

# **The ancient History of Human Rights.**

## **The Magna Carta**

The Magna Carta, meaning "Great Charter" in Latin, is a landmark document signed by King John of England in 1215, establishing the principle that the king was not above the law and guaranteed certain rights to English barons, influencing the development of legal and political systems worldwide.

### **Historical Context:**

The Magna Carta emerged from a conflict between King John and his barons, who demanded limitations on royal power and protection of their rights.

### **Background**

Main article: John, King of England

An illuminated picture of King John riding a white horse and accompanied by four hounds. The King is chasing a stag, and several rabbits can be seen at the bottom of the picture.

King John on a stag hunt

Magna Carta originated as an unsuccessful attempt to achieve peace between royalist and rebel factions in 1215, as part of the events leading to the outbreak of the First Barons' War. England was ruled by King John, the third of the Angevin kings. Although the kingdom had a robust administrative system, the nature of government under the Angevin monarchs was ill-defined and uncertain. John and his predecessors had ruled using the principle of *vis et voluntas*, or "force and will", taking executive and sometimes arbitrary decisions, often justified on the basis that a king was above the law. Many contemporary writers believed that monarchs should rule in accordance with the custom and the law, with the counsel of the leading members of the realm, but there was no model for what should happen if a king refused to do so.

John had lost most of his ancestral lands in France to King Philip II in 1204 and had struggled to regain them for many years, raising extensive taxes on the barons to accumulate money to fight a war which ended in expensive failure in 1214. Following the defeat of his allies at the Battle of Bouvines, John had to sue for peace and pay compensation. John was already personally unpopular with many of the barons, many of whom owed money to the Crown, and little trust existed between the two sides. A triumph would have strengthened his position, but in the face of his defeat, within a few months after his return from France, John found that rebel barons in the north and east of England were organising resistance to his rule.

The rebels took an oath that they would "stand fast for the liberty of the church and the realm", and demanded that the King confirm the Charter of Liberties that had been declared by King Henry I in the previous century, and which was perceived by the barons to protect their rights. The rebel leadership was unimpressive by the standards of the time, even disreputable, but were united by their hatred of John;[17] Robert Fitzwalter, later elected leader of the rebel barons, claimed publicly that John had

attempted to rape his daughter, and was implicated in a plot to assassinate John in 1212.

A mural of Pope Innocent III, c. 1219

John held a council in London in January 1215 to discuss potential reforms, and sponsored discussions in Oxford between his agents and the rebels during the spring. Both sides appealed to Pope Innocent III for assistance in the dispute. During the negotiations, the rebellious barons produced an initial document, which historians have termed "the Unknown Charter of Liberties", which drew on Henry I's Charter of Liberties for much of its language; seven articles from that document later appeared in the "Articles of the Barons" and the subsequent charter.

It was John's hope that the Pope would give him valuable legal and moral support, and accordingly John played for time; the King had declared himself to be a papal vassal in 1213 and correctly believed he could count on the Pope for help.[21][25] John also began recruiting mercenary forces from France, although some were later sent back to avoid giving the impression that the King was escalating the conflict. In a further move to shore up his support, John took an oath to become a crusader, a move which gave him additional political protection under church law, even though many felt the promise was insincere.

Letters backing John arrived from the Pope in April, but by then the rebel barons had organised into a military faction. They congregated at Northampton in May and renounced their feudal ties to John, marching on London, Lincoln, and Exeter. John's efforts to appear moderate and conciliatory had been largely successful, but once the rebels held London, they attracted a fresh wave of defectors from the royalists. The King offered to submit the problem to a committee of arbitration with the Pope as the supreme arbiter, but this was not attractive to the rebels.[30] Stephen Langton, the archbishop of Canterbury, had been working with the rebel barons on their demands, and after the suggestion of papal arbitration failed, John instructed Langton to organise peace talks.

Great Charter of 1215

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

John met the rebel leaders at Runnymede, a water-meadow on the south bank of the River Thames, on 10 June 1215. Runnymede was a traditional place for assemblies, but it was also located on neutral ground between the royal fortress of Windsor Castle and the rebel base at Staines, and offered both sides the security of a rendezvous where they were unlikely to find themselves at a military disadvantage. Here the rebels presented John with their draft demands for reform, the 'Articles of the Barons'. Stephen Langton's pragmatic efforts at mediation over the next ten days turned these incomplete demands into a charter capturing the proposed peace agreement; a few years later, this agreement was renamed Magna Carta, meaning "Great Charter". By 15 June, general agreement had been made on a text, and on 19 June, the rebels renewed their oaths of loyalty to John and copies of the charter were formally issued.

Although, as the historian David Carpenter has noted, the charter "wasted no time on political theory", it went beyond simply addressing individual baronial complaints, and formed a wider proposal for political reform. It promised the protection of church rights, protection from illegal imprisonment, access to swift justice, and, most importantly, limitations on taxation and other feudal payments to the Crown, with certain forms of feudal taxation requiring baronial consent. It focused on the rights of free men—in particular, the barons. The rights of serfs were included in articles 16, 20 and 28. Its style and content reflected Henry I's Charter of Liberties, as well as a wider body of legal traditions, including the royal charters issued to towns, the operations of the Church and baronial courts and European charters such as the Statute of Pamiers. Magna Carta reflected other legal documents of its time, in England and beyond, which made broadly similar statements of rights and limitations on the powers of the Crown.

Under what historians later labelled "clause 61", or the "security clause", a council of 25 barons would be created to monitor and ensure John's future adherence to the charter. If John did not conform to the charter within 40 days of being notified of a transgression by the council, the 25 barons were empowered by clause 61 to seize John's castles and lands until, in their judgement, amends had been made. Men were to be compelled to swear an oath to assist the council in controlling the King, but once redress had been made for any breaches, the King would continue to rule as before.

This article is part of a series on Politics of the United Kingdom

John and the rebel barons did not trust each other, and neither side seriously attempted to implement the peace accord. The 25 barons selected for the new council were all rebels, chosen by the more extremist barons, and many among the rebels found excuses to keep their forces mobilised. Disputes began to emerge between the royalist faction and those rebels who had expected the charter to return lands that had been confiscated.

Clause 61 of Magna Carta contained a commitment from John that he would "seek to obtain nothing from anyone, in our own person or through someone else, whereby any of these grants or liberties may be revoked or diminished". Despite this, the King appealed to Pope Innocent for help in July, arguing that the charter compromised the Pope's rights as John's feudal lord. As part of the June peace deal, the barons were supposed to surrender London by 15 August, but this they refused to do. Meanwhile, instructions from the Pope arrived in August, written before the peace accord, with the result that papal commissioners excommunicated the rebel barons and suspended Langton from office in early September.

Once aware of the charter, the Pope responded in detail: in a letter dated 24 August and arriving in late September, he declared the charter to be "not only shameful and demeaning but also illegal and unjust" since John had been "forced to accept" it, and accordingly the charter was "null, and void of all validity for ever"; under threat of excommunication, the King was not to observe the charter, nor the barons try to enforce it.

By then, violence had broken out between the two sides. Less than three months after it had been agreed, John and the loyalist barons firmly repudiated the failed charter:

the First Barons' War erupted. The rebel barons concluded that peace with John was impossible, and turned to Philip II's son, the future Louis VIII, for help, offering him the English throne. The war soon settled into a stalemate. The King became ill and died on the night of 18 October 1216, leaving the nine-year-old Henry III as his heir.

#### Charters of the Welsh Princes

Magna Carta was the first document in which reference is made to English and Welsh law alongside one another, including the principle of the common acceptance of the lawful judgement of peers.

Chapter 56: The return of lands and liberties to Welshmen if those lands and liberties had been taken by English (and vice versa) without a law-abiding judgement of their peers.

Chapter 57: The return of Gruffudd ap Llywelyn ap Iorwerth, illegitimate son of Llywelyn ap Iorwerth (Llywelyn the Great) along with other Welsh hostages which were originally taken for "peace" and "good".

#### Great Charter of 1216

Although the Charter of 1215 was a failure as a peace treaty, it was resurrected under the new government of the young Henry III as a way of drawing support away from the rebel faction. On his deathbed, King John appointed a council of thirteen executors to help Henry reclaim the kingdom, and requested that his son be placed into the guardianship of William Marshal, one of the most famous knights in England. William knighted the boy, and Cardinal Guala Bicchieri, the papal legate to England, then oversaw his coronation at Gloucester Cathedral on 28 October.

The young King inherited a difficult situation, with over half of England occupied by the rebels. He had substantial support though from Guala, who intended to win the civil war for Henry and punish the rebels. Guala set about strengthening the ties between England and the Papacy, starting with the coronation itself, during which Henry gave homage to the Papacy, recognising the Pope as his feudal lord. Pope Honorius III declared that Henry was the Pope's vassal and ward, and that the legate had complete authority to protect Henry and his kingdom. As an additional measure, Henry took the cross, declaring himself a crusader and thereby entitled to special protection from Rome.

The war was not going well for the loyalists, but Prince Louis and the rebel barons were also finding it difficult to make further progress. John's death had defused some of the rebel concerns, and the royal castles were still holding out in the occupied parts of the country. Henry's government encouraged the rebel barons to come back to his cause in exchange for the return of their lands, and reissued a version of the 1215 Charter, albeit having first removed some of the clauses, including those unfavourable to the Papacy and clause 61, which had set up the council of barons. The move was not successful, and opposition to Henry's new government hardened.

In February 1217, Louis set sail for France to gather reinforcements. In his absence, arguments broke out between Louis' French and English followers, and Cardinal Guala declared that Henry's war against the rebels was the equivalent of a religious

crusade. This declaration resulted in a series of defections from the rebel movement, and the tide of the conflict swung in Henry's favour. Louis returned at the end of April, but his northern forces were defeated by William Marshal at the Battle of Lincoln in May.

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

In the absence of a settlement, Louis stayed in London with his remaining forces, hoping for the arrival of reinforcements from France. When the expected fleet arrived in August, it was intercepted and defeated by loyalists at the Battle of Sandwich. Louis entered into fresh peace negotiations. The factions came to agreement on the final Treaty of Lambeth, also known as the Treaty of Kingston, on 12 and 13 September 1217.

The treaty was similar to the first peace offer, but excluded the rebel clergy, whose lands and appointments remained forfeit. It included a promise that Louis' followers would be allowed to enjoy their traditional liberties and customs, referring back to the Charter of 1216. Louis left England as agreed. He joined the Albigensian Crusade in the south of France, bringing the war to an end.

A great council was called in October and November to take stock of the post-war situation. This council is thought to have formulated and issued the Charter of 1217. The charter resembled that of 1216, although some additional clauses were added to protect the rights of the barons over their feudal subjects, and the restrictions on the Crown's ability to levy taxation were watered down. There remained a range of disagreements about the management of the royal forests, which involved a special legal system that had resulted in a source of considerable royal revenue. Complaints existed over both the implementation of these courts, and the geographic boundaries of the royal forests.

A complementary charter, the Charter of the Forest, was created, pardoning existing forest offences, imposing new controls over the forest courts, and establishing a review of the forest boundaries.[100] To distinguish the two charters, the term 'magna carta Libertatum' ("the great charter of liberties") was used by the scribes to refer to the larger document, which in time became known simply as Magna Carta.

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

Magna Carta became increasingly embedded into English political life during Henry III's minority. As the King grew older, his government slowly began to recover from the civil war, regaining control of the counties and beginning to raise revenue once again, taking care not to overstep the terms of the charters. Henry remained a minor and his government's legal ability to make permanently binding decisions on his behalf was

limited. In 1223, the tensions over the status of the charters became clear in the royal court, when Henry's government attempted to reassert its rights over its properties and revenues in the counties, facing resistance from many communities that argued—if sometimes incorrectly—that the charters protected the new arrangements.

This resistance resulted in an argument between Archbishop Langton and William Brewer over whether the King had any duty to fulfil the terms of the charters, given that he had been forced to agree to them. On this occasion, Henry gave oral assurances that he considered himself bound by the charters, enabling a royal inquiry into the situation in the counties to progress.

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

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

Henry placed a symbolic emphasis on rebuilding royal authority, but his rule was relatively circumscribed by Magna Carta. He generally acted within the terms of the charters, which prevented the Crown from taking extrajudicial action against the barons, including the fines and expropriations that had been common under his father, John. The charters did not address the sensitive issues of the appointment of royal advisers and the distribution of patronage, and they lacked any means of enforcement if the King chose to ignore them. The inconsistency with which he applied the charters over the course of his rule alienated many barons, even those within his own faction.

Despite the various charters, the provision of royal justice was inconsistent and driven by the needs of immediate politics: sometimes action would be taken to address a legitimate baronial complaint, while on other occasions the problem would simply be ignored.[125] The royal courts, which toured the country to provide justice at the local level, typically for lesser barons and the gentry claiming grievances against major lords, had little power, allowing the major barons to dominate the local justice system.[126] Henry's rule became lax and careless, resulting in a reduction in royal authority in the provinces and, ultimately, the collapse of his authority at court.

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

Louis came down firmly in favour of Henry, but the French arbitration failed to achieve peace as the rebellious barons refused to accept the verdict. England slipped back into the Second Barons' War, which was won by Henry's son, the Lord Edward. Edward also invoked Magna Carta in advancing his cause, arguing that the reformers had taken matters too far and were themselves acting against Magna Carta. In a conciliatory gesture after the barons had been defeated, in 1267 Henry issued the Statute of Marlborough, which included a fresh commitment to observe the terms of Magna Carta.

Text of the Confirmation of the Charters (1297) as in force today (including any amendments) within the United Kingdom, from [legislation.gov.uk](http://legislation.gov.uk).

The Confirmation Cartarum (Confirmation of Charters) was issued in Norman language Norman French by Edward I in 1297.[135] Edward, needing money, had taxed the nobility, and they had armed themselves against him, forcing Edward to issue his confirmation of Magna Carta and the Forest Charter to avoid civil war.[136] The nobles had sought to add another document, the De Tallagio, to Magna Carta. Edward I's government was not prepared to concede this, they agreed to the issuing of the Confirmatio, confirming the previous charters and confirming the principle that taxation should be by consent, although the precise manner of that consent was not laid down.

A passage mandates that copies shall be distributed in "cathedral churches throughout our realm, there to remain, and shall be read before the people two times by the year", hence the permanent installation of a copy in Salisbury Cathedral. In the Confirmation's second article, it is confirmed that:

...if any judgement be given from henceforth contrary to the points of the charters aforesaid by the justices, or by any other our ministers that hold plea before them against the points of the charters, it shall be undone, and holden for nought.

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

Pope Clement V continued the papal policy of supporting monarchs (who ruled by divine grace) against any claims in Magna Carta which challenged the King's rights, and annulled the Confirmation Cantorum in 1305. Edward I interpreted Clement V's

papal bull annulling the Confirmation Cantorum as effectively applying to the Articuli super Cartas, although the latter was not specifically mentioned. In 1306 Edward I took the opportunity given by the Pope's backing to reassert forest law over large areas which had been "disafforested". Both Edward and the Pope were accused by some contemporary chroniclers of "perjury", and it was suggested by Robert McNair Scott that Robert the Bruce refused to make peace with Edward I's son, Edward II, in 1312 with the justification: "How shall the king of England keep faith with me, since he does not observe the sworn promises made to his liege men ...".

#### Magna Carta's influence on English medieval law

The Great Charter was referred to in legal cases throughout the medieval period. For example, in 1226, the knights of Lincolnshire argued that their local sheriff was changing customary practice regarding the local courts, "contrary to their liberty which they ought to have by the charter of the lord king". In practice, cases were not brought against the King for breach of Magna Carta and the Forest Charter, but it was possible to bring a case against the King's officers, such as his sheriffs, using the argument that the King's officers were acting contrary to liberties granted by the King in the charters.

In addition, medieval cases referred to the clauses in Magna Carta which dealt with specific issues such as wardship and dower, debt collection, and keeping rivers free for navigation. Even in the 13th century, some clauses of Magna Carta rarely appeared in legal cases, either because the issues concerned were no longer relevant, or because Magna Carta had been superseded by more relevant legislation. By 1350 half the clauses of Magna Carta were no longer actively used.

#### Magna carta cum statutes angliae ("Great Charter with English Statutes"), early 14th century

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

Between the 13th and 15th centuries Magna Carta was reconfirmed 32 times according to Sir Edward Coke, and possibly as many as 45 times. Often the first item of parliamentary business was a public reading and reaffirmation of the Charter, and, as in the previous century, parliaments often exacted confirmation of it from the monarch. The Charter was confirmed in 1423 by King Henry VI.

By the mid-15th century, Magna Carta ceased to occupy a central role in English political life, as monarchs reasserted authority and powers which had been challenged in the 100 years after Edward I's reign. The Great Charter remained a text for lawyers, particularly as a protector of property rights, and became more widely read than ever as printed versions circulated and levels of literacy increased.

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

During the 16th century, the interpretation of Magna Carta and the First Barons' War shifted. Henry VII took power at the end of the turbulent Wars of the Roses, followed

by Henry VIII, and extensive propaganda under both rulers promoted the legitimacy of the regime, the illegitimacy of any sort of rebellion against royal power, and the priority of supporting the Crown in its arguments with the Papacy.

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

The first mechanically printed edition of Magna Carta was probably the *Magna Carta cum aliis Antiquis Statutis* of 1508 by Richard Pynson, although the early printed versions of the 16th century incorrectly attributed the origins of Magna Carta to Henry III and 1225, rather than to John and 1215, and accordingly worked from the later text. An abridged English-language edition was published by John Rastell in 1527. Thomas Berthelet, Pynson's successor as the royal printer during 1530–1547, printed an edition of the text along with other "ancient statutes" in 1531 and 1540.

In 1534, George Ferrers published the first unabridged English-language edition of Magna Carta, dividing the Charter into 37 numbered clauses.

Magna Carta held by Sir Rowland Hill in his monument in Shropshire: his 16th Century funerary monument in London also showed him holding the document

The mid-sixteenth century funerary monument Sir Rowland Hill of Soulton, placed in St Stephens Wallbroke, included a full statue of the Tudor statesman and judge holding a copy of Magna Carta. Hill was a Mercer and a Lord Mayor of London; both of these statuses were shared with Serlo the Mercer who was a negotiator and enforcer of Magna Carta. The original monument was lost in the Great Fire of London, but it was restated on a 110 foot tall column on his family's estates in Shropshire.

At the end of the 16th century, there was an upsurge in antiquarian interest in Magna Carta in England. Legal historians concluded that there was a set of ancient English customs and laws which had been temporarily overthrown by the Norman invasion of 1066, and been recovered in 1215 and recorded in Magna Carta, which in turn gave authority to important 16th-century legal principles. Modern historians regard this narrative as fundamentally incorrect, and many refer to it as a "myth".

The antiquarian William Lambarde published what he believed were the Anglo-Saxon and Norman law codes, tracing the origins of the 16th-century English Parliament back to this period, but he misinterpreted the dates of many documents concerned. Francis Bacon argued that clause 39 of Magna Carta was the basis of the 16th-century jury system and judicial processes. Antiquarians Robert Beale, James Morice and Richard Cosin argued that Magna Carta was a statement of liberty and a fundamental, supreme law empowering English government. Those who questioned these conclusions, including the Member of Parliament Arthur Hall, faced sanctions.

Political tensions

The jurist Edward Coke made extensive political use of Magna Carta.

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

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

Sir Edward Coke was a leader in using Magna Carta as a political tool during this period. Still working from the 1225 version of the text – the first printed copy of the 1215 charter only emerged in 1610 – Coke spoke and wrote about Magna Carta repeatedly. His work was challenged at the time by Lord Ellesmere, and modern historians such as Ralph Turner and Claire Breay have critiqued Coke as "misconstruing" the original charter "anachronistically and uncritically", and taking a "very selective" approach to his analysis. More sympathetically, J. C. Holt noted that the history of the charters had already become "distorted" by the time Coke was carrying out his work.

The Leveller John Lilburne criticised Magna Carta as an inadequate definition of English liberties.

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

England descended into civil war in the 1640s, resulting in Charles I's execution in 1649. Under the republic that followed, some questioned whether Magna Carta, an agreement with a monarch, was still relevant. An anti-Cromwellian pamphlet published in 1660, *The English devil*, said that the nation had been "compelled to submit to this Tyrant Nol or be cut off by him; nothing but a word and a blow, his Will was his Law; tell him of Magna Carta, he would lay his hand on his sword and cry Magna Farta". In a 2005 speech the Lord Chief Justice of England and Wales, Lord Woolf, repeated the claim that Cromwell had referred to Magna Carta as "Magna Farta".

The radical groups that flourished during this period held differing opinions of Magna Carta. The Levellers rejected history and law as presented by their contemporaries, holding instead to an "anti-Normanism" viewpoint. John Lilburne, for example, argued that Magna Carta contained only some of the freedoms that had supposedly existed under the Anglo-Saxons before being crushed by the Norman yoke. The Leveller Richard Overton described the charter as "a beggarly thing containing many marks of intolerable bondage".

Both saw Magna Carta as a useful declaration of liberties that could be used against governments they disagreed with. Gerrard Winstanley, the leader of the more extreme Diggers, stated "the best lawes that England hath, [viz., Magna Carta] were got by our Forefathers importunate petitioning unto the kings that still were their Task-masters; and yet these best laws are yoaks and manicles, tying one sort of people to be slaves to another; Clergy and Gentry have got their freedom, but the common people still are, and have been left servants to work for them."

### Glorious Revolution

The first attempt at a proper historiography was undertaken by Robert Brady, who refuted the supposed antiquity of Parliament and belief in the immutable continuity of the law. Brady realised that the liberties of the Charter were limited and argued that the liberties were the grant of the King. By putting Magna Carta in historical context, he cast doubt on its contemporary political relevance; his historical understanding did not survive the Glorious Revolution, which, according to the historian J. G. A. Pocock, "marked a setback for the course of English historiography."

According to the Whig interpretation of history, the Glorious Revolution was an example of the reclaiming of ancient liberties. Reinforced with Lockean concepts, the Whigs believed England's constitution to be a social contract, based on documents such as Magna Carta, the Petition of Right, and the Bill of Rights. The English Liberties (1680, in later versions often British Liberties) by the Whig propagandist Henry Care (d. 1688) was a cheap polemical book that was influential and much-reprinted, in the American colonies as well as Britain, and made Magna Carta central to the history and the contemporary legitimacy of its subject.

Ideas about the nature of law in general were beginning to change. In 1716, the Septennial Act was passed, which had a number of consequences. First, it showed that Parliament no longer considered its previous statutes unassailable, as it provided for a maximum parliamentary term of seven years, whereas the Triennial Act (1694) (enacted less than a quarter of a century previously) had provided for a maximum term of three years.

It also greatly extended the powers of Parliament. Under this new constitution, monarchical absolutism was replaced by parliamentary supremacy. It was quickly realised that Magna Carta stood in the same relation to the King-in-Parliament as it had to the King without Parliament. This supremacy would be challenged by the likes of Granville Sharp. Sharp regarded Magna Carta as a fundamental part of the constitution, and maintained that it would be treason to repeal any part of it. He also held that the Charter prohibited slavery.

Sir William Blackstone published a critical edition of the 1215 Charter in 1759, and gave it the numbering system still used today. In 1763, Member of Parliament John Wilkes was arrested for writing an inflammatory pamphlet, No. 45, 23 April 1763; he cited Magna Carta continually. Lord Camden denounced the treatment of Wilkes as a contravention of Magna Carta. Thomas Paine, in his *Rights of Man*, would disregard Magna Carta and the Bill of Rights on the grounds that they were not a written constitution devised by elected representatives.

Use in the Thirteen Colonies and the United States

Magna Carta replica and display in the rotunda of the United States Capitol, Washington, D.C.

When English colonists left for the New World, they brought royal charters that established the colonies. The Massachusetts Bay Company charter, for example, stated that the colonists would "have and enjoy all liberties and immunities of free and natural subjects." The Virginia Charter of 1606, which was largely drafted by Sir Edward Coke, stated that the colonists would have the same "liberties, franchises and immunities" as people born in England. The Massachusetts Body of Liberties contained similarities to clause 29 of Magna Carta; when drafting it, the Massachusetts General Court viewed Magna Carta as the chief embodiment of English common law. The other colonies would follow their example. In 1638, Maryland sought to recognise Magna Carta as part of the law of the province, but the request was denied by Charles I.

In 1687, William Penn published *The Excellent Privilege of Liberty and Property: being the birth-right of the Free-Born Subjects of England*, which contained the first copy of Magna Carta printed on American soil. Penn's comments reflected Coke's, indicating a belief that Magna Carta was a fundamental law. The colonists drew on English law books, leading them to an anachronistic interpretation of Magna Carta, believing that it guaranteed trial by jury and habeas corpus.

The development of parliamentary supremacy in the British Isles did not constitutionally affect the Thirteen Colonies, which retained an adherence to English common law, but it directly affected the relationship between Britain and the colonies. When American colonists fought against Britain, they were fighting not so much for new freedom, but to preserve liberties and rights that they believed to be enshrined in Magna Carta.

In the late 18th century, the United States Constitution became the supreme law of the land, recalling the manner in which Magna Carta had come to be regarded as fundamental law. The Constitution's Fifth Amendment guarantees that "no person shall be deprived of life, liberty, or property, without due process of law", a phrase that was derived from Magna Carta. In addition, the Constitution included a similar writ in the Suspension Clause, Article 1, Section 9: "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it."

Each of these proclaim that no person may be imprisoned or detained without evidence that he or she committed a crime. The Ninth Amendment states that "The

enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." The writers of the U.S. Constitution wished to ensure that the rights they already held, such as those that they believed were provided by Magna Carta, would be preserved unless explicitly curtailed.

The U.S. Supreme Court has explicitly referenced Edward Coke's analysis of Magna Carta as an antecedent of the Sixth Amendment's right to a speedy trial.

### Interpretation

A romanticised 19th-century recreation of King John signing Magna Carta. Rather than signing in writing, the document would have been authenticated with the Great Seal and applied by officials rather than John himself.

Initially, the Whig interpretation of Magna Carta and its role in constitutional history remained dominant during the 19th century. The historian William Stubbs's *Constitutional History of England*, published in the 1870s, formed the high-water mark of this view. Stubbs argued that Magna Carta had been a major step in the shaping of the English nation, and he believed that the barons at Runnymede in 1215 were not just representing the nobility, but the people of England as a whole, standing up to a tyrannical ruler in the form of King John.

This view of Magna Carta began to recede. The late-Victorian jurist and historian Frederic William Maitland provided an alternative academic history in 1899, which began to return Magna Carta to its historical roots. In 1904, Edward Jenks published an article entitled "The Myth of Magna Carta", which undermined the previously accepted view of Magna Carta. Historians such as Albert Pollard agreed with Jenks in concluding that Edward Coke had largely "invented" the myth of Magna Carta in the 17th century; these historians argued that the 1215 charter had not referred to liberty for the people at large, but rather to the protection of baronial rights.

This view also became popular in wider circles, and in 1930 Sellar and Yeatman published their parody on English history, *1066 and All That*, in which they mocked the supposed importance of Magna Carta and its promises of universal liberty: "Magna Charter was therefore the chief cause of Democracy in England, and thus a Good Thing for everyone (except the Common People)".

In many literary representations of the medieval past, however, Magna Carta remained a foundation of English national identity. Some authors used the medieval roots of the document as an argument to preserve the social status quo, while others pointed to Magna Carta to challenge perceived economic injustices. The Baronial Order of Magna Charta was formed in 1898 to promote the ancient principles and values felt to be displayed in Magna Carta. The legal profession in England and the United States continued to hold Magna Carta in high esteem; they were instrumental in forming the Magna Carta Society in 1922 to protect the meadows at Runnymede from development in the 1920s, and in 1957, the American Bar Association erected the Magna Carta Memorial at Runnymede. The prominent lawyer Lord Denning described Magna Carta in 1956 as "the greatest constitutional document of all times—the foundation of the freedom of the individual against the arbitrary authority of the despot".

## Repeal of articles and constitutional influence

Radicals such as Sir Francis Burdett believed that Magna Carta could not be repealed, but in the 19th century clauses which were obsolete or had been superseded began to be repealed. The repeal of clause 26 in 1829, by the Offences Against the Person Act 1828. It was the first time a clause of Magna Carta was repealed. Over the next 140 years, nearly the whole of Magna Carta (1297) as statute was repealed, leaving just clauses 1, 9 and 29 still in force (in England and Wales) after 1969. Most of the clauses were repealed in England and Wales by the Statute Law Revision Act 1863, and in modern Northern Ireland and also in the modern Republic of Ireland by the Statute Law Revision (Ireland) Act 1872.

Many later attempts to draft constitutional forms of government trace their lineage back to Magna Carta. The British dominions, Australia and New Zealand, Canada (except Quebec), and formerly the Union of South Africa and Southern Rhodesia, reflected the influence of Magna Carta in their laws, and the Charter's effects can be seen in the laws of other states that evolved from the British Empire.

## Modern legacy

The Magna Carta Memorial at Runnymede, designed by Sir Edward Maufe and erected by the American Bar Association in 1957. The memorial stands in the meadow known historically as Long Mede: it is likely that the actual site of the sealing of Magna Carta lay further east, towards Egham and Staines.

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

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

It also remains a topic of great interest to historians; Natalie Fryde characterised the charter as "one of the holiest of cows in English medieval history", with the debates over its interpretation and meaning unlikely to end. The majority of contemporary

historians however see the interpretation of the charter as a unique and early charter of legal rights as a myth that was created centuries later.

In many ways still a "sacred text", Magna Carta is generally considered part of the uncodified constitution of the United Kingdom; in a 2005 speech, the Lord Chief Justice of England and Wales, Lord Woolf, described it as the "first of a series of instruments that now are recognised as having a special constitutional status". Magna Carta was reprinted in New Zealand in 1881 as one of the Imperial Acts in force there. Clause 29 of the document remains in force as part of New Zealand law.

The ceremony in the Capitol rotunda honouring the arrival of Magna Carta in 1976

The document also continues to be honoured in the United States as an antecedent of the United States Constitution and Bill of Rights. In 1976, the UK lent one of four surviving originals of the 1215 Magna Carta to the United States for their bicentennial celebrations and also donated an ornate display case for it. The original was returned after one year, but a replica and the case are still on display in the United States Capitol Crypt in Washington, D.C.

The king and the rebel barons negotiated a peace settlement in June 1215. The king agreed to accept the terms of Magna Carta, which is dated 15 June 1215.

JOHN, by the grace of God King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Count of Anjou, to his archbishops, bishops, abbots, earls, barons, justices, foresters, sheriffs, stewards, servants, and to all his officials and loyal subjects, Greeting.

KNOW THAT BEFORE GOD, for the health of our soul and those of our ancestors and heirs, to the honour of God, the exaltation of the holy Church, and the better ordering of our kingdom, at the advice of our reverend fathers Stephen, archbishop of Canterbury, primate of all England, and cardinal of the holy Roman Church, Henry archbishop of Dublin, William bishop of London, Peter bishop of Winchester, Jocelin bishop of Bath and Glastonbury, Hugh bishop of Lincoln, Walter bishop of Worcester, William bishop of Coventry, Benedict bishop of Rochester, Master Pandulf subdeacon and member of the papal household, Brother Aymeric master of the knighthood of the Temple in England, William Marshal earl of Pembroke, William earl of Salisbury, William earl of Warren, William earl of Arundel, Alan of Galloway constable of Scotland, Warin fitz Gerald, Peter fitz Herbert, Hubert de Burgh seneschal of Poitou, Hugh de Neville, Matthew fitz Herbert, Thomas Basset, Alan Basset, Philip Daubeny, Robert de Roppeley, John Marshal, John fitz Hugh, and other loyal subjects:

### **Significance.**

It established the principle that even the monarch was subject to the law, a concept that was revolutionary at the time.

The Magna Carta addressed various issues, including:

Protection of Rights: It guaranteed certain rights to "free men," including protection from arbitrary imprisonment and the right to a fair trial.

Feudal Practices: It addressed issues related to feudal obligations, such as taxation and inheritance.

Standardization: It included provisions for standardized weights and measures.

### **Modern Relevance.**

While many of the specific clauses are no longer directly relevant, the principles enshrined in the Magna Carta, such as the rule of law and individual rights, remain highly influential today.

### **Key Clauses.**

"No freeman shall be taken, imprisoned, disseised, outlawed, banished, or in any way destroyed, nor will We proceed against or prosecute him, except by the lawful judgment of his peers or by the law of the land."

"We will grant to all freemen of our kingdom the right to have their own property and not be taken from them without due process of law."

"We will not deny to any man justice or delay it."

The Magna Carta is important because it was the first document to put into writing the principle that the king and his government were not above the law, establishing the rule of law and laying the foundation for individual rights and liberties, influencing legal systems globally.

### **Here's a more detailed explanation of why the Magna Carta is significant:**

#### 1. Foundation of the Rule of Law:

Before 1215, the idea of a monarch being subject to law was not widely accepted.

The Magna Carta, meaning "Great Charter," forced King John to acknowledge that even the king was bound by the law, not above it.

It established the principle that all people, including the king, should be fairly and equally ruled by the law.

#### 2. Protection of Liberties and Rights:

The Magna Carta guaranteed certain rights and freedoms for "free men," including protection from arbitrary imprisonment, taxation without consent, and the right to a fair trial.

It established the principle of due process and equality before the law.

It also contained provisions forbidding bribery and official misconduct.

### **Influence on Legal Systems:**

The Magna Carta laid the foundation for English common law, which has influenced legal systems worldwide.

It served as a model for later documents, such as the Bill of Rights in the United States, which also enshrined fundamental rights and liberties.

The principles of the Magna Carta, such as the rule of law, due process, and protection of individual rights, continue to be relevant and important today.

### **Historical Significance:**

The Magna Carta was a crucial turning point in the struggle to establish freedom and limit the power of the monarchy.

It was a landmark document in the development of modern democracy and human rights.

It remains a symbol of liberty and a reminder that even the most powerful individuals are subject to the law.

### **Magna Carta - UK Parliament**

Magna Carta was issued in June 1215 and was the first document to put into writing the principle that the king and his government ...

UK Parliament

Why is Magna Carta significant? - UK Parliament

Magna Carta is significant because it is a statement of law that applied to the kings as well as to his subjects. Although the ide...

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Magna Carta | Definition, History, Summary, Dates ... - Britannica

Feb 27, 2025 — The Magna Carta ("Great Charter") is a document guaranteeing English political liberties that was drafted at Runnymede...

Magna Carta was issued in June 1215 and was the first document to put into writing the principle that the king and his government was not above the law. It sought to prevent the king from exploiting his power, and placed limits of royal authority by establishing law as a power in itself.

Magna Carta Libertatum (Medieval Latin for "Great Charter of Freedoms"), commonly called Magna Carta or sometimes Magna Charta ("Great Charter"), is a royal charter of rights agreed to by King John of England at Runnymede, near Windsor, on 15 June 1215. First drafted by the Archbishop of Canterbury, Cardinal Stephen Langton, to make peace between the unpopular king and a group of rebel barons who demanded that the King confirm the Charter of Liberties, it promised the protection of church rights, protection for the barons from illegal imprisonment, access to swift and impartial justice, and limitations on feudal payments to the Crown, to be implemented through a council of 25 barons. Neither side stood by their commitments, and the charter was annulled by Pope Innocent III, leading to the First Barons' War.

After John's death, the regency government of his young son, Henry III, reissued the document in 1216, stripped of some of its more radical content, in an unsuccessful bid to build political support for their cause. At the end of the war in 1217, it formed part of the peace treaty agreed at Lambeth, where the document acquired the name "Magna

Carta", to distinguish it from the smaller Charter of the Forest, which was issued at the same time. Short of funds, Henry reissued the charter again in 1225 in exchange for a grant of new taxes. His son, Edward I, repeated the exercise in 1297, this time confirming it as part of England's statute law. However, Magna Carta was not unique; other legal documents of its time, both in England and beyond, made broadly similar statements of rights and limitations on the powers of the Crown. The charter became part of English political life and was typically renewed by each monarch in turn, although as time went by and the fledgling Parliament of England passed new laws, it lost some of its practical significance.

At the end of the 16th century, there was an upsurge in interest in Magna Carta. Lawyers and historians at the time believed that there was an ancient English constitution, going back to the days of the Anglo-Saxons, that protected individual English freedoms. They argued that the Norman invasion of 1066 had overthrown these rights and that Magna Carta had been a popular attempt to restore them, making the charter an essential foundation for the contemporary powers of Parliament and legal principles such as habeas corpus. Although this historical account was badly flawed, jurists such as Sir Edward Coke invoked Magna Carta extensively in the early 17th century, arguing against the divine right of kings. Both James I and his son Charles I attempted to suppress the discussion of Magna Carta. The political myth of Magna Carta that it dealt with the protection of ancient personal liberties persisted after the Glorious Revolution of 1688 until well into the 19th century. It influenced the early American colonists in the Thirteen Colonies and the formation of the United States Constitution, which became the supreme law of the land in the new republic of the United States.

Research by Victorian historians showed that the original 1215 charter had concerned the medieval relationship between the monarch and the barons, and not ordinary subjects. The majority of historians now see the interpretation of the charter as a unique and early charter of universal legal rights as a myth that was created centuries later. Despite the changes in views of historians, the charter has remained a powerful, iconic document, even after almost all of its content was repealed from the statute books in the 19th and 20th centuries. Magna Carta still forms an important symbol of liberty today, often cited by politicians and campaigners, and is held in great respect by the British and American legal communities, Lord Denning describing it in 1956 as "the greatest constitutional document of all times—the foundation of the freedom of the individual against the arbitrary authority of the despot". In the 21st century, four exemplifications of the original 1215 charter remain in existence, two at the British Library, one at Lincoln Castle and one at Salisbury Cathedral. There are also a handful of the subsequent charters in public and private ownership, including copies of the 1297 charter in both the United States and Australia. The 800th anniversary of Magna Carta in 2015 included extensive celebrations and discussions, and the four original 1215 charters were displayed together at the British Library. None of the original 1215 Magna Carta is currently in force since it has been repealed; however, four clauses of the original charter are enshrined in the 1297 reissued Magna Carta and do still remain in force in England and Wales.

(1) FIRST, THAT WE HAVE GRANTED TO GOD, and by this present charter have confirmed for us and our heirs in perpetuity, that the English Church shall be free, and shall have its rights undiminished, and its liberties unimpaired. That we wish this so to be observed, appears from the fact that of our own free will, before the outbreak of the present dispute between us and our barons, we granted and confirmed by charter the freedom of the Church's elections – a right reckoned to be of the greatest necessity and importance to it – and caused this to be confirmed by Pope Innocent III. This freedom we shall observe ourselves, and desire to be observed in good faith by our heirs in perpetuity. TO ALL FREE MEN OF OUR KINGDOM we have also granted, for us and our heirs for ever, all the liberties written out below, to have and to keep for them and their heirs, of us and our heirs:

(2) If any earl, baron, or other person that holds lands directly of the Crown, for military service, shall die, and at his death his heir shall be of full age and owe a 'relief', the heir shall have his inheritance on payment of the ancient scale of 'relief'. That is to say, the heir or heirs of an earl shall pay £100 for the entire earl's barony, the heir or heirs of a knight 100s. at most for the entire knight's 'fee', and any man that owes less shall pay less, in accordance with the ancient usage of 'fees'.

(3) But if the heir of such a person is under age and a ward, when he comes of age he shall have his inheritance without 'relief' or fine.

(4) The guardian of the land of an heir who is under age shall take from it only reasonable revenues, customary dues, and feudal services. He shall do this without destruction or damage to men or property. If we have given the guardianship of the land to a sheriff, or to any person answerable to us for the revenues, and he commits destruction or damage, we will exact compensation from him, and the land shall be entrusted to two worthy and prudent men of the same 'fee', who shall be answerable to us for the revenues, or to the person to whom we have assigned them. If we have given or sold to anyone the guardianship of such land, and he causes destruction or damage, he shall lose the guardianship of it, and it shall be handed over to two worthy and prudent men of the same 'fee', who shall be similarly answerable to us.

(5) For so long as a guardian has guardianship of such land, he shall maintain the houses, parks, fish preserves, ponds, mills, and everything else pertaining to it, from the revenues of the land itself. When the heir comes of age, he shall restore the whole land to him, stocked with plough teams and such implements of husbandry as the season demands and the revenues from the land can reasonably bear.

(6) Heirs may be given in marriage, but not to someone of lower social standing. Before a marriage takes place, it shall be made known to the heir's next-of-kin.

(7) At her husband's death, a widow may have her marriage portion and inheritance at once and without trouble. She shall pay nothing for her dower, marriage portion, or any inheritance that she and her husband held jointly on the day of his death. She may remain in her husband's house for forty days after his death, and within this period her dower shall be assigned to her.

(8) No widow shall be compelled to marry, so long as she wishes to remain without a husband. But she must give security that she will not marry without royal consent, if

she holds her lands of the Crown, or without the consent of whatever other lord she may hold them of.

(9) Neither we nor our officials will seize any land or rent in payment of a debt, so long as the debtor has movable goods sufficient to discharge the debt. A debtor's sureties shall not be distrained upon so long as the debtor himself can discharge his debt. If, for lack of means, the debtor is unable to discharge his debt, his sureties shall be answerable for it. If they so desire, they may have the debtor's lands and rents until they have received satisfaction for the debt that they paid for him, unless the debtor can show that he has settled his obligations to them.

(10) If anyone who has borrowed a sum of money from Jews dies before the debt has been repaid, his heir shall pay no interest on the debt for so long as he remains under age, irrespective of whom he holds his lands. If such a debt falls into the hands of the Crown, it will take nothing except the principal sum specified in the bond.

(11) If a man dies owing money to Jews, his wife may have her dower and pay nothing towards the debt from it. If he leaves children that are under age, their needs may also be provided for on a scale appropriate to the size of his holding of lands. The debt is to be paid out of the residue, reserving the service due to his feudal lords. Debts owed to persons other than Jews are to be dealt with similarly.

(12) No 'scutage' or 'aid' may be levied in our kingdom without its general consent, unless it is for the ransom of our person, to make our eldest son a knight, and (once) to marry our eldest daughter. For these purposes only a reasonable 'aid' may be levied. 'Aids' from the city of London are to be treated similarly.

(13) The city of London shall enjoy all its ancient liberties and free customs, both by land and by water. We also will and grant that all other cities, boroughs, towns, and ports shall enjoy all their liberties and free customs.

(14) To obtain the general consent of the realm for the assessment of an 'aid' – except in the three cases specified above – or a 'scutage', we will cause the archbishops, bishops, abbots, earls, and greater barons to be summoned individually by letter. To those who hold lands directly of us we will cause a general summons to be issued, through the sheriffs and other officials, to come together on a fixed day (of which at least forty days notice shall be given) and at a fixed place. In all letters of summons, the cause of the summons will be stated. When a summons has been issued, the business appointed for the day shall go forward in accordance with the resolution of those present, even if not all those who were summoned have appeared.

(15) In future we will allow no one to levy an 'aid' from his free men, except to ransom his person, to make his eldest son a knight, and (once) to marry his eldest daughter. For these purposes only a reasonable 'aid' may be levied.

(16) No man shall be forced to perform more service for a knight's 'fee', or other free holding of land, than is due from it.

(17) Ordinary lawsuits shall not follow the royal court around, but shall be held in a fixed place.

(18) Inquests of novel disseisin, mort d'ancestor, and darrein presentment shall be taken only in their proper county court. We ourselves, or in our absence abroad our chief justice, will send two justices to each county four times a year, and these justices, with four knights of the county elected by the county itself, shall hold the assizes in the county court, on the day and in the place where the court meets.

(19) If any assizes cannot be taken on the day of the county court, as many knights and freeholders shall afterwards remain behind, of those who have attended the court, as will suffice for the administration of justice, having regard to the volume of business to be done.

(20) For a trivial offence, a free man shall be fined only in proportion to the degree of his offence, and for a serious offence correspondingly, but not so heavily as to deprive him of his livelihood. In the same way, a merchant shall be spared his merchandise, and a villein the implements of his husbandry, if they fall upon the mercy of a royal court. None of these fines shall be imposed except by the assessment on oath of reputable men of the neighbourhood.

(21) Earls and barons shall be fined only by their equals, and in proportion to the gravity of their offence.

(22) A fine imposed upon the lay property of a clerk in holy orders shall be assessed upon the same principles, without reference to the value of his ecclesiastical benefice.

(23) No town or person shall be forced to build bridges over rivers except those with an ancient obligation to do so.

(24) No sheriff, constable, coroners, or other royal officials are to hold lawsuits that should be held by the royal justices.

(25) Every county, hundred, wapentake, and tithing shall remain at its ancient rent, without increase, except the royal demesne manors.

(26) If at the death of a man who holds a lay 'fee' of the Crown, a sheriff or royal official produces royal letters patent of summons for a debt due to the Crown, it shall be lawful for them to seize and list movable goods found in the lay 'fee' of the dead man to the value of the debt, as assessed by worthy men. Nothing shall be removed until the whole debt is paid, when the residue shall be given over to the executors to carry out the dead man's will. If no debt is due to the Crown, all the movable goods shall be regarded as the property of the dead man, except the reasonable shares of his wife and children.

(27) If a free man dies intestate, his movable goods are to be distributed by his next-of-kin and friends, under the supervision of the Church. The rights of his debtors are to be preserved.

(28) No constable or other royal official shall take corn or other movable goods from any man without immediate payment, unless the seller voluntarily offers postponement of this.

(29) No constable may compel a knight to pay money for castle-guard if the knight is willing to undertake the guard in person, or with reasonable excuse to supply some

other fit man to do it. A knight taken or sent on military service shall be excused from castle-guard for the period of this service.

(30) No sheriff, royal official, or other person shall take horses or carts for transport from any free man, without his consent.

(31) Neither we nor any royal official will take wood for our castle, or for any other purpose, without the consent of the owner.

(32) We will not keep the lands of people convicted of felony in our hand for longer than a year and a day, after which they shall be returned to the lords of the 'fees' concerned.

(33) All fish-weirs shall be removed from the Thames, the Medway, and throughout the whole of England, except on the sea coast.

(34) The writ called precipe shall not in future be issued to anyone in respect of any holding of land, if a free man could thereby be deprived of the right of trial in his own lord's court.

(35) There shall be standard measures of wine, ale, and corn (the London quarter), throughout the kingdom. There shall also be a standard width of dyed cloth, russet, and haberject, namely two ells within the selvedge's. Weights are to be standardised similarly.

(36) In future nothing shall be paid or accepted for the issue of a writ of inquisition of life or limbs. It shall be given gratis, and not refused.

(37) If a man holds land of the Crown by 'fee-farm', 'socage', or 'burgage', and also holds land of someone else for knight's service, we will not have guardianship of his heir, nor of the land that belongs to the other person's 'fee', by virtue of the 'fee-farm', 'socage', or 'burgage', unless the 'fee-farm' owes knight's service. We will not have the guardianship of a man's heir, or of land that he holds of someone else, by reason of any small property that he may hold of the Crown for a service of knives, arrows, or the like.

(38) In future no official shall place a man on trial upon his own unsupported statement, without producing credible witnesses to the truth of it.

(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.

(40) To no one will we sell, to no one deny or delay right or justice.

(41) All merchants may enter or leave England unharmed and without fear, and may stay or travel within it, by land or water, for purposes of trade, free from all illegal exactions, in accordance with ancient and lawful customs. This, however, does not apply in time of war to merchants from a country that is at war with us. Any such merchants found in our country at the outbreak of war shall be detained without injury to their persons or property, until we or our chief justice have discovered how our own

merchants are being treated in the country at war with us. If our own merchants are safe, they shall be safe too.

(42) In future it shall be lawful for any man to leave and return to our kingdom unharmed and without fear, by land or water, preserving his allegiance to us, except in time of war, for some short period, for the common benefit of the realm. People that have been imprisoned or outlawed in accordance with the law of the land, people from a country that is at war with us, and merchants – who shall be dealt with as stated above – are excepted from this provision.

(43) If a man holds lands of any 'escheat' such as the 'honour' of Wallingford, Nottingham, Boulogne, Lancaster, or of other 'escheats' in our hand that are baronies, at his death his heir shall give us only the 'relief' and service that he would have made to the baron, had the barony been in the baron's hand. We will hold the 'escheat' in the same manner as the baron held it.

(44) People who live outside the forest need not in future appear before the royal justices of the forest in answer to general summonses, unless they are actually involved in proceedings or are sureties for someone who has been seized for a forest offence.

(45) 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.

(46) All barons who have founded abbeys, and have charters of English kings or ancient tenure as evidence of this, may have guardianship of them when there is no abbot, as is their due.

(47) All forests that have been created in our reign shall at once be disafforested. River-banks that have been enclosed in our reign shall be treated similarly.

(48) All evil customs relating to forests and warrens, foresters, warreners, sheriffs and their servants, or river-banks and their wardens, are at once to be investigated in every county by twelve sworn knights of the county, and within forty days of their enquiry the evil customs are to be abolished completely and irrevocably. But we, or our chief justice if we are not in England, are first to be informed.

(49) We will at once return all hostages and charters delivered up to us by Englishmen as security for peace or for loyal service.

(50) We will remove completely from their offices the kinsmen of Gerard de Athée, and in future they shall hold no offices in England. The people in question are Engelard de Cigogné, Peter, Guy, and Andrew de Chanceaux, Guy de Cigogné, Geoffrey de Martigny and his brothers, Philip Marc and his brothers, with Geoffrey his nephew, and all their followers.

(51) As soon as peace is restored, we will remove from the kingdom all the foreign knights, bowmen, their attendants, and the mercenaries that have come to it, to its harm, with horses and arms.

(52) To any man whom we have deprived or dispossessed of lands, castles, liberties, or rights, without the lawful judgment of his equals, we will at once restore these. In

cases of dispute the matter shall be resolved by the judgment of the twenty-five barons referred to below in the clause for securing the peace (§61). In cases, however, where a man was deprived or dispossessed of something without the lawful judgment of his equals by our father King Henry or our brother King Richard, and it remains in our hands or is held by others under our warranty, we shall have respite for the period commonly allowed to Crusaders, unless a lawsuit had been begun, or an enquiry had been made at our order, before we took the Cross as a Crusader. On our return from the Crusade, or if we abandon it, we will at once render justice in full.

(53) We shall have similar respite in rendering justice in connexion with forests that are to be disafforested, or to remain forests, when these were first afforested by our father Henry or our brother Richard; with the guardianship of lands in another person's 'fee', when we have hitherto had this by virtue of a 'fee' held of us for knight's service by a third party; and with abbeys founded in another person's 'fee', in which the lord of the 'fee' claims to own a right. On our return from the Crusade, or if we abandon it, we will at once do full justice to complaints about these matters.

(54) No one shall be arrested or imprisoned on the appeal of a woman for the death of any person except her husband.

(55) All fines that have been given to us unjustly and against the law of the land, and all fines that we have exacted unjustly, shall be entirely remitted or the matter decided by a majority judgment of the twenty-five barons referred to below in the clause for securing the peace (§61) together with Stephen, archbishop of Canterbury, if he can be present, and such others as he wishes to bring with him. If the archbishop cannot be present, proceedings shall continue without him, provided that if any of the twenty-five barons has been involved in a similar suit himself, his judgment shall be set aside, and someone else chosen and sworn in his place, as a substitute for the single occasion, by the rest of the twenty-five.

(56) If we have deprived or dispossessed any Welshmen of land, liberties, or anything else in England or in Wales, without the lawful judgment of their equals, these are at once to be returned to them. A dispute on this point shall be determined in the Marches by the judgment of equals. English law shall apply to holdings of land in England, Welsh law to those in Wales, and the law of the Marches to those in the Marches. The Welsh shall treat us and ours in the same way.

(57) In cases where a Welshman was deprived or dispossessed of anything, without the lawful judgment of his equals, by our father King Henry or our brother King Richard, and it remains in our hands or is held by others under our warranty, we shall have respite for the period commonly allowed to Crusaders, unless a lawsuit had been begun, or an enquiry had been made at our order, before we took the Cross as a Crusader. But on our return from the Crusade, or if we abandon it, we will at once do full justice according to the laws of Wales and the said regions.

(58) We will at once return the son of Llywelyn, all Welsh hostages, and the charters delivered to us as security for the peace.

(59) With regard to the return of the sisters and hostages of Alexander, king of Scotland, his liberties and his rights, we will treat him in the same way as our other

barons of England, unless it appears from the charters that we hold from his father William, formerly king of Scotland, that he should be treated otherwise. This matter shall be resolved by the judgment of his equals in our court.

(60) All these customs and liberties that we have granted shall be observed in our kingdom in so far as concerns our own relations with our subjects. Let all men of our kingdom, whether clergy or laymen, observe them similarly in their relations with their own men.

(61) SINCE WE HAVE GRANTED ALL THESE THINGS for God, for the better ordering of our kingdom, and to allay the discord that has arisen between us and our barons, and since we desire that they shall be enjoyed in their entirety, with lasting strength, for ever, we give and grant to the barons the following security:

The barons shall elect twenty-five of their number to keep, and cause to be observed with all their might, the peace and liberties granted and confirmed to them by this charter.

If we, our chief justice, our officials, or any of our servants offend in any respect against any man, or transgress any of the articles of the peace or of this security, and the offence is made known to four of the said twenty-five barons, they shall come to us – or in our absence from the kingdom to the chief justice – to declare it and claim immediate redress. If we, or in our absence abroad the chief justice, make no redress within forty days, reckoning from the day on which the offence was declared to us or to him, the four barons shall refer the matter to the rest of the twenty-five barons, who may distrain upon and assail us in every way possible, with the support of the whole community of the land, by seizing our castles, lands, possessions, or anything else saving only our own person and those of the queen and our children, until they have secured such redress as they have determined upon. Having secured the redress, they may then resume their normal obedience to us.

Any man who so desires may take an oath to obey the commands of the twenty-five barons for the achievement of these ends, and to join with them in assailing us to the utmost of his power. We give public and free permission to take this oath to any man who so desires, and at no time will we prohibit any man from taking it. Indeed, we will compel any of our subjects who are unwilling to take it to swear it at our command.

If one of the twenty-five barons dies or leaves the country, or is prevented in any other way from discharging his duties, the rest of them shall choose another baron in his place, at their discretion, who shall be duly sworn in as they were.

In the event of disagreement among the twenty-five barons on any matter referred to them for decision, the verdict of the majority present shall have the same validity as a unanimous verdict of the whole twenty-five, whether these were all present or some of those summoned were unwilling or unable to appear.

The twenty-five barons shall swear to obey all the above articles faithfully, and shall cause them to be obeyed by others to the best of their power.

We will not seek to procure from anyone, either by our own efforts or those of a third party, anything by which any part of these concessions or liberties might be revoked

or diminished. Should such a thing be procured, it shall be null and void and we will at no time make use of it, either ourselves or through a third party.

(62) We have remitted and pardoned fully to all men any ill-will, hurt, or grudges that have arisen between us and our subjects, whether clergy or laymen, since the beginning of the dispute. We have in addition remitted fully, and for our own part have also pardoned, to all clergy and laymen any offences committed as a result of the said dispute between Easter in the sixteenth year of our reign (i.e. 1215) and the restoration of peace.

In addition, we have caused letters patent to be made for the barons, bearing witness to this security and to the concessions set out above, over the seals of Stephen archbishop of Canterbury, Henry archbishop of Dublin, the other bishops named above, and Master Pandulf.

(63) IT IS ACCORDINGLY OUR WISH AND COMMAND that the English Church shall be free, and that men in our kingdom shall have and keep all these liberties, rights, and concessions, well and peaceably in their fullness and entirety for them and their heirs, of us and our heirs, in all things and all places for ever.

Both we and the barons have sworn that all this shall be observed in good faith and without deceit. Witness the abovementioned people and many others.

Given by our hand in the meadow that is called Runnymede, between Windsor and Staines, on the fifteenth day of June in the seventeenth year of our reign (i.e. 1215: the new regnal year began on 28 May).

## Chapter five.

### French declaration of the Rights of man.

The Declaration of the Rights of Man and of the Citizen (French: Declaration des droits de l'Homme et du citoyen de 1789), set by France's National Constituent Assembly in 1789, is a human and civil rights document from the French Revolution; the French title can be translated in the modern era as "Declaration of Human and Civic Rights". Inspired by Enlightenment philosophers, the declaration was a core statement of the values of the French Revolution and had a significant impact on the development of popular conceptions of individual liberty and democracy in Europe and worldwide places.

The declaration was initially drafted by Marquis de Lafayette with assistance from Thomas Jefferson, but the majority of the final draft came from Abbé Sieyès. Influenced by the doctrine of natural right, human rights are held to be universal: valid at all times and in every place. It became the basis for a nation of free individuals protected equally by the law. It is included at the beginning of the constitutions of both the French Fourth Republic (1946) and French Fifth Republic (1958) and is considered valid as constitutional law.

## History

The content of the document emerged largely from the ideals of the Enlightenment. Marquis de Lafayette prepared the principal drafts in consultation with his close friend Thomas Jefferson. In August 1789, Abbé Emmanuel Joseph Sieyès and Honoré Mirabeau played a central role in conceptualizing and drafting the final Declaration of the Rights of Man and of the Citizen.

The last article of the Declaration of the Rights of Man and the Citizen was adopted on 26 August 1789 by the National Constituent Assembly, during the period of the French Revolution, as the first step toward writing a constitution for France. Inspired by the Enlightenment, the original version of the declaration was discussed by the representatives based on a 24-article draft proposed by the sixth bureau[clarify], led by Jérôme Champion de Cicé. The draft was later modified during the debates. A second and lengthier declaration, known as the Declaration of the Rights of Man and Citizen of 1793, was written in 1793 but never formally adopted.

## Background

Print of the 17 articles of the Declaration of the Rights of Man and of the Citizen in 1789 (Musée de la Revolution française)

The concepts in the declaration come from the philosophical and political duties of the Enlightenment, such as individualism, the social contract as theorized by the Genevan philosopher Jean-Jacques Rousseau, and the separation of powers espoused by the Baron de Montesquieu. As can be seen in the texts, the French declaration was heavily influenced by the political philosophy of the Enlightenment and principles of human rights, as was the U.S. Declaration of Independence which preceded it (4 July 1776).

These principles were shared widely throughout European society, rather than being confined to a small elite as in the past. This took different forms, such as 'English coffeehouse culture', and extended to areas colonised by Europeans, particularly British North America. Contacts between diverse groups in Edinburgh, Geneva, Boston, Amsterdam, Paris, London, or Vienna were much greater than often appreciated.

Transnational elites who shared ideas and styles were not new; what changed was their extent and the numbers involved. Under Louis XIV, Versailles was the centre of French culture, fashion and political power. Improvements in education and literacy over the course of the 18th century meant larger audiences for newspapers and journals, with Masonic lodges, coffee houses and reading clubs providing areas where people could debate and discuss ideas. The emergence of this "public sphere" led to

Paris replacing Versailles as the cultural and intellectual centre, leaving the Court isolated and less able to influence opinion.

Assisted by Jefferson, then American diplomat to France, Lafayette prepared a draft which echoed some of the provisions of the U.S. declaration. However, there was no consensus on the role of the Crown, and until this question was settled it was impossible to create political institutions. When presented to the legislative committee on 11 July 1789, it was rejected by pragmatists such as Jean Joseph Mounier, President of the Assembly, who feared creating expectations that could not be satisfied.

Conservatives like Gérard de Lally-Tollendal wanted a bicameral system, with an upper house appointed by the king who would have the right of veto. On 10 September, the majority led by Sieyès and Talleyrand rejected this in favour of a single assembly, while Louis XVI retained only a "suspensive veto"; this meant he could delay the implementation of a law but not block it. With these questions settled, a new committee was convened to agree on a constitution; the most controversial remaining issue was citizenship, itself linked to the debate on the balance between individual rights and obligations. Ultimately, the 1791 Constitution distinguished between active citizens and passive citizens. As a result, it was never fully accepted by radicals in the Jacobin club.

After editing by Mirabeau, it was published on 26 August as a statement of principle.[6] The final draft contained provisions then considered radical in any European society, let alone France in 1789. French historian Georges Lefebvre argues that combined with the elimination of privilege and feudalism, it "highlighted equality in a way the (American Declaration of Independence) did not". More importantly, the two differed in intent; Jefferson saw the U.S. Constitution and Bill of Rights as fixing the political system at a specific point in time, claiming they 'contained no original thought...but expressed the American mind' at that stage.[17] The 1791 French Constitution was viewed as a starting point, the declaration providing an aspirational vision, a key difference between the two revolutions. Attached as a preamble to the French Constitution of 1791, and that of the 1870 to 1940 French Third Republic, it was incorporated into the current Constitution of France in 1958.

### **Summary of principles**

Left to right: Abbé Sieyès, Marquis de Lafayette and Thomas Jefferson, the people whose constitutional ideas primarily influenced the declaration.

The declaration defines a single set of individual and collective rights for all men. Influenced by the doctrine of natural rights, these rights are held to be universal and valid in all times and places. For example, "Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good." They have certain natural rights to property, to liberty, and to life. According to this theory, the role of government is to recognize and secure these rights. Furthermore, the government should be carried on by elected representatives.

When it was written, the rights contained in the declaration were only awarded to men. Furthermore, the declaration was a statement of vision rather than reality. The

declaration was not deeply rooted in either the practice of the West or even France at the time. The declaration emerged in the late 18th century out of war and revolution. It encountered opposition, as democracy and individual rights were frequently regarded as synonymous with anarchy and subversion. This declaration embodies ideals and aspirations towards which France pledged to struggle in the future.

### **Substance**

The declaration is introduced by a preamble describing the fundamental characteristics of the rights, which are qualified as "natural, unalienable and sacred" and "simple and incontestable principles" on which citizens could base their demands. In the second article, "the natural and imprescriptible rights of man" are defined as "liberty, property, security and resistance to oppression". It called for the destruction of aristocratic privileges by proclaiming an end to feudalism and to exemptions from taxation, freedom, and equal rights for all "Men" and access to public office based on talent. The monarchy was restricted, and all citizens had the right to participate in the legislative process. Freedom of speech and press were declared, and arbitrary arrests were outlawed.

The declaration also asserts the principles of popular sovereignty, in contrast to the divine right of kings that characterized the French monarchy, and social equality among citizens, "All the citizens, being equal in the eyes of the law, are equally admissible to all public dignities, places, and employments, according to their capacity and without distinction other than that of their virtues and of their talents," eliminating the special rights of the nobility and clergy.

Articles.

### **Declaration of the Rights of Man and of the Citizen.**

Article I – Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good.

Article II – The goal of any political association is the conservation of the natural and imprescriptible rights of man. These rights are liberty, property, safety and resistance against oppression.

Article III – The principle of any sovereignty resides essentially in the Nation. No body, no individual may exercise any authority which does not proceed directly from the nation.

Article IV – Liberty consists of doing anything which does not harm others: thus, the exercise of the natural rights of each man has only those borders which assure other members of the society the fruition of these same rights. These borders can be determined only by the law.

Article V – The law has the right to forbid only actions harmful to society. Anything which is not forbidden by the law cannot be impeded, and no one can be constrained to do what it does not order.

Article VI – The law is the expression of the general will. All the citizens have the right of contributing personally or through their representatives to its formation. It must be the same for all, either that it protects, or that it punishes. All the citizens, being equal in its eyes, are equally admissible to all public dignities, places, and employments, according to their capacity and without distinction other than that of their virtues and of their talents.

Article VII – No man can be accused, arrested nor detained but in the cases determined by the law, and according to the forms which it has prescribed. Those who solicit, dispatch, carry out or cause to be carried out arbitrary orders, must be punished; but any citizen called or seized under the terms of the law must obey at once; he renders himself culpable by resistance.

Article VIII – The law should establish only penalties that are strictly and evidently necessary, and no one can be punished but under a law established and promulgated before the offense and legally applied.

Article IX – Any man being presumed innocent until he is declared culpable if it is judged indispensable to arrest him, any rigor which would not be necessary for the securing of his person must be severely reprimanded by the law.

Article X – No one may be disquieted for his opinions, even religious ones, provided that their manifestation does not trouble the public order established by the law.

Article XI – The free communication of thoughts and of opinions is one of the most precious rights of man: any citizen thus may speak, write, print freely, except to respond to the abuse of this liberty, in the cases determined by the law.

Article XII – The guarantee of the rights of man and of the citizen necessitates a public force: this force is thus instituted for the advantage of all and not for the particular utility of those in whom it is trusted.

Article XIII – For the maintenance of the public force and for the expenditures of administration, a common contribution is indispensable; it must be equally distributed to all the citizens, according to their ability to pay.

Article XIV – Each citizen has the right to ascertain, by himself or through his representatives, the need for a public tax, to consent to it freely, to know the uses to which it is put, and of determining the proportion, basis, collection, and duration.

Article XV – The society has the right of requesting an account from any public agent of its administration.

Article XVI – Any society in which the guarantee of rights is not assured, nor the separation of powers determined, has no constitution.

Article XVII – Property being an inviolable and sacred right, no one can be deprived of private usage, if it is not when the public necessity, legally noted, evidently requires it, and under the condition of a just and prior indemnity.

## Active and passive citizenship

While the French Revolution provided rights to a larger portion of the population, there remained a distinction between those who obtained the political rights in the Declaration of the Rights of Man and of the Citizen and those who did not. Those who were deemed to hold these political rights were called active citizens. Active citizenship was granted to men who were French, at least 25 years old, paid taxes equal to three days work, and could not be defined as servants. This meant that at the time of the declaration, only male property owners held these rights. The deputies in the National Assembly believed that only those who held tangible interests in the nation could make informed political decisions. This distinction directly affects articles 6, 12, 14, and 15 of the Declaration of the Rights of Man and of the Citizen, as each of these rights is related to the right to vote and to participate actively in the government. With the decree of 29 October 1789, the term active citizen became embedded in French politics.

The concept of passive citizens was created to encompass those populations excluded from political rights in the declaration. Because of the requirements set down for active citizens, the vote was granted to approximately 4.3 million Frenchmen out of a population of around 29 million. These omitted groups included women, the poor, domestic servants, enslaved people, children, and foreigners. As the General Assembly voted upon these measures, they limited the rights of certain groups of citizens while implementing the democratic process of the French First Republic. This legislation, passed in 1789, was amended by the creators of the Constitution of the Year III to eliminate the label of an active citizen. The power to vote was then, however, to be granted solely to substantial property owners.

Tensions arose between active and passive citizens throughout the revolution. This happened when passive citizens started to call for more rights or openly refused to listen to the ideals set forth by active citizens. Women in particular were strong passive citizens who played a significant role in the revolution. Olympe de Gouges penned her Declaration of the Rights of Woman and of the Female Citizen in 1791 and drew attention to the need for gender equality. By supporting the ideals of the French Revolution and wishing to expand them to women, she represented herself as a revolutionary citizen. Madame Roland also established herself as an influential figure throughout the revolution. She saw women of the French Revolution as holding three roles; "inciting revolutionary action, formulating policy, and informing others of revolutionary events." By working with men, as opposed to working apart from men, she may have been able to further the fight for revolutionary women. As players in the French Revolution, women occupied a significant role in the civic sphere by forming social movements and participating in popular clubs, allowing them societal influence, despite their lack of direct political power.

## Women's rights

The declaration recognizes many rights as belonging to citizens (who could only be male). This was despite the fact that after the Women's March on Versailles on 5 October 1789, women presented the Women's Petition to the National Assembly in which they proposed a decree giving women equal rights. In 1790, Nicolas de

Condorcet and Etta Palm daalders unsuccessfully called on the National Assembly to extend civil and political rights to women. Condorcet declared "he who votes against the right of another, whatever the religion, colour, or sex of that other, has henceforth abjured his own". The French Revolution did not lead to a recognition of women's rights, and this prompted de Gouges to publish her Declaration of the Rights of Woman and of the Female Citizen in September 1791, modelled after the Declaration of the Rights of Man and of the Citizen. It is ironic in the formulation and exposes the failure of the French Revolution, which had been devoted to equality. It states: "This revolution will only take effect when all women become fully aware of their deplorable condition, and of the rights, they have lost in society."

The Declaration of the Rights of Woman and of the Female Citizen follows the 17 articles of the Declaration of the Rights of Man and of the Citizen point for point. Camille Naish has described it as "almost a parody... of the original document". The first article of the Declaration of the Rights of Man and of the Citizen proclaims that "Men are born and remain free and equal in rights. Social distinctions may be based only on common utility." The first article of the Declaration of the Rights of Woman and of the Female Citizen replies: "Woman is born free and remains equal to man in rights. Social distinctions may only be based on common utility". De Gouges also draws attention to the fact that under French law, women were fully punishable yet denied equal rights, declaring, "Women have the right to mount the scaffold, they must also have the right to mount the speaker's rostrum".

## **Slavery**

The declaration did not revoke the institution of slavery in the French colonies, as lobbied for by Jacques-Pierre Brissot's Les Amis des Noirs and opposed by the group of colonial planters called the Club Massiac, because they met at the Hôtel Massiac. Despite the lack of explicit mention of slavery in the declaration, it inspired the slave uprisings in Saint-Domingue in the Haitian Revolution, as discussed in C. L. R. James's history of the Haitian Revolution, *The Black Jacobins*. In Louisiana, the organizers of the Pointe Coupée Slave Conspiracy of 1795 also drew information from the declaration.

Deplorable conditions for the thousands of enslaved people in Saint-Domingue, the most profitable slave colony in the world, led to the uprisings known as the first successful slave revolt in the New World. Free persons of color were part of the first wave of revolt, but later formerly enslaved people took control. In 1794, the convention was dominated by the Jacobins and abolished slavery, including in the colonies of Saint-Domingue and Guadeloupe. However, Napoleon reinstated it in 1802 and attempted to regain control of Saint-Domingue by sending in thousands of troops. After suffering the losses of two-thirds of the men, many to yellow fever, the French withdrew from Saint-Domingue in 1803. Napoleon gave up on North America and agreed to the Louisiana Purchase by the United States. In 1804, the leaders of Saint-Domingue declared it an independent state, the Republic of Haiti, the second republic of the New World. Napoleon abolished the slave trade in 1815. Slavery in France was finally abolished in 1848.

## **Homosexuality**

The vast amount of personal freedom given to citizens by the document created a situation where homosexuality was decriminalized by the French Penal Code of 1791, which covered felonies; the law simply failed to mention sodomy as a crime, and thus no one could be prosecuted for it. The 1791 Code of Municipal Police did provide misdemeanour penalties for "gross public indecency," which the police could use to punish anyone having sex in public places or otherwise violating social norms. This approach to punishing homosexual conduct was reiterated in the French Penal Code of 1810.

## Chapter six.

### The American declaration of Human Rights.

#### The preamble.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly, all experience hath shewn, that mankind is more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security

The Declaration of Independence, formally titled The unanimous Declaration of the thirteen united States of America in the engrossed version and original printing, is the founding document of the United States. On July 4, 1776, it was adopted unanimously by the 56 delegates to the Second Continental Congress, who convened at Pennsylvania State House, later renamed Independence Hall, in the colonial era capital of Philadelphia. These delegates became known as the nation's Founding Fathers. The Declaration explains why the Thirteen Colonies regarded themselves as independent sovereign states no longer subject to British colonial rule, and has become one of the most circulated, reprinted, and influential documents in history.

On June 11, 1776, the Second Continental Congress appointed the Committee of Five, including John Adams, Benjamin Franklin, Thomas Jefferson, Robert R. Livingston, and Roger Sherman, who were charged with authoring the Declaration. Adams, a leading proponent of independence, persuaded the Committee to charge Jefferson with writing the document's original draft, which the Second Continental Congress then edited. Jefferson largely wrote the Declaration in isolation between June 11 and June 28, 1776, from the second floor he was renting at a three-story home at present-day 700 Market Street in Philadelphia.

The Declaration was a formal explanation of why the Continental Congress voted to declare American independence from the Kingdom of Great Britain. It was adopted by the Congress during the American Revolutionary War, which commenced in April 1775 with the Battles of Lexington and Concord. Two days prior to the Declaration's adoption, the Second Continental Congress passed the Lee Resolution, which established the consensus of the Congress that the British had no governing authority over the Thirteen Colonies. The Declaration justified the independence of the colonies, citing 27 colonial grievances against King George III and asserting certain natural and legal rights, including a right of revolution.

The Declaration was unanimously ratified on July 4 by the Second Continental Congress, whose delegates represented each of the Thirteen Colonies. In ratifying and signing it, the delegates knew they were committing an act of high treason against The Crown, which was deemed the most serious criminal offense and was punishable by torture and death. Congress then issued the Declaration of Independence in several forms. Two days following its ratification, on July 8, it was published by *The Pennsylvania Evening Post*. The first public readings of the Declaration occurred simultaneously on July 8, 1776, at noon, at three previously designated locations: in Trenton, New Jersey; Easton, Pennsylvania; and Philadelphia, where it was read by John Nixon in the yard of present-day Independence Hall.

The Declaration was published in several forms. The printed Dunlap broadside, which Jefferson called his "original Rough draft" and includes changes made by Adams and Franklin and Jefferson's notes of changes made by Congress, was widely distributed following its signing. It is now preserved at the Library of Congress in Washington, D.C. The signed copy of the Declaration is now on display at the National Archives in Washington, D.C., and is generally considered the official document; this copy, engrossed by Timothy Matlack, was ordered by Congress on July 19, and signed primarily on August 2, 1776.

The Declaration has proven an influential and globally impactful statement on human rights. The Declaration was viewed by Abraham Lincoln as the moral standard to which the United States should strive, and he considered it to be the foundation of his political philosophy, arguing that the Declaration is a statement of principles through which the Constitution should be interpreted. In 1863, following the Battle of Gettysburg, the deadliest battle of both the American Civil War and American military history with over 50,000 combined Union and Confederate fatalities, Lincoln made the Declaration the centrepiece of his Gettysburg Address, an enduring 271-word statement dedicating Gettysburg National Cemetery, which is widely considered among the most famous speeches in American history.

The Declaration's second sentence, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness", is considered one of the most significant and famed lines in world history. University of Wisconsin–Madison communications professor Stephen Lucas has called it "one of the best-known sentences in the English language", and Pulitzer Prize-winning historian Joseph Ellis has written that the Declaration contains "the most potent and consequential words in American history."

Passed by Congress on January 31, 1865, and ratified on December 6, 1865, the 13th Amendment abolished slavery in the United States.

In 1863 President Lincoln issued the Emancipation Proclamation declaring “all persons held as slaves within any State, or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free.” Nonetheless, the Emancipation Proclamation did not end slavery in the nation since it only applied to areas of the Confederacy currently in a state of rebellion (and not even to the loyal “border states” that remained in the Union). Lincoln recognized that the Emancipation Proclamation would have to be followed by a constitutional amendment in order to guarantee the abolishment of slavery.

The 13th Amendment was passed at the end of the Civil War before the Southern states had been restored to the Union, and should have easily passed in Congress. However, though the Senate passed it in April 1864, the House initially did not. At that point, Lincoln took an active role to ensure passage through Congress. He insisted that passage of the 13th Amendment be added to the Republican Party platform for the upcoming 1864 Presidential election. His efforts met with success when the House passed the bill in January 1865 with a vote of 119–56.

On February 1, 1865, President Abraham Lincoln approved the Joint Resolution of Congress submitting the proposed amendment to the state legislatures. The necessary number of states (three-fourths) ratified it by December 6, 1865. The 13th Amendment to the United States Constitution provides that "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

With the adoption of the 13th Amendment, the United States found a final constitutional solution to the issue of slavery. The 13th Amendment, along with the 14th and 15th, is one of the trios of Civil War amendments that greatly expanded the civil rights of Americans.

The Slave Trade Act 1807 (47 Geo. 3 Sess. 1. c. 36), or the Abolition of Slave Trade Act 1807, was an act of the Parliament of the United Kingdom prohibiting the slave trade in the British Empire. Although it did not automatically emancipate those enslaved at the time, it encouraged British action to press other nation states to abolish their own slave trades. It took effect on 1 May 1807, after 18 years of trying to pass an abolition bill.

Many of the supporters thought the act would lead to the end of slavery. Slavery on English soil was unsupported in English law and that position was confirmed in Somerset's case in 1772, but it remained legal in most of the British Empire until the passing of the Slavery Abolition Act 1833 (3 & 4 Will. 4. c. 73).

### **Background**

As British historian Martin Meredith writes, "In the decade between 1791 and 1800, British ships made about 1,340 voyages across the Atlantic, landing nearly 400,000

slaves. Between 1801 and 1807, they took a further 266,000. The slave trade remained one of Britain's most profitable businesses."

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Three weeks after the vote, Dundas tabled resolutions setting out a plan to implement gradual abolition by the end of 1799. At that time, he told the House that proceeding too quickly would cause West Indian merchants and landowners to continue the trade "in a different mode and other channels." He argued that "if the committee would give the time proposed, they might abolish the trade; but, on the contrary, if this opinion was not followed, their children yet unborn would not see the end of the traffic." MPs voted in favour of ending the trade in slaves by the end of 1796, after defeating proposals to end the trade in slaves in 1795 or 1794. The House then amended the supporting resolutions tabled by Dundas, to reflect the new target date of 1796. The motion and resolutions did not receive consent in the House of Lords, however, consideration being formally deferred to a subsequent session on 5 June 1792, where they were never revived.

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Abolitionists' numbers were magnified by the precarious position of the government under Lord Grenville, whose short term as prime minister was known as the Ministry of All the Talents. Grenville himself led the fight to pass the bill in the House of Lords, while in the Commons the bill was led by the Foreign Secretary, Lord Howick (Charles Grey, later Earl Grey). Other events also played a part; the Acts of Union 1800 brought 100 Irish MPs into Parliament, most of whom supported abolition.[18] The Bill was first introduced to Parliament in January 1807. It went to the House of Commons on 10 February 1807. On 23 February 1807, twenty years after he first began his crusade, Wilberforce and his team were rewarded with victory. After a debate lasting ten hours, the House agreed to the second reading of the bill to abolish the Atlantic slave trade by an overwhelming 283 votes for to 16. The bill received royal assent by King George III on 25 March 1807.[19] The Act took effect on 1 May 1807. However, Kitty's Amelia had received clearance to sail on 27 April, before the deadline. Thus, when she sailed on 27 July, she did so legally. This was the last legal slave voyage for a British vessel.

All that took place against the background of the ongoing War of the Fourth Coalition. In the last months of 1806, Napoleon had won a major victory, crushing the military power of Prussia, entering into its capital Berlin and there issuing the Berlin Decree, bringing into effect the Continental System whose declared purpose was to weaken the British economy by closing French-controlled territory to its trade. Originally, the French Revolution had abolished slavery, but Napoleon – though claiming the mantle of continuing the revolutionary heritage – had in 1802 taken the reactionary step of reintroducing slavery in the French colonies. Thus, in abolishing the slave trade Britain – which could do little to directly oppose the string of French military victories on the continent – could at least gain the moral high ground against its French foe.

### **Other nations**

By its Act Against Slavery of 1793, the Parliament of Upper Canada in British North America (modern-day Canada) abolished the slave trade, freed slaves immigrating by choice or force, as well as children born to enslaved women subsequently upon their 25th birthday, but did not emancipate existing resident slaves. In 1805 a British Order-in-Council had restricted the importation of slaves into colonies that had been captured from France and the Netherlands. Following adoption of the 1807 act, Britain used its diplomatic influence to pressure other nations to end their own involvement in the slave trade. With the Anglo-Portuguese Treaty of 1810, Portugal agreed to restrict its trade into its colonies; in the Anglo-Swedish Treaty of 1813, Sweden outlawed its slave trade; and in the Treaty of Paris of 1814 whereby France agreed with Britain that the slave trade was "repugnant to the principles of natural justice" and agreed to abolish its involvement the slave trade in five years. In the 1814 Anglo-Dutch treaty the Netherlands outlawed its slave trade, and the 1817 Anglo-Spanish treaty called for Spain to suppress its trade by 1820.

The United States adopted its Act Prohibiting Importation of Slaves on 2 March 1807, the same month and year as the British action. It provided for the abolition of its Atlantic slave trade but did not alter its internal trade in slaves, while the American abolition of

the international slave trade led to the creation of a coastwise slave trade in the United States. Article 1, Section 9, Clause 1 of the United States Constitution forbade the closing of the slave trade for twenty years, until 1808. The long-planned law was passed a year earlier, and with the economic incentives of the slave trade coming to an end, there was both a spike in the number of slaves being traded and a unification of political factions against the trade.

Enforcement;

The act created fines for ship captains who continued with the trade. These fines could be up to £100 per enslaved person found on a ship. Captains would sometimes dump captives overboard when they saw Navy ships coming in order to avoid these fines. The Royal Navy, which then controlled the world's seas, established the West Africa Squadron in 1808 to patrol the coast of West Africa, and between 1808 and 1860 they seized approximately 1,600 slave ships and freed 150,000 Africans who were aboard. The Royal Navy declared that ships transporting slaves would be treated the same as pirates. Action was also taken against African kingdoms which refused to sign treaties to outlaw the trade, such as "the usurping King of Lagos who was deposed in 1851. Anti-slavery treaties were signed with over 50 African rulers.

In the 1860s, David Livingstone's reports of atrocities within the Arab slave trade in East Africa stirred up the interest of the British public, reviving the flagging abolitionist movement. The Royal Navy throughout the 1870s attempted to suppress "this abominable Eastern trade", at Zanzibar in particular. In 1890 Britain handed control of the strategically important island of Heligoland in the North Sea to Germany in return for control of Zanzibar, in part to help enforce the ban on slave trading.

### **Abolition of slave trade.**

**Slavery Abolition Act**, (1833), in British history, act of Parliament that abolished slavery in most British colonies, freeing more than 800,000 enslaved Africans in the Caribbean and South Africa as well as a small number in Canada. It received Royal Assent on August 28, 1833, and took effect on August 1, 1834.

Several factors led to the Act's passage. Britain's economy was in flux at the time, and, as a new system of international commerce emerged, its slaveholding Caribbean colonies—which were largely focused on sugar production—could no longer compete with larger plantation economies such as those of Cuba and Brazil. Merchants began to demand an end to the monopolies on the British market held by the Caribbean colonies and pushed instead for free trade. The persistent struggles of enslaved Africans and a growing fear of slave uprisings among plantation owners were another major factor.

The Slave Trade Act 1807 (47 Geo. 3 Sess. 1. c. 36), or the Abolition of Slave Trade Act 1807, was an act of the Parliament of the United Kingdom prohibiting the slave trade in the British Empire. Although it did not automatically emancipate those enslaved at the time, it encouraged British action to press other nation states to abolish their own slave trades. It took effect on 1 May 1807, after 18 years of trying to pass an abolition bill.

Many of the supporters thought the act would lead to the end of slavery. Slavery on English soil was unsupported in English law and that position was confirmed in Somerset's case in 1772, but it remained legal in most of the British Empire until the passing of the Slavery Abolition Act 1833 (3 & 4 Will. 4. c. 73).

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