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The Journey of the Magna Carta

When the indignant English barons met with King John in 1215, little did they know that the aftermath of their Runnymede gathering would carry overseas, inspiring countless other movements across the centuries. The Magna Carta has long since been an emblem of equality and unconditional justice, having sought to establish governance not by man and his folly but by an indiscriminate law. Fragments of its legacy still carry into Canada's legal system, and yet, how deserving is the archaic document of its symbolic value? Did its existence serve to further humanity's pursuit of impartial rights and freedoms, or is it merely an oversimplified historical happening? It seems only appropriate to discuss the Magna Carta within its proper historical context. By deciphering the motives and nuances in its creation and usage, we can begin to understand the prevalence of the Magna Carta in the contemporary world as well as its place in the bedrock of Canada's democratic principles.

King John was by no means a benign ruler, and after sixteen years of his reign, his tyrannical grasp of England prompted the noblemen to rebel against his lawlessness. The sealing of the Magna Carta in the meadow of Runnymede signified a momentous reduction of the monarchy's power - or so the myth claims. What is little known of this historical moment is that within ten weeks of its conception, the Magna Carta was declared "null and void of all validity forever" by Pope Innocent III at the request of the King, and only an altered version was reinstated by King John's successor, which was an ineffective political maneuver.

Contrary to common belief, the contents of the Magna Carta were not revolutionary. It did not forge the rule of law. It couldn't even uphold the rule of law. The concept that Kings were not above the law was not a novelty - King Henry had sworn to observe the laws of England upon his coronation in 1100. The Magna Carta also has no claims in the origin of the Great Writ, or Habeas Corpus, which was first

documented in 1119, making it a predecessor of the Magna Carta by sixteen years. And yet, we remember the Magna Carta as a hallmark in the progress of equality and justice.

The original Magna Carta was short-lived, insignificant, and soon faded into obscurity. It makes no appearance in Shakespeare's *King John*, nor does it ever grace the pages of other notable writers from the fifteenth and sixteenth century. Only by the seventeenth century did it experience an upsurge of popularity as Edward Coke, an English judge, distorted its earliest intent into a rallying cry against yet another disliked monarch. Coke transformed the Magna Carta, which was at its core, a petition of England's upper class to free themselves of the reins of their ruler, into an anthem of freedom for all the people. Article 29, which granted that "no free man is to be arrested, or imprisoned . . . save by the lawful judgment of his peers or by the law of the land," is perhaps wrongly praised. Arguably, *free men* in this context did not refer to all citizens but rather, was analogous with *noblemen*.

Despite its ornate Latin name and its existence in history textbooks, the existing conception of the Magna Carta is nothing more than a myth, a small lie to simplify the past. Nevertheless, its legacy and symbol as an advocate for freedom persists. When the Universal Declaration of Human Rights was unveiled in 1948, it called from the Magna Carta as source of inspiration. Eleanor Roosevelt described it as "the international Magna Carta of all men everywhere." In 1957, the American Bar Association built a memorial at Runnymede to commemorate the sealing of the Magna Carta. English historian William Stubbs stated, "the whole constitutional history of England is little more than a commentary on the Magna Carta". The document remains a silent supporter of the rule of law, human rights, and a harmonious relationship between the government and the people throughout the ages.

In Canada, though it has done little to change our constitutional landscape, the Magna Carta has doubtlessly influenced the opinions of our lawmakers, politicians, judges, and others that serve to uphold Canada's longstanding reputation as a nation of peace and equality. When considering a Canadian Bill of Rights, Prime Minister John Diefenbaker stated in the House of Commons, "I believe the time has come for a declaration of liberties to be made by this Parliament. Magna Carta is part of our birthright. Habeas corpus, the bill of rights, the petition of right, all are part of our traditions . . . freedom from capricious arrest and freedoms under the rule of law, should be made part and parcel of the law of the country." It is arguable that without Diefenbaker's lifelong dedication to human rights, the later and current Canadian Charter of Rights and Freedoms would have never been implemented.

The Magna Carta also furthered another decisive document and for this, the 1763 Royal Proclamation has come to be known as the "Indian Magna Carta". This document outlined and laid groundwork for future treaties between the Crown and the and the First Nations peoples in Canada. It also acknowledged "the great frauds and abuses that have been committed in the purchasing of the lands of the Indians, to the great prejudice of our interests, and to the great dissatisfaction of the said Indians". Although the results of this proclamation are contestable, the "Indian Magna Carta" has been a guide in all treaty-making since its creation. The Magna Carta was also referenced in 2000 during a case before the Supreme Court of Canada, whereupon Justice Louis LeBel cited clause 40, 'To none will we sell, to none will we deny, or delay, right or justice.'

Though not formally part of our constitution, the Magna Carta has had its role in the formation of Canada's image and legacy. It is entwined in our rights and freedoms, our courts, and our democracy. Though the rule of law today seems inseparable from the very definition of law itself, we must remember that history has no lack of rulers who deemed lawfulness a virtue for only his subjects, and not to himself.

The Magna Carta served to mandate the law not as the word of a capricious or cruel dictator, but as an established system that all Canadians must abide to and can therefore be trusting in its stability. Law, if not given the rule of law is nothing more than impalpability and the fickle whims of the few. If justice, rights, or freedoms are applied to a mere few, then they are merely luxuries in a society built on corruption. Law is the same. It must be applied to all and equally so, or else forfeit the people's trust and the nation's prosperity.

Of the original 63 clauses in the Magna Carta, most address the ailments of a feudal system and hence are not pertinent in the 21st century and certainly not to Canada. Even so, politicians today often refer to the Magna Carta as a beacon of light for the rights of the people, though this symbolism is not corroborated by the judgment of history. In its foremost and earnest intent, the sheepskin document was nothing more than a gathering of noblemen's interests and did little to support the freedom of the common people. Passion for the Magna Carta has faded and been rekindled whenever it was deemed beneficial for some cause or the other, and it cannot be truthfully stated that the Magna Carta has withstood the ravages of time. Rather, it has been transformed, altered to suit the current challenges to the rule of law, human rights, or democratic principles. Though the general perception of the Magna Carta is not accurate, the upkeep and remembrance of equality and the toils humanity has endured to achieve it is of paramount importance. In Canada, any electoral candidate who suggests contrary to key elements in the Magna Carta would be massacred on the polls - this would not be the case in other countries, in other centuries. Citizens of the world should pride themselves in the knowledge of the immense collective progress we have made since the Magna Carta.

And yet, the Magna Carta's journey does not end at present. 2015 marks merely the 800th birthday, and still we have much to strive for in the upcoming centuries. Doubtlessly, it will continue to serve as a symbol

of mankind's everlasting pursuit of justice and equality, and it will be many years before we look upon the wrongs that the Magna Carta sought to eradicate as pages uniquely of the past.

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