

The Ripple Effect of the Magna Carta

“Magna Carta and its relevance to Canada in the 21st Century”

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Human history has a tendency to rely on itself in order to create itself. Thus it can easily be asserted that without its intricate and often trudging past, our modern Canadian legal system would be simply a shadow of what it has truly become. Although far from perfect, our law and government seek to value the lives of its citizens in upholding equality, justice, and the protection of every Canadian. This is the product of centuries' worth of democratic evolution, war, inequality, bloodshed, and a thirst to right the many wrongs our race has done unto itself; it was birthed from a need for justice. Its genesis lies in what has grown to become an unassuming part of our high school curriculum: the Magna Carta of 1215. According to an article by the United for Human Rights Foundation, "The Magna Carta [...] was arguably the most significant early influence on the extensive historical process that led to the rule of constitutional law today in the English-speaking world." ("A Brief History of Human Rights," 2015) This being said, one can discern: the signing of the Magna Carta signifies the very foundation on which our modern legal system is not only built, but actively thrives. This is because its fundamental framework laid out the rule of law, human rights, and democratic principles that our free society revels in. In observing the rule of law the "Great Charter" enacted, the progression of human rights and its connection to the rule of law, and finally the democratic principles that govern our society as a result, one may discern that which essentially comprises our Canadian legal system in the 21st Century.

The Magna Carta primarily established what we can recognize as the irrevocably pivotal rule of law. At the crux of an effective modern legal system is the universal accountability of all those who exist within it. As the "first document in English history to limit the powers of the monarch," ("Causes and Effects of the Magna Carta," n.d) the Magna Carta of King John's nobles proposed the virtuous and contextually daring idea of the law being the absolute ruler as opposed to the monarch. Acknowledging that this was simply a preliminary step, the nobles

included the writ of Habeas Corpus, seeking to prevent unlawful detention. Eight hundred years of legal evolution later, section 10(c) of the Canadian Charter of Rights and Freedoms addresses the same writ. Our 21st Century legal system flourishes on the basis that no single person is above the law. This type of all-encompassing governing serves to eliminate the hierarchy of an absolute monarch and empower the people, in doing so, concurrently empowering the nation itself. While classism is to a degree unavoidable, it is by all means preventable. In limiting the powers of those who hold power, power itself is not something one can obtain, and instead must be something a preconceived system enacts. A shift in the attitudes of how citizens are viewed is the root of shifting attitudes in the type of legislature that is written. Creating a certain element of equality in all who are accountable of the law was the beginning of this phenomenon, spurring a chain of events that sought to improve upon the Magna Carta's fundamental ideology: the rule of law.

Wars and revolutions have been waged and won to obtain even the most basic rights throughout human history. The ideology of every citizen deserving equal treatment in the eyes of the law and concurrently being protected by that law is a wholly new one. Our modern Canadian legal system and government includes measures that ensure such rights be upheld to the highest degree in recognizing their importance. These measures include the creation of statute law such as the Canadian Bill of Rights, and later, the Charter of Rights and Freedoms, both which sought to ensure fairness, protection, etc. to all Canadian Citizens. Such statutes were an enormous evolution from unwritten common and case law that governed Britain before the Magna Carta. In King John's signing the "great charter," the legislature was able to extrapolate a sense of justice to include a sphere of human rights that was entirely nonexistent before. It created a framework to address not only accountability in who is subject to the law, but how the law is equally enforced and upheld. The latter is fundamental. To whatever degree Canada's law

may have been effective before 1982, human rights were not legitimately ensured in a definitive and lasting way until the Charter became constitutional. What is relevant to note is that this could never have occurred if not for a series of preceding events. The Charter would not have been implemented if not for Diefenbaker's 1960 Bill of Rights, which in turn would not have been significant if not for the UN Universal Declaration of Human Rights of 1948, following the second World War. These events trace back through history, circulating a chronological increasing of political awareness regarding human rights, until eventually finding their origin in the Magna Carta's framework. The idea of all being accountable was fundamental in establishing the idea of all being equal. Today, the Canadian Charter of Rights and Freedoms governs a fair and equal sense of justice applicable to all of Canadian society that would have been entirely impossible without the groundwork set out by King John's nobles.

In a fair and equal society, democracy must follow clear principles in order to effectively function. The origin of such modern principles can be found in Runnymede, England in 1215. Beyond the concrete products that were the ripple effect of the Magna Carta (including but not limited to the Bill of Rights and the Charter of Rights and Freedoms), social and political ideologies that grew to encompass equality and justice in a far more intimate way were made possible in lieu of its signing. Democracy as a principle was created when a monarch signed away its right to be as such. Not immediately, but eventually, the end of absolute monarchy as an institution was promised. Despite our world struggling with obtaining democracy to a large degree (25% of the world is classified as "partly free" and 35% as "not free" according to 2014 findings from the organization Freedom House) ("Freedom in the World," 2014), Canadians are both protected and empowered by our democratic legal system. Today, essential democratic elements include components such as the separation of three branches of power, the active participation of citizens, political tolerance, and many others. ("Democracy for Iraq, Nine Brief

Themes," n.d) The first references the necessity of disassociating the judicial, executive, and legislative branches of government which play imperative roles in altering or interpreting the law. The second addresses the participation of citizens and their fuelling the democratic system in participating in voting, elections, volunteering, taxes, etc. Political tolerance, finally, inferences the vitality of protecting the minority. In a system which centralizes the majority opinion and decision, democracy is only upheld so long as the minority view is as well protected. ("Principles of Democracy," n.d) These values serve as some examples of that which allows us to operate as a just society far more evolved than that of King John's. One which the nobles who pressed for the Magna Carta's triumph likely envisioned. The principles of our democratic system are debatably the most vital outcome of the Magna Carta's signing. It is comprised of both the aforementioned concepts of human rights and the rule of law and extends far beyond such in defining what our society needs to operate in order to maintain its freedom and justice.

Human history has a tendency to rely on itself in order to create itself. The Magna Carta has spurred innumerable evolutionary legislatures, actions, attitudes, and ideologies that have cumulatively created the proud legal system our society upholds today. The legal system in effect in 21st Century Canada has developed to encompass five greater functions than it ever once did: establish rules of conduct, provide a system of enforcement, protect rights and freedoms, protect society, and resolve disputes. (Murphy, T.G., Elliott, K. R., Mete, A., Glass, J., 2010). This type of punctiliousness in addressing the way Canadian citizens are governed is illustrious of the vibrant and progressive legal system we have cultivated. Beginning with the rule of law, growing to address human rights, and finally enacting crucial and underlying democratic freedoms, the evolution of Canadian law, government, and our court system is dependent on one sagacious event: the Magna Carta of 1215; the foundation on which our modern legal system not only exists, but thrives.

Citations

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