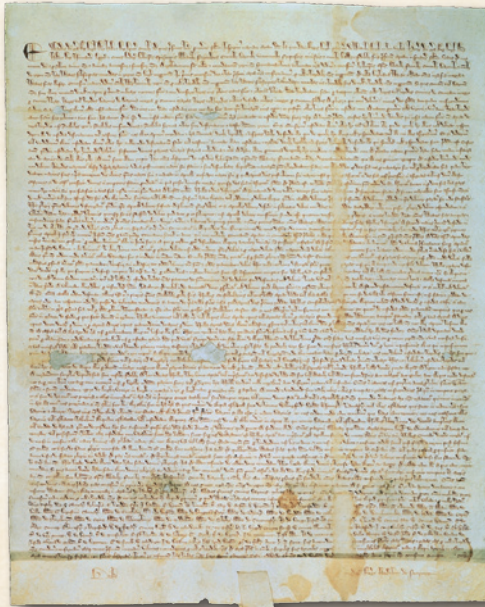


# Magna Carta

## Celebrating 800 years: its origins, influence and importance for today

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*Magna Carta is “the greatest constitutional document of all times – the foundation of the freedom of the individual against the arbitrary authority of the despot”. So said Lord Denning, a leading English judge of the 20th century. The charter establishes the principle that no one, not even the king, is above the law. This year we celebrate 800 years since it was agreed in 1215. Over that period it has been used to protect life, liberty and property, and as the basis for constitutional rights and liberties around the world. That is something for which Christians can thank God.*

### Did you know?

Photo:  
1297 version of  
Magna Carta



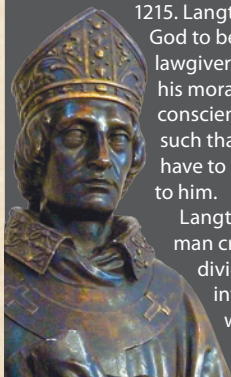
- Magna Carta means “Great Charter” in Latin
- Only four copies of the first Magna Carta survive today
- King John never ‘signed’ Magna Carta, he used his Great Seal
- It was written on sheepskin
- Magna Carta was reissued by later kings, including in 1216, 1217, 1225 and 1297
- Although only four clauses from the original charter still exist in law, it has had enormous influence on many of our other laws

**In 1215,** King John was at war with his barons over his abuse of power. Magna Carta, agreed as a settlement between the parties at Runnymede on 15 June 1215, established that a monarch could not rule as he pleased but was limited by the rights of his subjects.

## The guiding influence: Stephen Langton

Historians agree that the then Archbishop of Canterbury, Stephen Langton (c.1150-1228), played a significant role when Magna Carta was drafted. David Starkey has called Langton “the most intellectually distinguished Englishman of his day”. At the very least, he was a mediator between the two sides and drafted clauses protecting the church. Many believe Langton wrote other key parts of the charter. The ideas underpinning the charter’s clauses on religious freedom, individual liberty and restraint of authority can be seen in Langton’s writing before 1215. Langton understood God to be the great lawgiver who had placed his moral law on the consciences of all people such that each would have to give account to him.

Langton is also the man credited with dividing the Bible into the chapters we still use today.



## Governments and kings: Subjects of a higher law



Magna Carta assumes that the nation’s laws and rulers should be subject to God’s law. The Bible teaches there is a law written on the heart (Romans 2:15) – the conscience – which acts as a restraint on human conduct, though it cannot save and is subject to the influence of sin.

Christian theology generally refers to the concept of ‘natural law’, as accepted by Calvin and the Reformers.

The philosopher John Locke argued in his ‘Two Treatises of Government’ (1690) that governments exist to uphold

natural law. This law, wrote Locke, corresponds to the will of God. Locke cited 16th century theologian Richard Hooker who said that human laws are ‘ill made’ if they contradict scripture.

These arguments were crucial at the Nuremberg War Tribunal following the state-sanctioned Nazi atrocities in the Second World War. A defence of “I was just following orders” was no excuse. You can’t not know that murder is wrong. There are moral principles higher than governments and kings.

## Magna Carta through history: Key dates

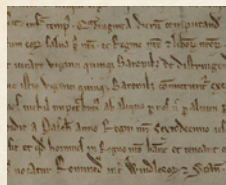
### 1199

John becomes king of England



### 1215

Magna Carta agreed at Runnymede



### 1225

Reissued by Henry III, son of John



# Magna Carta and UK law today



*After huge success in influencing legislation across the centuries, most of Magna Carta itself was repealed by the 19th century but four clauses still remain on the UK statute book. One, clause 13, deals with the freedom of the city of London. The most significant are original clauses 1 and 39 and 40.*

## Freedom of the church (Clause 1)

**Clause 1:** *“the English Church shall be free, and shall have its rights undiminished, and its liberties unimpaired”.*

The very first clause of Magna Carta sets out the freedom of the church. As if for emphasis, this principle was also repeated in the final clause: “the English Church shall be free”.

The inclusion of this guarantee of church freedom in the charter came after decades of dispute between the archbishops and the monarchy over kings meddling in the church. King John had tried to control appointments of bishops, as well as confiscating large areas of ecclesiastical land and diverting church revenues into royal coffers.

Magna Carta is very clear: it is not the proper role of the governing authorities to interfere in the running of the church. This principle has been challenged even in very recent times, with attempts to apply secular equality laws to church appointments.



## Individual liberty and justice for all (Clauses 39 and 40)

**Clause 39:** *“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 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.”*



**Clause 40:** *“To no one will we sell, to no one deny or delay right or justice.”*

These clauses, run together in the 1225 reissuing of Magna Carta, contain the seeds of many of the freedoms we have today. Among many others, modern-day street preachers have been defended on the basis of unlawful arrest and false imprisonment. These rights – like trial by jury, equal access to justice and defence against state confiscation of private property – have their roots in Magna Carta.

## 1297

Put onto statute books by Edward I



## 1331-1368

Further interpretation by statute, including development of trial by jury



## 1508

First printed edition, subsequently included in legal handbooks

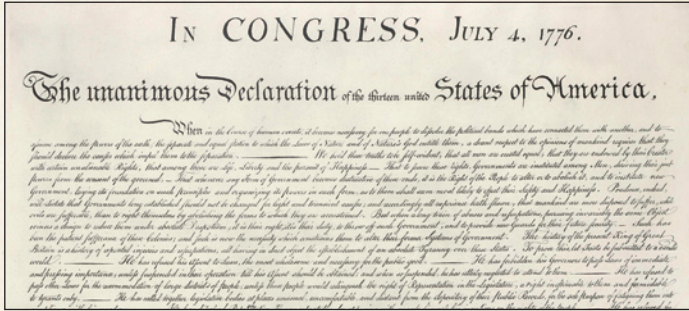


## 1628

Central in Sir Edward Coke's drafting of the Petition of Right to restrain Charles I's abuse of power



# A history of influence: Rights and freedoms



“ The greatest constitutional document of all times – the foundation of the freedom of the individual against the arbitrary authority of the despot.” ”



**Lord Denning, former Master of the Rolls**

“ Throughout the document it is implied that here there is a law above the King and which even he must not break. This reaffirmation of a supreme law and its expression in a general charter is the great work of Magna Carta; and this alone justifies the respect in which men have held it... Now for the first time the King himself is bound by the law. The root principle was destined to survive across the centuries.” ”



**Winston Churchill**

The influence of Magna Carta has been clearly evident at several key points in history.

### The English Civil War

In 1628, Parliament presented the Petition of Right to Charles I, accusing him of levying taxes without their consent, interfering with property rights and detaining people without charge – all actions prohibited by Magna Carta.

### The English Bill of Rights

After James II fled to France, William and Mary were offered the rule of England by Parliament. The joint monarchs assented to a Bill of Rights which, building on Magna Carta, set out limits to monarchical power and made it accountable to the people. This effectively established the sovereignty of Parliament.

### The American Revolution

The founding documents of the US colonies drew heavily on the charter. The Declaration of Independence (pictured) on 4 July 1776 asserted that George III had interfered with the rights of the colonists, including, most famously, imposing taxes without their consent, thereby contravening Magna Carta.

The Declaration recognises from the beginning that “all men are created equal, that they are endowed by their Creator with certain unalienable Rights”. Like Magna Carta before it, the US Declaration explicitly recognises God’s authority over and above any man-made institutions. Later when they drafted a new constitution, they included a Bill of Rights based in part on Magna Carta and the English Bill of Rights.

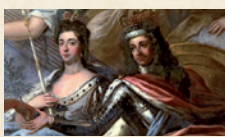
## 1679

Basis of Habeas Corpus Act, limiting detention without trial



## 1689

Underpinned the Bill of Rights accepted by William and Mary on taking the throne



## 1772

Used by Granville Sharp to argue against slavery in England



## 1776

Used in the writing of US Declaration of Independence and, in 1789, the Bill of Rights



## The story behind Magna Carta

King John (24 December 1166 – 19 October 1216) was probably one of the worst kings England has ever had. He murdered those who stood in his way, seized property, twisted the law to his own ends, imposed taxes without justification and usurped all other legitimate authority, attempting to rule as a tyrant.

In May 1215 the barons rebelled and an army was gathered to confront the King. This was a battle that John knew he could not win. So at Runnymede Magna Carta was drafted as a peace treaty. It remained in force for a mere ten weeks, but its influence has endured for 800 years. After John's death Magna Carta was reissued in 1216, 1217, 1225 and 1297. Its impact became permanent.



# Powerful ideas that guard against tyranny

**Freedom of religion.** The King must keep out of the internal affairs of the church.

**The right to private property.** The King cannot seize the property of others.

**The King is subject to the law.**

**No imprisonment without trial.** This would become the well-established legal principle of *habeas corpus*.

**The power of the King is held in check.** Magna Carta reinstated the Anglo-Saxon idea that the King ruled in council with his nobles.

**No taxation without representation.** This gave impetus to the establishment of Parliament.

**Trial by peers.** This eventually developed into the concept of trial by jury.

**The law must follow due process.**

Magna Carta enshrines powerful ideas that lie at the heart of our liberties. The legal rights that it speaks of applied only to the nobility and a substantial minority of the population

with the status of freemen. Yet Magna Carta came to set the trajectory for these freedoms to be extended to all classes of people.

Over the twists and turns of the centuries, with

many reversals and advances, these ideas have come to dominate the legal landscape.

The influence of Magna Carta spread to the USA and most countries in the West.

## 1948

Basis for UN's Universal Declaration of Human Rights



## 1957

American Bar Association erects monument to Magna Carta at Runnymede



## 2008

Used to defeat bid for 42-day detention without trial



## 2015

800th anniversary



# Granville Sharp: Charter in action

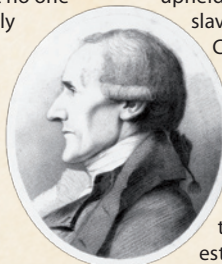
The prevailing legal and public opinion in 18th century England was that slavery was acceptable. But in 1772, evangelical Granville Sharp argued that English law stretching back to Magna Carta did not justify the practice. He later memorably remarked that “no power on earth” can make slavery right.

In the famous *Somerset* case, Sharp applied for a writ of *habeas corpus* for the freedom of James Somerset, arguing that as he was not the property of his master he could not be forcibly shipped to Jamaica.

*Habeas corpus* stemmed from the idea that no one can be unjustifiably detained by the state – an idea etched onto our legal landscape by Magna Carta.

Momentously, the court agreed with Sharp that slavery on English soil was contrary to centuries of English law and a writ of *habeas corpus* could be used to free any of the then 14,000 slaves in England.

After the *Somerset* case,



English courts consistently upheld the rights of former slaves against their masters.

Contemporary observers confirm that the 1772 *Somerset* decision effectively made slavery illegal in England.

And the principle that the *Somerset* case established – that slavery is “odious” and not supported by English law – helped pave the way for the eventual abolition of the slave trade (1807) and of slavery itself throughout the British Empire (1833).

## Sacrificing hard-won freedoms in the face of modern threats

The freedoms we enjoy in the UK, rooted in Magna Carta, have been hard-won over centuries of Christian influence. Yet at various points over the last 800 years, fundamental liberties have been undermined or ignored. Our own time is in serious danger of becoming one of those points.

Parliamentary sovereignty sits at the heart of our constitution. But that can be tyrannical if Parliament allows itself to be controlled or manipulated by the





government. Magna Carta helped to check the power of the king, making him subject to the law and not above it. Today, if our government comes to control the body that makes law, do we have sufficient checks on rulers' power?

High-profile

international terrorism has led to calls for new laws to protect the public. Of course, the authorities must have the resources to do their job effectively. But if we sacrifice core freedoms in the name of safety, we have lost the battle. Attempts to increase the detention

without charge period for terror suspects to 42 or even 90 days made headlines, but are just the tip of the iceberg. Proposed new blanket restrictions on free speech are too blunt to catch their real targets but instead threaten liberties of us all.

During times of war, there have been occasions when liberties have been restricted. But in a time when we face a ‘war on terror’ of indefinite length, how can we be sure freedoms lost now will ever be regained?

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