In his distinct digested style, John Crace takes a tongue-in-cheek trip throughout the history of the Magna Carta and its manifestations.

CALL IT A free-for-all. Call it an innate sense of fair play. Call it what you will, but the English had always had a way of making their feelings known to a monarch who got a bit above himself by hitting the country for too much money in taxes or losing overseas military campaigns or both. They rebelled. Sometimes it worked, sometimes it didn’t but it was the closest medieval England had to due process. Then came John, a king every bit as unloved – if not more so – as any of his predecessors; a ruler who had gone back on many of his promises and was doing his best to lose all England’s French possessions and all of a sudden the barons had a problem. There wasn’t any obvious candidate to replace him. So instead of deposing him, they took him on by limiting his powers.

Kings never have much liked being told what to do and John was no exception. If he could have got out of cutting a deal with the barons he would have done. But even he understood that impoverishing the people he relied on to keep him in power hadn’t been the cleverest of moves, and so he reluctantly agreed to take part in the negotiations that led to the sealing of the Articles of the Barons – later known as the Magna Carta – at Runnymede on 15 June 1215. Which isn’t to say he didn’t kick and scream his way through them before agreeing to the 61 demands, which were the bare minimum for his remaining in power. He did, though, keep his fingers cunningly crossed when the seal was being applied. As soon as the barons had left London, King John announced – with the Pope’s blessing – that he was having no more to do with it. The barons were outraged and went into open rebellion, though dysentery got to King John before they did and he died the following year. Don’t shit with the people, or the people shit with you. Or something like that.

With the original Magna Carta having lasted barely three months, there were some who reckoned they could have saved themselves a lot of time and effort by toppling King John rather than negotiating with him. But wiser – or perhaps, more peaceful – counsel prevailed and its spirit has endured through various subsequent mutations – most notably the 1216 Charter, the Great Charter of 1225 and the Confirmation of Charters of 1297 – and has widely come to be seen as the foundation stone of constitutional law, both in England and many countries around the world. It was the first time limitations had been formally placed on a monarch’s power as the rights of citizens to the due process of law and trial by jury had been affirmed. Well, not quite all citizens. When the various charters talked of the rights of Freemen, it didn’t mean everyone; far from it. Freemen just meant that small class of people, below the barons, who weren’t tied to land as serfs. The Brits have never liked to rush things. They like their
revolutions to be orderly. The underclass
would just have to wait.

The Magna Carta and its derivative
charters were never quite the symbols of en-
lightened noblesse oblige they are often held
to be. The noblemen didn’t sit around ear-
nestly thinking about how they could turn
England into a communal paradise. What
was the point of having fought and back-
stabbed your way to the top only to give
power away to the undeserving? The chart-
ers were matters of political expedience. The
nobles needed the Freemen on their side in
their face-off with the king and an extension
of their rights was the bargaining chip to se-
cure it. Benevolence never really entered the
equation. Nor was the Magna Carta ever re-
ally a legal constitutional framework. Even if
King John hadn’t decided to ignore it within
months, it would still have been virtually un-
enforceable as it had no statutory authority.
It was more wish-list than law.

Ironically, though, it is the Magna
Carta’s weaknesses that have turned out
to have guaranteed its survival. Over the
centuries, the Magna Carta has become the
symbol of freedom rather than its guarantor
as different generations have cherry-picked
its clauses and interpreted them in their own
way. While wars and poverty might have been the prime catalyst for the Peasant’s
Revolt against King Richard II in 1381, it
was the Magna Carta to which the rebel-
lion looked for its intellectual legitimacy.
The Freemen were now seen to be free men;
constitutional rights were no longer seen as
residing in the few. The king and his court
were outraged that the peasants had made
such an elementary mistake as to mistake
the implied capital F in Freemen for a small f
and the leaders were executed for their il-
literacy as much as their impudence.

Bit by bit, starting in 1829 with the section
dealing with offences against a person, the
clauses of the Magna Carta were repealed
such that by 1960 only three still survived.
Some, such as those concerning “scutage”
– a tax that allowed knights to buy out of
military service – and fish weirs, had become
outdated; others had already been super-
seded by later statutes. Two of those that
remained related to the privileges of both the
Church of England and the City of London
– a telling insight into the priorities of the
establishment. Those who still wonder, fol-
lowing the global financial collapse of 2008,
why the bankers were allowed to get away
with making up the rules to suit themselves
need look no further than the Magna Carta.
The bankers had been used to getting away
with it for the best of 800 years. You win
some, you lose some.

The survival of clause 39 of the original
Magna Carta has been rather more signifi-
cant for the rest of us. “No Freeman shall be
taken or imprisoned, or be disseised of his
Freehold, or Liberties, or free Customs, or
be outlawed, or exiled, or any other wise de-
sroyed; nor will We not pass upon him, nor
condemn him, but by lawful judgment of his
Peers, or by the Law of the Land. We will sell
to no man, we will not deny or defer to any
man either Justice or Right.” Or in layman’s
terms, due process: the legal requirement
of the state to recognise and respect all the
legal rights of the individual. The guarantee
of justice, fairness and liberty that not only
underpins – well, most of the time – the UK’s
constitutional framework, but those of many
other countries as well.

Britain has no written constitution. Not
because parliament has been too lazy to get
round to drawing one up, but because one
is already assumed to be in the lifeblood of
everyone living in Britain. Queen Mary may
have had “Calais” written on her heart, but
the rest of us all have “Magna Carta” →

Don’t shit with the people, or
the people shit with you. Or
something like that
...PROVISON FOR
ESTABLISHING DEFINING
PRINCIPLES OF...

...HABEUS CORPUS...
OR YOU DIE KING JOHN!

YOU WHAT?

ACTUALLY HE'S GOT A POINT. THIS REALLY SHOULDN'T READ "MANGA" CARTA...

BOLLOCKS! I'LL FETCH THE TIPPEX...

WHILE WE'RE ABOUT IT CAN WE TAKE OUT ALL THAT HUMAN RIGHTS FOR THE PEASANTS SHIT TOO?
The fact that the American idea of the Magna Carta was not one that would necessarily have been recognised in Britain was neither here nor there. For the Americans, the notion of the rights of a people to govern themselves was more than something that had been fought for over many centuries – a gradual taking back of power from an absolute ruler – that had been ratified on paper. They were fundamental rights that pre-existed any country and transcended national borders. And even if there was no one left alive on Earth, these rights would remain. They might as well have been handed down by God, though it’s probably just as well Adam hadn’t read the sections on the right to defend himself and bear arms. If he had shot the serpent, the whole history of the world might have been very different. As it is, when the Americans took on the British in the War of Independence, they weren’t fighting against a colonial overlord so much as for their basic rights to freedom.

The distinction is a subtle but important one. For though the more recent constitutions of former British colonies, such as Australia, India, Canada and New Zealand, more closely reflected the way the Magna Carta was understood back in the mother-ship, those interpretations of it were still very much a product of their time. As a historical document, the Magna Carta remains fixed in the 13th century: a practical solution to the problem of an iffy king. But as a concept it is a shifting, timeless expression of the democratic ideal. It can mean and explain anything. Up to and including that Britain always knows best.

Yet the appeal of the Magna Carta endures and it remains the gold standard for democracy in any debate. Whatever side of it you happen to be on. British eurosceptics argue that the UK’s continuing membership of the European Union threatens the very parchment on which it was written; that Britain is being turned into a serf by a European despot. Pro-Europeans argue that the
EU does more than just enshrine the ideals of the Magna Carta, it turns the most threatened elements of it into law.

Eight hundred years on, Magna Carta remains a moving target. Something to be aspired to but never truly attained. A highly combustible compound of idealism and pragmatism. Somehow, though, you can’t help feeling that King John and the feudal barons would have understood that. And approved. ☑

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