunals. The Commission also plays an important part in the selection of the Lord Chief Justice, the Senior President of Tribunals and the Heads of Division, as well as the Lords Justices of Appeal.

Prior to the CRA, judges were appointed by the Lord Chancellor after 'secret soundings' had taken place within the legal community. Under the CRA, the Lord Chancellor retains the power to appoint judges, but he or she is required to appoint judges selected by the JAC, subject to a limited power to reject or ask for a reconsideration of a recommended candidate. As for the 'secret soundings', the CRA contained a requirement for 'statutory consultation' with the Lord Chief Justice and another relevant judge, but these views became less critical for gaining information about applicants as the JAC developed a selection process involving the collection of evidence from many sources including an application form, references, a variety of different tests and an interview.

As a Non-Departmental Governmental Body (NDPB) the JAC is reviewed regularly to ensure that its governance and accountability are strong, and that it continues to perform its essential function and do so effectively. The JAC was reviewed last year under what are known as 'triennial reviews'. The resulting report was published earlier this year and said:

"The JAC has established itself as a universally respected part of the constitutional landscape, bolstering judicial independence and supporting the business of the courts and tribunals."

The report also described the JAC as 'critical to the rule of law'. It concluded that the JAC should explore whether it could expand its remit in terms of senior, international and quasi-judicial appointments – the authority for which is within the CRA - thereby promoting the international rule of law; and also whether it could move to a more commercial model of charging Government departments and other bodies for the work done on their behalf.

This endorsement of the Commission's work is already bringing new business to its doors. Over the past year the JAC has been asked to advise and assist in the selection of a Senior Magistrate and Chief Justice for the Falkland Islands; President, Justices and Deputy Justices of the Court of Appeal for St Helena; and a Judge of the General Court of the European Union.

The JAC is now working on clarifying and expanding the assistance it may provide in the future for these appointments and intends to involve key stakeholders in this project. An important element of this work will be ensuring there is a level of consistency between the JAC selection processes and those of the organisations and countries that are being supported. However, the JAC's primary work will remain the selection of judges for courts and tribunals in England and Wales, and for some tribunals with a UK-wide jurisdiction.

The JAC has also had visitors from across the globe who have been interested to learn about its selection processes. In the last couple of years the JAC has spoken to representatives from a wide range of countries including Albania, Australia, India, Japan, Kurdistan, Nigeria, South Africa, Spain, Thailand and Vietnam. It is hoped that, in a small way, the JAC is helping to promote the rule of law internationally and that it is further enhancing the already high esteem in

which the British judiciary is held around the world – not least for its independence.

To return to Magna Carta, this was arguably the first of many Acts of constitutional importance. Another is the Act of Settlement 1700 which secured the independence of the judiciary. It is well known that Magna Carta was subjected to a great deal of reform - within only 10 weeks it was annulled and then was reissued around 50 times over the next 200 years. Now, only three of the clauses remain part of English law.

The CRA has also been reformed. Just two years ago the Crime and Courts Act 2013 and associated regulations were introduced with the aim of further improving the efficiency, transparency and diversity of judicial appointments. The Commission now determines the process for selecting lawyers to be authorised as deputy High Court judges – a valuable experience for those aspiring to a permanent position on the High Court bench. The JAC has also worked with the Vice President of the Criminal Division of the Court of Appeal to develop an independent process for the appointment of Circuit Judges to that court - another valuable experience for those with aspirations to work in more senior courts. For positions below the High Court, the JAC is no longer required, under statute, to consult two judges with relevant knowledge of the judicial vacancies of the candidates it is minded to select. This 'statutory consultation' can be with one judge and for some vacancies no statutory consultation may be necessary at all. The Act also brought in the requirement for there to be a lay chair for the panels selecting for the most senior roles – President of the Supreme Court and Lord Chief Justice; and ensured a better balance of lay and judicial influence in these decisions.

Independence in selection is essential to show that the way judges are chosen is truly independent of the executive, and that the judiciary is not recruiting in its own image. A core aspect of ensuring this independence is the statutory requirement for the JAC to make only one recommendation for each vacancy. The majority of Commissioners are not judicial members – there is a lay Chairman, six lay members (including a lay magistrate), six judges, and two professional members. Parliament decided there should be a wide range of experience around the table when decisions are being made. Consensus is invariably achieved although you can assured that there are robust exchanges.

This independence of selection also increases the status of the judiciary in the eyes of the population. That said, judges bring vital experience and knowledge to the selection process and their involvement is essential. They are used throughout the process in devising and developing tests and role plays; by sitting on panels for sifts and interviews; by providing references; taking part in statutory consultation; providing representation on the Commission; and by speaking at outreach events.

It is ultimately all about striking the right balance. The feedback in the Triennial Review and the high level of international interest that the JAC is attracting, gives confidence that the JAC is getting it about right in terms of providing a model of selecting judges from the widest range of professionals in a manner that is demonstrably independent. It is questionable whether the CRA will ever reach such a great anniversary as Magna Carta, but hopefully at least some of you have been persuaded that it is another Act of constitutional significance worthy of discussion in the same article.

Celebrating the Magna Carta

By David W. Rivkin, President of the International Bar Association

We do not honor the 800th anniversary of the Magna Carta because of its importance as an historical event. As many historians have noted, King John soon disavowed the document and died soon after that, and Pope Innocent III annulled it. While the Magna Carta did not lead to immediate peace, King Henry III's Regent re-issued it (with some revisions) in 1216 and 1217 to create peace with the barons, and King Henry III did so himself in 1225 to gain cooperation and taxes from the barons. When King Edward I re-issued the Magna Carta in 1297, it became part of English statutory law.

In celebrating the Magna Carta's anniversary, however, we do not reflect on the importance of the peaceful resolutions of these disputes or the impact they had on English or world history. These were not defining events like the Glorious Revolution in 1688 or the American Revolution in 1776 that changed the course of history.

Instead, we celebrate the anniversary of the Magna Carta because of its enduring principles. These principles inspired those revolutions and more. Since Edward Coke's day, they have served as the critical explanation of the limits of sovereign power. As an American, I am grateful for the document that recorded peace between King John and his barons five and a half centuries before our Revolution. The Magna Carta provided the legal basis for the Founding Fathers to assert the rights of Americans to fundamental freedoms. Paul Revere engraved the Liberty Bowl in 1768 with the words "Magna Carta" to while telling the story of revolutionaries who had fought tyrants; Massachusetts currency at the time also include the words. Core principles of the Magna Carta were enshrined in the US Constitution.

The 800th anniversary therefore provides an occasion to focus on these principles and their continuing importance. The rule of law has never been more important. The world has become completely interconnected. Every economy depends the rest of the world for trade and investment. Climate change is a global issue that cannot be solved without global cooperation. Culture, both serious and pop, knows no borders; a YouTube video can be viral in moments worldwide. For all these reasons, the manner in which countries respect or disrespect the rule of law, internationally and domestically, has an impact on all other countries. Countries that follow the rule of law can reasonably ask others to do the same; countries that succeed despite disregard for the rule of law unfortunately provide an example to others that it is not a necessary component for success.

Commentators generally and rightly pay homage to Clause 39 of the Magna Carta, which embodied the right to due process. Indeed, that is a fundamental protection of civil liberties; the nobles understood it then and we know it now. However, many other clauses of the Magna Carta deserve our attention for their perceptiveness in understanding how to create a government ruled by law and not by power.

The rule of law requires that it be applied equally to the powerful and the powerless. In order for that to occur, the judiciary must be independent and able to interpret the law without government interference.
Clause 24 recognized this principle; it required, "No sheriff, constable, coroners or other royal officials are to hold lawsuits that should be held by the royal justices." Without an independent judiciary, with the power to interpret laws and to apply justice impartially, many of the other protections of democracy will disappear.

But the drafters of the Magna Carta also understood that, for the judiciary to provide proper justice, limits on judicial power were also needed. Judges had to be properly qualified: "We will appoint as justices, constables, sheriffs or other officials only men that know the law of the realm and are minded to keep it well." (Clause 45) Clause 38 required that no one could be put on trial "without bringing credible witnesses to the charge." Clause 20 set forth the principle of proportionality, which remains a core component of international law, required that "a free man shall be fined only in proportion to the degree of his offence … but not so heavily as to deprive him of his livelihood." In light of the concerns about corruption in the judiciary that exists in many countries today, it is worth noting that Clause 40 provided, "To no one will we sell, to no one deny or delay justice." The US Supreme Court has also cited this clause as a basis for the right to a speedy trial.

The drafters of the Magna Carta understood that many other safeguards were needed to limit the power of government. Clauses 28, 30 and 31 required that the government would not take the property of its citizens without their consent and without fair payment: for example, "no constable or other royal official shall take corn or other movable goods without immediate payment."

The Magna Carta of 1215 even provided a means to enforce the many promises King John made. A committee of four barons could raise any grievance with the King, and if the King did not satisfy that grievance, a Committee of 25 barons could determine the grievance. If they agreed with the grievance, they had the power to take over the King's authority. This clause, however, was so dangerous to sovereign authority that it was deleted from subsequent versions.

These principles did not derive from the imagination of a few men in a swampy field at Runnymede. Their universality is demonstrated by the fact that, at about this same time period, the nobles of Catalonia and Aragon entered into a similar pact with their king. The Oath of Aragon stated, "We, who are as good as you, swear to you, who are no better than us, to accept you as our king and sovereign, provided you observe all our liberties and laws, but if not, not." The limits on the power of sovereigns and their duty to comply with the law could not be stated more succinctly and effectively.
The Oath also shows that the celebration of the Magna Carta should

primus sentencia.

Anno dei ihū Ego Angl dns hibnie dux normā
& aquit & comes andeg. archiepis epis abbib
priorib comitib baronib vicecomitib prepositis
ministris & omnib balliuis & fidelib suis psentem
cartam inspecturis. salutē. Sciatis q nos intuitu
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successoꝝ nroꝝ ad exaltacionem dei ecclie & emenda
cionem regni nri dedimus & concessimus ep̄onatibus & bona voluntate nra. ar
chiepis epis abbib priorib comitib baronib & omnib de regno nro
has libertates subscriptas tenend in regno nro Angl imppm. ¶ In primis
concessimus deo & hac psenti carta nra confirmauimus pro nob & heredib nris
imppm quod ecclia anglicana liba sit & habeat omia iura sua integra & libertates
suas illesas. Concessimus etiam & dedimus omnib liberis hoīb regni nri pro nob & here
dib nris imppm has libertates subscriptas habend & tenend eis & heredib suis de
nob & heredib nris imppm. ¶ Si quis comitum vel baronum nroꝝ siue alioꝝ
tenencium de nob in capite p diuinū aliquē modum forisfecerit & cū dereserit heres
eius plene etatis sit & relevium debeat habere hereditatem suam p antiquū
relevium. scilt heres vel heredes comitis de com integro p centum libras. heres
vel heredes baronis de baronia integra p centum marcas. heres vel heredes alterius
de feodo militis integro p centum solidos ad plus & qui minus habet minus
det ꝑ dictam antiquam consuetudinem feodi. ¶ Si autem heres alicui talium
minus etatis fuerit & ipse sit in custodia cum ad etatem pue
nerit habeat hereditatem suam sine relevio & fine
fine. Custos autem terre hui⁹modi heredis qui infra etatem fuerit non capiat de
hominibus suis nisi rationabiles
exitus & rationabiles consuetudines & rationabilia seruicia & hec sine destructione
& vastō hoīm & rerū. Et si nos commisimus custodiam alicui talis terre vic vel alicui
alii qui de exitibus terre illius nob debeat respondere & ille de custodia destruxe
rit vel vastum fecerit nos ab eo capiemus emendam & terra committatur duobus leg
& discretis hoīb de feodo illo qui de exitibus terre illius nob respondeant vel
ei cui illam assignabimus. Et si dederimus vel vendiderimus alicui custodiam
alicuius talis terre & ille destructionem inde fecerit vel vastum amittat illam
custodiam & tradatur duobus leg & discretis hoīb de feodo illo qui similiter nobis
nob respondeant sicut dictum est. ¶ Custos autem quamdiu custodiam terre habu
erit sustineat domos parcos vivaria stagna molendina & cetera ad eam
illam pertinencia de exitibus ipsius & reddat heredi cū ad plenam etatem
pueniat talem totam terram instauratam de carucis & de omnib aliis reb
ad minus sicut illam recepit. hec omnia obseruent de custodiis archiepatuum
epatuum abbiarum prioratuum ecclīarum & dignitatum vacantium que ad nos

not be limited to common law countries, for these principles are deeply rooted in every tradition.

The International Bar Association is proud to be working to enhance the rule of law throughout the world. Our Human Rights Institute regularly trains judges and builds institutions to ensure the independence of the judiciary. It criticizes countries that stray from these principles, whether they be developed or developing, North or South.

The IBA's new Judicial Integrity Initiative is focusing on the roots of judicial corruption and how it can best be combatted. And the 50+ regular committees of the IBA routinely work to improve the law and its practice, in order to further the ideals of the Magna Carta that government must rule only by the dictates of the law.

Opp page: Magna Carta confirmed by Henry III

King John of England, 1167-1216. Illuminated manuscript, De Rege Johanne, 1300-1400.

Eight hundred years: this extraordinary longevity is living proof of the enduring power of the law

By Maria Ślązak, President of the (CCBE) Council of Bars and Law Societies of Europe

On 22-25 February 2015, I had the privilege of attendingthe Global Law Summit at the Queen Elizabeth II Conference Centre in London, an international event gathering lawyers, judges, business leaders and public sector officials from around the world. Distinguished speakers including the Ministers of Justice from seventeen countries discussed the challenges of modernizing justice systems and protecting the public from today's global threats while preserving fundamental rights.

The event marked eight hundred years since the sealing of Magna Carta, a document which has inspired lawyers and non-lawyers for generations and influenced the global legal history. This anniversary truly puts our collective history in perspective.

The opening of the event on 22 February coincided with the meeting of the Standing Committee of the Council of Bars and Law Societies of Europe, on invitation from the Law Society of England and Wales at its home in Chancery Lane.

Founded in 1960, the CCBE is the representative organisation of more than one million European lawyers through its member bars and law societies from thirty-two full member countries, and thirteen further associate and observer countries. It is proud to count amongst its members the Law Society of England and Wales, the Faculty of Advocates of Scotland, the Law Society of Scotland, the Law Society of Northern Ireland, and the Bar Council of England and Wales.

Among the most important of the CCBE's missions are the defence of the rule of law, human rights and democratic values. The right of access to justice and the protection of the citizens are of particular concern to us as well.

Attending the Global Law Summit was an opportunity to meet some of the most brilliant minds in our field and hear policy-makers from around the world discussing the past, present and future of fundamental rights and the administration of justice.

The past of course holds no secret to the members of the legal profession – as the popular quip puts it, we are 'the only people who walk into the future looking backwards'.
The future is another matter in an increasingly globalized world where the mediatisation of non-state violence puts into question some of our core freedoms and rights. What future evolutions will shape fundamental rights in Europe?

Fundamental rights and the rule of law

Fundamental rights spelled out in any shape or form are meaningless without the legal, political and social infrastructure needed to apply them in practice. This includes at its core the principle of the rule of law; as well as access to effective remedy and a working administration of justice.

The defence of the rule of law is one of the most basic principles held by the CCBE, but one that cannot ever be taken for granted. For many of our colleagues who practiced law or grew up behind what was the Iron Curtain, it certainly remained a dream out of reach in political systems dominated by totalitarianism.

Across Europe budgets for justice and legal aid have been frozen or cut in the wake of austerity policies and reduced government spending. Court fees have also been increased to raise income, with the effect of discouraging citizens from taking their conflicts to the courts. These added costs prove too much for millions of citizens who risk losing their fundamental right of access to justice.

The CCBE has called on the EU to act decisively in support of an affordable, accessible and independent justice. The provision of adequate legal aid is essential to the administration of justice by ensuring an equality of arms between the parties. Legal aid as a fundamental right should therefore be made effectively available to all in civil and criminal matters, through the establishment of a specific EU budget line to ensure either the development of a European legal aid scheme or to support national schemes within Member States.

Legal aid should in principle cover all legal areas and jurisdictions, including alternative dispute resolution (in jurisdictions where it is available), the assistance of a lawyer at all stages of the proceedings, the assistance of experts, translation and interpretation, and other trial costs. Specific assistance should be given to particularly vulnerable groups and to cross-border trials, with the help of a set of common EU minimum standards for granting legal aid.

Instruments in this area would benefit from information campaigns for citizens on how to receive legal aid and from online application systems featuring interoperability between public services.

Lawyers play a key role in making access to justice a reality: targeted training for lawyers who provide services in the framework of legal aid would also enhance quality of service and efficient proceedings.
Fundamental rights should be available to all at no charge – but funding is essential to make them a reality through the justice sys-

tem. Overarching principles are meaningless without an effective administration to implement them.

In this context, e-Justice offers some potential to allow public administrations to improve service quality and reduce costs, while saving businesses and citizens both time and effort. Making the administration of justice faster, less costly and more accessible can only support a sorely needed economic recovery across the European continent.
We need however to keep in mind that the continued training of legal professionals in the use of these tools is essential to maintain the equality of arms in the courtroom. Careful attention should also be paid to the growing digital divide, to ensure that the most vulnerable citizens are not prevented from exercising their rights due to inequality in access to digital tools.

We see here that from the rule of law stems a viable ecosystem that allows for the growth of business, security, equality, quality of life, and certainty of the future.

Fundamental rights and the European project

Eight hundred years: this extraordinary longevity is living proof of the enduring power of the law. The history of the Magna Carta and the Common Law shows that we can change and achieve progress while staying true to the values that define us and the principles that guide our collective action, and that the two are not mutually exclusive.

In contrast, how old are the Council of Europe and the European Union? Let us look at the European instruments that guarantee our fundamental rights: the European Convention on Human Rights and the European Charter of Fundamental Rights are mere youngsters at respectively 65 and 15 years old. Yet what will be left of them eight hundred years from now? In fact, much like ours, their destiny will be determined by how they live, and how they adapt to the world around them. Fundamental rights are living things, and their instruments are evolving and adapting. The Charter of Fundamental Rights, for example, gathers case law from the Court of Justice of the European Union, the rights and freedoms enshrined in the European Convention on Human Rights, and principles from common constitutional traditions of the member states – including the Magna Carta. It also includes decidedly modern rights such as data protection, online privacy, guarantees on bioethics and principles of transparent administration. This is perhaps more than was expected at the inception of the European project some sixty-five years ago. Nevertheless we are looking at an ecosystem of law, where we find offshoots of the Magna Carta on every branch.

Fundamental rights and freedom of speech

Globalization has led to increased mediatisation of non-state political violence, and shortening media cycles put more pressure on policy-makers to put forward a response after each event. This action-reaction cycle puts a new sort of pressure on fundamental rights. Elected representatives must do something, anything, in reaction to every terrorist act and must be seen doing it. Instruments on fundamental rights are caught up in the storm, alternatively erected as a protective barrier against any number of threats or prodded to adapt to what we are told is a profoundly changing global environment.

There is absolutely no doubt that their evolution should go on, with the continued involvement of the legal community and all members of society in general. The legal profession in particular has a key role to play in maintaining a spirit of debate and discussion, in addition to translating rights and freedoms in practice when working with the citizens and businesses they serve.
It is in view of this debate that the CCBE chose "Freedom of Speech" as the theme of European Lawyers' Day 2015.
The event will take place on 10 December, in conjunction with World Human Rights Day. It is held as a national day throughout Europe that celebrates the rule of law and the legal profession's intrinsic role in its defence, including lawyer-client confidentiality as well as the common values of lawyers and their contribution to the justice system.

In Europe, freedom of speech is one of the most prized values, but recent terrorist attacks show that the freedom to mock and question cannot be taken for granted.
Freedom of speech is a requirement to exercise a number of other freedoms: the free flow of ideas is necessary to communicate, correspond, learn, write, teach, analyse, compare, organise, share, study, and forge one's own opinion about the world. It is the role of lawyers to defend those freedoms.

Unfortunately, lawyers continue to be harassed around the world for speaking up for their clients in courts and outside the courts; their rights must be protected for the benefit of all. Lawyers protect and promote the freedom of speech through their work for citizens, but their ability to undertake such work is under growing threat from restrictive government policies. It is our duty to work towards a legal and regulatory environment that allows our colleagues to remain the champions of freedom.

I hope that we can count you among the participants of European Lawyers' Day on 10 December through the activities organised by the Bar of England and Wales, where we can contribute together to the permanent evolution of fundamental rights in an ever-changing world.

One Charter that rules them all?

By Frances Edwards, CILEx President

The run up to the General Election gave us all an opportunity to think a great deal about power.

800 years ago we had a feudal society, where power was unchecked and the rich and powerful were able to dominate the lives of the weak and poor. In retaliation, King John was made to seal Magna Carta by twenty five barons who were in effect threatening a coup if he failed to enshrine their demands in law.

Even though Magna Carta didn't last for long, it began a centuries-long process of establishing the rule of law; where today the tyrants of the real world are limited in their power, and can be held to account. This anniversary is a once in a lifetime opportunity to reflect on the rule of law, as it differs from the rule of power.

Whilst power may be the reserve of the rich and influential, it is generally held today that the law should not be. Everyone is subject to the law – that is the pervading legacy of Magna Carta. However, at the root of many of the problems facing the law today is that the law, and lawyers, are seen as elite and distant.

One rule for everyone?

Law in this country is quite inaccessible; we have multiple sources of laws, and they are produced in huge quantities, and often in complex and indecipherable language. For decades the key mechanism to make that inaccessible system more accessible has been lawyers. Our job as lawyers is to bring the people and the law closer together, to demystify the law, and make it applicable for the person in front of us.

This is important because we have seen what happens when people feel our laws and institutions, which are the embodiment of our society's values, are not accessible or relevant to them. They feel like outsiders, without a stake in our society. It can lead to the belief that the rules belong somewhere 'over there', and don't apply to 'me'. We saw this in the riots of 2011 – a sudden outpouring, catalysed by a belief many people held, that they did not have a place in our institutions, our laws, or our society.

The role of lawyers

That experience was a reminder that all people have to feel a part of our institutions and laws. In my mind one of the instruments that brought people and the law closer together, more than perhaps any other instrument in centuries, is Legal Aid. Before 1949 access to the law relied almost exclusively on your own wealth, or the generosity of the lawyer. The numbers of Citizens Advice Bureaux, established in the run up to the outbreak of war, nearly halved in the 1950s and in a relatively short space of time the high street law firm became a kind of community asset, with lawyers seen as natural community and institutional leaders. I mention institutions specifically, as lawyers to this day form a sizeable proportion of our establishment; in our justice system, of course, with judges drawn from legal backgrounds, but also our political institutions.

Of the MPs of the 2010-2015 Parliament, one in every ten were lawyers. If that proportion were an accurate cross-section of our society, it would mean there were 6.5 million lawyers in the UK, more than 30 times the actual number. Considering they are law-makers one can reasonably expect a higher than average proportion of lawyers, but they are primarily supposed to be a democratic reflection of our society.

I say this not to argue that there should be fewer lawyers involved in public life, far from it, but instead to illustrate that our institutions draw heavily from a small pool of legal professionals. Lawyers hold an important and influential presence in our society, and have done since before Magna Carta. So if the people we are here to serve feel lawyers are elite or remote, that risks trickling upwards into our judiciary and political establishments. Some would say it already has.

The out-of-touch lawyer

Serving the increasingly diverse population of the late 20th and early 21st centuries has posed challenges for all professions, but cuts to legal aid and law centres has once again put the lawyer out of reach of vast numbers of people. As guardians of Magna Carta's legacy, we lawyers have a responsibility to prevent the creeping perception that the law is owned by an established elite.

Social mobility and diversity play an important role here, and just as law should not be the reserve of the rich and powerful, nor must the practise of law. Lawyers from diverse backgrounds, whether that be social, economic, ethnic, religious, educational, or any other background, have to be present to give our profession legitimacy. CILEx has spent more than 50 years breaking down barriers for people from disadvantaged backgrounds to practise in law. 86% of our lawyers had neither parent attend a university, just 2% had a lawyer parent. The openness of our route has led to three quarters of our lawyers being women, and one third of our new students being from black, asian or ethnic minority backgrounds.

We have been able to do this because CILEx does not impose artificial barriers to entry; either academically, financially or structurally. CILEx students are able begin their studies without any prerequisite qualifications, can study at their own pace, fitting learning in with other commitments and responsibilities, and the costs are a fraction of what it is to become a lawyer through more traditional routes. CILEx lawyers, known as Chartered Legal Executives, are specialists in their

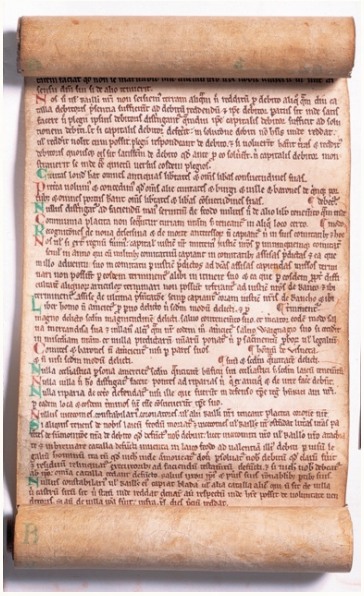
field, educated to degree level, and considered experts in their specialist area by their colleagues. We have challenged the preconceptions that to learn in a flexible manner must be to lower standards. Now I could repeat what I have written in this magazine previously; that we do all this to broaden opportunities, to make a more diverse legal community, and to serve the public - but that would be to overlook the more fundamental reason: we do what we do in order to bring the people, and the law, closer together.

The law today

What took place at Runnymede 800 years ago engendered legal principles that circled the world. However the implementation of those principles, and the practise of law, is under threat. Providing opportunities for lawyers from all backgrounds to practise will help give lawyers legitimacy with the public, but without affordable legal services it will all be for nothing. Cuts to legal aid, rising court fees, and fewer avenues for free legal advice are all serving to inhibit access to justice. This needs tackling now, before it becomes so endemic that people only see the legal profession as a necessary evil to be dealt with, or worse an irrelevance.

Magna Carta taught us that everyone is subject to the law, but embedding the message that the law belongs to everyone is made harder when our lawyers are seen as exclusive, and made impossible if the law itself is inaccessible. This will never change unless we change it.

This is a time for us to be leaders again - not of institutions, but of communities.



"Magna Carta," after 1225. By permission of the Society of Antiquaries of London

‘To no one will we sell, to no one will we deny, or delay right or justice’

By Phillip and Elizabeth Taylor, Richmond Green Chambers, reviews editors of the barrister magazine

The Terror of Tyrants through the Ages, Magna Carta is Reassessed 800 years on by Elizabeth Robson Taylor and Phillip Taylor MBE of Richmond Green Chambers

Worried about threats to your liberties, or those of others? Invoke Magna Carta. Many people do, although not many have read it.

This is not surprising, for despite Magna Carta’s historical and legal significance and the amount of learned commentary about it, the translation -- the full translation that is -- has not been readily or widely available, at least not at every news agent in town.

However, with public consciousness raised in anticipation of the planned celebrations in this 800th anniversary year, you can now read all you want about Magna Carta – and you can peruse the translation in its magnificent entirety in a number of books on the subject published this year. These are too numerous to mention here, but there are two which stand out as being of particular interest to legal practitioners and indeed anyone who loves the law.

One is the aptly named ‘Magna Carta Uncovered’ and co-authored by former Lord Chief Justice, Lord Igor Judge, and Anthony Arlidge QC. The other is ‘Magna Carta: The Foundation of Freedom 1215-2015’ by Nicholas Vincent.

Predictably, it’s the book by Arlidge and Judge that is regarded by many a legal practitioner as the book of the moment. It is a plain-speaking, 21st century appraisal of a 13th century legal document which, even in the absence of specific statements on human rights as such, has set the standard for rights and liberties the world over, even though it has been challenged, threatened, belittled and ignored in every century since, including our own.

Clause 40

But read the translation - you cannot help noticing that despite the dismissive remarks of some commentators today, at least half the clauses in the Great Charter were, and still are, political dynamite, and as relevant and radical now as they were in 1215.

Clause 40 is the best known: ‘To no one will we sell, to no one will we deny, or delay right or justice.’
That, in the view of any reasonable reader, does include everybody, not just a band of rebellious barons as a number of pundits have claimed recently.

There is considerable documentary evidence to indicate that the principles of freedom, good governance and the rule of law that were demanded -- initially unsuccessfully -- by those barons set important precedents which later generations have emulated and upheld, often in the teeth of opposition. For example, from 1331 to 1351, various statutes extended the right against arbitrary action by the Crown to ‘all men of whatever condition whatsoever.’ Lamentably, history reveals how often the principles enshrined in Magna Carta have been ignored.

But there’s no need to retreat into history to note various frightening examples of justice under threat. There have been plenty of such threats in our own century, including proposals to end the right to trial by jury, with the jury system condemned as cumbersome, impractical, and costly and so on.

There have been instances too, of inordinately lengthy periods of bail and, ostensibly in response to the exigencies of the war on terror, there have been prisoners who have been locked up for months and in certain cases, years, without charge. Too many examples have emerged of the many ways in which power corrupts, which is why certain utterances in Magna Carta can still be called ‘relevant’ today. Take for example, the clauses that limit the power of bailiffs. Good idea, that. There is an insistence that persons in positions of power and authority should at least be qualified for their jobs. ‘We will not make (appoint) justices, constables, sheriffs or bailiffs who do not know the law of the land and mean to observe it well,’ thunders Clause 45.

Gripping

Arlidge and Judge continue the fierce and gripping tale of the conflict and drama -- including civil war -- (check out the chapter on Robin Hood and the Royal Forests), which led to Magna Carta. The timeline at the beginning of their book lists the significant events that occurred prior to Magna Carta, and indicates that the document had a long gestation period and a difficult birth.

Magna Carta’s story began approximately in 1154 when Henry II ascended the throne of England. The decades which followed featured widespread strife, civil unrest and foreign wars which eventually under John’s reign emptied the nation’s treasury by 1214. This was only one example of John’s profligacy and incompetence as a monarch.

The fact that John during his reign, had lost possession of all the territories in France over which he had once ruled, earned him the nickname of Johnny Lackland -- or across the Channel -- Jean sans Terre. Finally, after further conflicts and further rebellion by the infuriated barons, the Great Charter was granted under the seal of King John at Runnymede on 15 June 1215.

But, as most of us realize, this was not the end of the story. A month later John, observed at the time as gnashing his teeth and ‘biting on sticks’ in fury rescinded the Charter. He wrote to the Pope demanding that it be annulled, which the Pope duly did, declaring it void after

MAGNA CARTA
1215 - 2015

The original Magna Carta manuscripts were dispatched over a period of a few weeks in late June and early July 1215. The surviving four, which have never all been in the same place before, were brought together at the British Library for three days on Monday 2 February 2015.

Four original surviving Magna Carta manuscripts are brought together for the first time.
Photo credit: British Library
Photographer: Clare Kendall

The best preserved copy of Magna Carta is in Salisbury Cathedral's Chapter House.

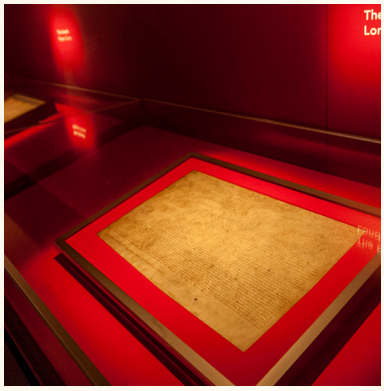
Left: Etching by Wenzel Hollar (1607-1677) of Salisbury Cathedral.

Far left: Salisbury cathedral's copy of Magna Carta.

The Bishop of Lincoln, Hugh of Wells, was present at Runnymede, along with Lincolnshire's Cardinal Archbishop Stephen Langton. 12th century Lincoln was a place of learning and quite possibly where Langton's ideas took shape. Langton is credited with influencing the terms of the charter.

Left: Etching by Wenzel Hollar of Lincoln Cathedral 17th century.

Far left: Lincoln cathedral's copy of Magna Carta. *"Its particular quality lies in the fact that it is written in an 'official' hand and has remained at Lincoln since the time of its first issue."*
Nicholas Vincent
Professor of Medieval History UEA



The British Library *(main image)* houses two *(left & centre images)* of the four original surviving 1215 Magna Carta, as well as the key original documents which tell the Magna Carta story in 1215.

condemning it utterly with some terribly ferocious and quite undiplomatic remarks which should not be repeated here. After King John's death however, and following years of regency, the Great Charter, then newly dubbed 'Magna Carta' was reissued 'in perpetuity' under the seal of John's heir, the young Henry III. Well, thank goodness for that, you might say – except once again, the story does not end here, nor as one might suppose, will it ever.

Compelling

But let's now talk about Nicholas Vincent's 'Magna Carta: The Foundation of Freedom 1215-2015' from Lincoln Cathedral. Here you have an authoritative and compelling examination of Magna Carta and its enduring impact on British and world history. Enhanced by stunning illustrations, its engrossing narrative presents Magna Carta as an inspiration for all who love liberty and justice under the rule of law.

Professor Vincent, who heads a team of five experts who provide the commentary, is a professor of history at the University of East Anglia and, among his other credentials, a consultant on Magna Carta to the National Archives in Washington DC and joint curator of the British Library's Magna Carta Exhibition 2015.

To understand the sheer potency and durability of the Charter, one must consider its original purpose, which was to impose long needed reforms on the corrupt government of King John -- and there's quite a lot about him in this book.

Discussing 'The Tyranny of King John', Vincent is in no doubt that this benighted monarch was tyrannous indeed, lecherous too, with no redeeming qualities. 'Hell itself is defiled by the presence of King John,' said the famous 13th century monastic chronicler, Matthew Paris.

It appears that the professor and his team have unearthed a mine of original source material that reveals a lot more about King John and the barons than has been generally known. One example is 'The Magna Carta Sureties' in which the 25 barons appointed in 1215 to enforce Magna Carta, are identified by name. (Apparently, they were supported by almost 2,000 other knights.)

Also interesting, as well as incriminating, are the extensive descriptions of certain documents that preceded Magna Carta, notably the 'Chancery Rolls', which, among other documentation, provide much evidence about the monarch's methods of imparting justice by means of his own special blend of influence and intimidation.

Under John's misrule, justice 'could still be bought'. Cases often went ahead only after 'painful delays', themselves the result of 'endless procedural complications, or the sheer difficulty of access to royal judges, either at Westminster or in the localities'. If any of this sounds uncomfortably familiar, perhaps it ought to.

Radical

Like 'Magna Carta Uncovered', Vincent's study also provides the translation of the Charter's actual text, complete with handy glossary. Apart from being rather gorgeous and glossy, this book stresses the significance of Magna Carta as a genuinely radical document and repudiates those -- including some lawyers -- who have loftily dismissed it as 'a child of its time' concerned only with the rights of a few barons. These critics, says Vincent, 'have ignored the Charter's enduring statements against arbitrary power and the principles of freedom under the law.'

It shouldn't be too surprising then, that Magna Carta -- the most famous document in the history of England and perhaps the world -- 'has been cited in parliamentary, congressional and constitutional debates more frequently than any other text,' says Vincent, 'save only for the Christian Bible.'

Spell Binding

And so, in this anniversary year of 2015, the peculiar power of Magna Carta continues to cast its spell. As thousands of people -- in more or less a spirit of pilgrimage -- flock to see the original copies on display at the British Library, the Charter has acquired almost the status of a sacred scroll. This is a tad ironic in that it is a purely secular document devoid of religious references. But in these perilous times, it is a sobering thought that so many citizens feel the need to worship at its shrine so to speak, perhaps now more than ever.

Runnymede

It is also worth mentioning that a special tribute was paid to Magna Carta in the mid-twentieth century, in the form of a memorial erected by the American Bar Association on the banks of the Thames at Runnymede near where John was forced by those pesky barons, to affix his seal to the Charter. (It is not unfair to say that there is nowhere on earth where Magna Carta is more venerated than in America.)

And with the turmoil of the 13th century long gone this tranquil spot known as Cooper's Hill is presided over now by the National Trust which runs a tea shop nearby. But wear your wellies when you go. Frequently flooded by the Thames, the grassy water meadows leading up to the site are probably just as boggy as they were in the 13th century.

If some or all of this has whetted your appetite for tracking down other historically significant documentation inspired by Magna Carta, take a look at the six appendices in 'Magna Carta Uncovered,' which include The Petition of Right 1628, the Bill of Rights 1689 and the Bill of Rights 1789. (United States).

One might be tempted to add here that there was another and much earlier document upon which Magna Carta may have arguably, had an indirect, rather than a direct influence, namely the Declaration of Arbroath of 1324 -- a plea to the Pope in epistolary form for Scottish freedom from English conquest and domination.

Sadly, like Magna Carta over a century earlier, the Declaration initially sunk almost without trace, condemned to oblivion by another Pope. However, with that in-built virtue of survivability similar to that of Magna Carta it eventually became the inspiration, along with Magna Carta itself, for much of the content of the American Declaration of Independence.

Fragile

Freedom it seems is a fragile plant, vulnerable to continuing onslaughts by those who detest and fear it as a threat to their authority and power; and not without vigilance and struggle does it survive. But survive it does. The battle of the barons against their tyrannous king has been repeated in other ways and by other means -- some peaceful, some not -- down through the generations.

So it is reassuring to recall that under the seal of Henry III, Magna Carta was reissued 'in perpetuity'-- a solemn legal term as we know, but one that has turned out to be prophetic. Repressed and reviled by tyrants from one century to the next, Magna Carta has kept bouncing back, for it continues to champion that ever-present and all too human yearning for freedom and justice which, let's hope, will continue on 'in perpetuity'.

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