

**SENATE OCCASIONAL LECTURE SERIES: SPEECH BY BRITISH HIGH COMMISSIONER ON THE  
800TH ANNIVERSARY OF MAGNA CARTA  
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Thank you, Rosemary, for that kind introduction and for the invitation to speak to you all today. I too would like to acknowledge the traditional owners of the land and elders past and present.

I should also like to thank Rosemary and her colleagues for selecting a start time of 12:15 for a lecture about an event that occurred exactly 800 years ago. I'm undecided on whether this was just a happy accident or a very clever means of ensuring that I turned up at the right time.

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Ladies and gentlemen, the history of Magna Carta is an epic one, spanning as it does 800 years and being concerned with a great many lofty ideals about justice, freedom and the rule of law. But, at heart, it's also a great story.

So I would like to begin my speech today by telling that tale, complete with its cast of colourful – but generally speaking pretty nasty – characters. Then I will have a go at explaining how Magna Carta made the leap from English legal history to internationally recognised symbol of liberty – and what that means for us today. Then, if I could be so bold, I would like to end by laying out briefly what a Magna Carta for the Twenty First Century might look like.

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**When the curtain lifts on Act One of our story** we find ourselves in England in the year 1215 – a country wracked by civil war. On one side, the grasping King John seeks to bring his rebellious barons to heel. They – tired of the King's continuous efforts to raise taxes by picking their pockets – seek to curb his powers.

The stage for this opening scene is an unassuming one – a place called Runnymede, not much more than a meadow next to a bend in the River Thames. In 1215, there was no particular significance to this location – it just happened to be far enough away from the Barons' base of the City of London and not too close to the King's fortress of Windsor Castle. It's still there, of course – though the surrounding area is a little bit more developed these days. If you have flown in or out of London's Heathrow airport, you have probably passed over the very spot where this momentous piece of history occurred.

King John and the barons had met there to thrash out the terms of a peace deal that would end the civil war – and in doing so, almost by accident, they would sketch out the framework of what we now call the 'Rule of Law'.

The cast of our play are a fairly gruesome bunch. King John, as anyone who has seen any film or television version of Robin Hood will know, was a nasty piece of work – and if anything the scriptwriters of modern times may have been rather generous. The barons who opposed him were certainly not interested in establishing a fundamental system of rights for the common man. They were concerned only for their own rights. Their talk of the rights of free-born Englishmen was only meant to refer to themselves and others of their class – not common folk.

Despite a great deal of bad blood and very little in the way of mutual trust, the two sides were able to come to an agreement of sorts – essentially a set of rules that laid out for the first time how the king should govern the country. The sixty-three clauses that make up what we now call Magna Carta were copied out on parchment – the treated skins of sheep. Of the four surviving copies of the 1215 Magna Carta each is a different size and shape, according to the dimensions of the piece of parchment it was written on, but the words are essentially identical.

So what do those words say and, perhaps more importantly, what do they really mean?

It's a bit of a hotchpotch of a document really. Unsurprisingly, there's a lot about taxation of various kinds as this was – in large part – what the war had been about. There's also much attention paid to inheritance, dowries for widows and the like – all of which were of great importance to the aristocracy back then but of much less relevance today.

The interests of the merchants and guilds in the City of London – who had thrown their lot in with the rebels – are reflected in some very practical stuff about weights and measures and freedoms for traders to move about the country unobstructed by fish-weirs – clearly a big thing in 1215 but of less obvious relevance now.

As an aside, I'm reliably informed that the fish-weir clause gave rise to a public right of fishing, which was believed to have transferred over to Australia. Indeed, Magna Carta was cited as recently as 2010 in a submission to the New South Wales Upper House by the Canberra Fishermen's Club. That suggests that the clause has survived the test of time rather better than many others. It also suggests that picking a legal argument with the Canberra Fishermen's Club would be a really bad idea.

But we must return to the matters at hand in 1215. Magna Carta also outlines some important and very practical reforms to the administration of justice and local government – petitioners for the king's justice no longer needed to follow his court around the country, for example.

But tucked away in all this talk of the machinery of medieval government is one particular sentence which elevates Magna Carta from a moderately interesting historical document to the foundation of the rule of law – and, in later centuries, the inspiration behind our system of democracy and belief in human rights.

This sentence is usually known as “clause 39” from its place in the original text. If you don't mind, I will quote it in full:

“No free man is to be arrested, or imprisoned, or disseized, or outlawed, or exiled, or in any other way ruined, nor will we go or send against him, except by the legal judgment of his peers or by the law of the land.”

This clause is considered to be of such fundamental importance to our system of law that it remains part of the English legal code today.

The next clause adds:

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

There are other clauses in Magna Carta which still have resonance but, for me, these two sentences are why this 800-year-old piece of parchment still matters today.

These statements changed something fundamental about the relationship between a people and the government – in this case a king – that ruled them. The power of that government was no longer absolute. A crucial principle had established: that no man was above the law, not even the king.

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The fact that 800 years later I am standing in a parliament on the other side of world talking about Magna Carta suggests strongly that – in the long run, at least – it has proved to be a success.

But it didn't get off to a great start – the peace that it was supposed to guarantee lasted just a few weeks. King John himself only lasted another 16 months before dying – most likely of dysentery – while on campaign with his army. He wasn't much lamented – the chronicler Matthew Paris, writing some 40 years later, noted that “Foul as it is, Hell itself is made fouler by the presence of John”. As you can tell, John had made a lasting impression on his subjects – and it wasn't a good one.

For the purposes of our story though, John's death was crucial. It brought his nine-year-old son Henry the Third to the throne and the boy king's advisers needed a way to bolster his legitimacy as ruler and rally more allies to the king's side. So they reissued Magna Carta, first in 1216 and then again the next year. Over time, this began to have the desired effect – in fact it proved to be such a successful tactic that the king was to reissue or restate his commitment to Magna Carta every five years or so on average throughout his long reign, which lasted until 1272.

His son, Edward the First, continued the tradition, issuing what is usually considered to be the definitive version of Magna Carta in 1297. It is a copy of that document that is kept here in Parliament House – but more about that later.

The repeated publication of Magna Carta throughout the Thirteenth Century is a useful lesson for all of us involved in the public discussion of government policy – it isn't enough to just say something once, however important it is. You have to keep saying it again and again until as many people as possible get the message.

This remains as true today as it was 800 years ago. Indeed, Alastair Campbell, Director of Government Communications under Prime Minister Tony Blair, used to say that it is only when you feel physically sick of hearing the same old message, that other people are just about getting it.

Each time Magna Carta was reissued or reaffirmed, the document had to be diligently and carefully copied out by hand an estimated 50 times so it could be distributed around the country. So maybe we should save our sympathy for the aching fingers of the poor scribes charged with this painfully tedious task.

But it was thanks to this regular reissuing and reaffirming of Magna Carta – and a lot of hard work by the royal scribes – that by the start of the Fourteenth Century the process of getting that message across was essentially complete – Magna Carta had cemented its place as the bedrock of English law. And with that, the first act of our story draws to a close.

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**The second part of the Magna Carta story** concerns how a set of rules designed to constrain a medieval English king took on a much greater significance – and in doing so leapt oceans, helped give birth to new nations and made its way here, to the very Parliament in which we sit.

Between Acts One and Two of our story we must take a short interlude – of about 300 years – and pick up the plot again in the early part of the Seventeenth Century.

The political situation at the time might have been familiar to our cast of characters from 1215, though the fashions had moved on a bit. England again faced tensions between a king, Charles I, who was perceived to be behaving in a tyrannical manner; and the governing class – who were no longer barons but Members of Parliament. As in the Thirteenth Century money – or rather the lack of it – was the cause of much of this tension. The king needed money but could only raise it with the support of Parliament – they were unwilling to provide it without conditions.

These tensions would eventually lead to a terrible series of civil wars that would see the British Isles devastated, the king deposed and eventually executed. But that is certainly a topic for another lecture – and another lecturer. What makes it part of today's story is that the legal and philosophical opposition to the Stuart kings was, at least in part, based on Magna Carta.

Of course, Magna Carta was even then a 400-year-old document so proponents such as Chief Justice Sir Edward Coke and the Leveller "Freeborn John" Lilburne, interpreted it in a new light. One that better reflected the political considerations of their day. But rooting their new ideas on the foundations of the ancient liberties established by Magna Carta gave them greater legitimacy and more persuasive power.

And here's where our tale takes an international turn. At the same time as Magna Carta was once again being cited as a touchstone for individual freedoms, many people were leaving the British Isles for America. Many of those were fleeing political and religious persecution and it is easy to see why a "great charter" guaranteeing ancient rights might have had enormous appeal to them as they began a new life in the "New World".

Thus it was ideas stemming from Magna Carta that in the next century would be expressed first as "no taxation without representation" and would then find form in the United States 1776 Declaration of Independence. Some of the language in the Declaration – and even more notably in the Bill of Rights that followed twenty or so years later – is unmistakably similar to that of Magna Carta. Perhaps then it is not surprising that the charter's image is proudly displayed on the doors of the US Supreme Court. Slightly more surprising is that the Magna Carta Memorial at Runnymede – inscribed with the words "To commemorate Magna Carta, symbol of Freedom Under Law" – was paid for by the American Bar Association.

Having influenced the founding fathers of the United States of America, Magna Carta would continue to inspire others charged with drafting the constitutions of new or newly independent nations. Its distinctive style can be found in the constitutions of Australia, Canada, India and many other Commonwealth countries.

Given the historical connections between these countries and the UK – the "home" of Magna Carta – perhaps we shouldn't be too surprised at that. But the influence of this 800-year-old piece of sheepskin has grown far beyond the Anglosphere and the Commonwealth.

In 1948, as Eleanor Roosevelt was chairing the committee charged with drafting the Universal Declaration of Human Rights she described it as "the international Magna Carta for all mankind". And the influence of the original is clear to see in the final version of her committee's work.

A more recent example of Magna Carta's influence can be found in the Charter of the Commonwealth, which was only adopted in December 2012. It's worth noting too, that the countries of the Commonwealth clearly see the continued relevance of a written charter of rights, responsibilities and values in the 21st Century. That's something that I hope to build on in the final part of my talk today.

Having noted Magna Carta's influence on Australia's Constitution I don't intend to try and discuss it – in this 800<sup>th</sup> anniversary year there will be plenty of opportunities to hear other, far better-qualified speakers on that topic. In fact, an earlier Senate Occasional Lecture by Harry Evans, from way back in 1997, covered this ground brilliantly.

But it would be remiss of me not to note that Canberra is one of only two cities outside the United Kingdom to play host to a copy of Magna Carta. The other is Washington D.C. and they only unveiled theirs as recently as 2008, nearly 50 years after Canberra's was first put on display.

The story of how Australia's Magna Carta came to take up residence in this building is a fascinating one, with its own cast of quirky characters and plot twists aplenty. I'm sure I won't be able to do it justice so I will only recommend that you seek out a copy of Professor Nicholas Vincent's essay on the subject. Helpfully, it has just been republished by our hosts today, the Department of the Senate, in an excellent book alongside many other great essays on Australia's Magna Carta, including the one by Harry Evans that I just mentioned, and a particularly fascinating one by Rosemary.

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We have now told the story of how Magna Carta came into being and how its influence has spread and grown right up until the present day. But what of the future? And why is that people like myself, representing the British Government, still feel that it has more to give to the world?

Certainly, one part of the answer to that last question is that Magna Carta is a topic close to the heart of our Foreign Secretary Philip Hammond – and not just because he represents the constituency of Runnymede and Weybridge in our own House of Commons. It's because the rule of law is still the crucial, necessary element that provides the foundations for a successful society.

In a speech given by our Foreign Secretary in London earlier this year, he said:

“The foreign policy of a democratic nation must have a single, unifying goal: the relentless pursuit of the long-term enlightened national interest – that is, the interests of its citizens, present and future.

“But that is not to suggest that the projection of our values is relegated to the margins of foreign policy making. On the contrary, the rule of law, good governance, and the accountability that rests on equality before the law and freedom of speech... these are the building blocks of successful societies and the very expression of our national self-interest.

“And since successful societies are the building blocks of the global security and prosperity to which our nation aspires, so the rule of law, good governance, and accountability are fundamental enablers of our own national security and prosperity objectives.”

End of quote.

I think this expresses most clearly why, while the parchment that Magna Carta was written on may have aged, the concept of the Rule of Law that first found expression in its words has not. And it is my firm belief that it will not lose its significance any time soon.

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Ladies and gentlemen, having completed the second part of our story, we now move onto **the third and final act**, in which the narrator – that's me – muses on the significance of it all and, perhaps unwisely, attempts to draw some conclusions.

In the run-up to this, the 800<sup>th</sup> anniversary of the sealing of Magna Carta, I have been thinking about what a Magna Carta for the 21<sup>st</sup> century might look like.

Firstly, a disclaimer. This isn't the work of a high-level committee of the finest minds in Great Britain, it isn't necessarily the official policy of the British Government and it is neither fully formed nor definitive – feel free to suggest some more ideas in our discussion afterwards. It does, however, reflect some of the experiences I've had in 25 years of criss-crossing the globe as a British diplomat. And, more importantly perhaps, it has been informed by the aspirations I have for the world that my three children will grow up in.

You'll be relieved to know that I think I can express it in six clauses rather than 63. It's not in Latin. And it will be reproduced on my blog and twitter account rather than sheep's parchment later on. So here we go.

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**First clause: Equal rights for all.** No one should be discriminated against on the basis of gender, race or sexuality. Just taking my own organisation as an example, it used to be the case that female diplomats had to resign from the Diplomatic Service when they married – shockingly, that rule persisted until the 1970s. And we refused to admit homosexual staff into the Foreign Office until 1991, two years after I had joined the organisation. We have come a long way on this in recent years – with around 40 female Heads of Mission around the world and a growing number of ambassadors who are from minority groups or who are openly gay.

But there's still plenty more that we can do in the Foreign Office and across our societies to reach the stage where men and women of all backgrounds have equality of opportunity – and equal pay. The gender pay gap in both Australia and the UK is surprisingly large, and in fact growing – reaching 18.8% in Australia and 19.7% in the UK in 2014. So my 21<sup>st</sup> century Magna Carta would address this issue head-on, reflecting the changes in our society over the last 800 years or so.

There's an obvious fairness argument about why we have to get this right but the often overlooked point is that discrimination imposes a huge cost on societies by preventing many of our talented people from achieving their full potential – be that in business, civil society or the Arts. And while there's an important role for anti-discrimination legislation, the key to realising this change is to demonstrate that inclusive organisations with diversity at senior levels perform better than those that are homogenous in representation and ways of thinking.

**Second clause: the internet – particularly social media - should be used to promote closer relations between peoples and states, not to propagate hatred and violent extremism.** It seems odd to consider something that has only really begun to affect our lives in the last 20 years as being of such fundamental importance – after all, most of us managed to get along OK without it. But I've included it here because of its enormous power to communicate across divides. Both in the physical sense – most Brits in Australia will be familiar with Skyping or Facetiming friends and family back home – and in overcoming social and cultural barriers.

I recently came across some staggering figures about our use of the internet. Every minute one hundred thousand tweets are sent, thirty hours of YouTube footage is uploaded and Google processes more than two million search queries. That's every minute of every day. And those figures are growing fast.

That's why the internet and social media have become our best tools to spread some of the messages we discussed earlier – the importance of the rule of law, good governance and an accountable democracy.

But in recent years we have been provided with ample evidence that the online communication can also be used to spread poisonous ideologies and hatred. Earlier this month I attended the regional Countering Violent Extremism summit in Sydney. I was heartened to hear examples of how we can use strong, positive messages to fight back against those who incite violence online. It is important that we take effective action to protect some of the most vulnerable in our society from these influences.

I left that event certain that the Internet is a powerful force for good in the world. But it also relies on each of us to behave responsibly, to call out the trolls. It also requires collaboration between government and the technology giants – Facebook, Twitter, Microsoft, Google, Apple – to shut down the voices of extremism and hatred, without suppressing freedom of expression. I recognise this balance isn't an easy one to strike, but in my 21<sup>st</sup> century Magna Carta, we should at least try.

**Third: Freedom of religion.** How disappointing it is to think that this issue, which was close to the heart of many people fleeing Britain for America in the Seventeenth Century – and indeed many others throughout history – still needs to be championed in the Twenty First Century. But it surely does. As a global community of nations we must unite in opposition to the politics of hate and the grim view of the world promoted by ISIL and their adherents that justifies killing others purely on the grounds of what they believe.

My friend and former colleague, Gerard Russell, has written a brilliant book called – *Heirs to Forgotten Kingdoms: Journeys into the Disappearing Religions of the Middle East*. In it, he ventures into the distant, nearly impassable regions of the Middle East where small and mysterious religions are clinging to survival, but face the possibility of extinction due to the advance of militant extremism. It is a moving reminder that we still can't take our eye off the ball when it comes to freedom of religion – far from it.

**Fourth: global abolition of the death penalty.** We have made progress in the 800 years since the Magna Carta on moving away from all kinds of barbaric and degrading punishments. And progress has been made in recent decades towards the shared UK and Australia goal of global abolition of the death penalty. In 1977, only 16 countries had abolished in law or practice; today that number has risen to 140 – nearly two-thirds of countries around the world.



Yet in 2014, Amnesty International recorded executions in 22 countries, the same number as in 2013. At least 607 executions were carried out worldwide. So we have more to do to achieve our goal to see the total abolition of the death penalty globally. As UN Secretary-General Ban Ki-moon says, “we must continue to argue strongly that the death penalty is unjust and incompatible with fundamental human rights”.

**Fifth: a commitment to long-termism.** The authors of the original Magna Carta weren't really focused on the long-term benefits of their Charter – it was all about preserving their own short-term interests, and pockets. But we're better than that. In our busy, complicated world where we face a constant stream of threats and challenges, I believe we have a shared responsibility to focus on the long-term as well as the short-term - the important as well as the urgent - thinking of our children, and our children's children.

Two issues I'm thinking of in particular. One is **climate change**, which can only be tackled holistically as an international community of nations, working collaboratively and beyond our own borders. That's why the climate change conference in Paris at the end of this year is so important in uniting the world in pursuit of rapid climate action.

The second is the fight to **end poverty**, in particular by ensuring that no-one is disadvantaged by their place of birth when it comes to education and healthcare. This is part of the work that began through the Millennium Development Goals (MDGs), which expire in 2015. These eight goals were set in 2000 by 191 UN member countries and included commitments to halve world poverty, reduce child mortality, halt the spread of HIV/AIDS and provide universal primary education.

Not all of them have been reached, but they set the aspiration high and there have been some real successes. For example, the proportion of people living in extreme poverty has been halved from 46% to 22%; there are more girls in education; we have begun to reverse the spread of HIV and AIDS; and we've halved the proportion of people without access to safe drinking water.

There's a lot of important work going on now to decide how we should take this forward and in what form, setting an ambitious post-2015 development agenda. I won't go into the details of that now, but I think this work sits neatly within the framework of a 21<sup>st</sup> century Magna Carta.

Of course there is a tension between long-termism and short parliamentary cycles – especially when, as in Australia, those only last for three years. So I was heartened to see that, before the recent UK general election, the three main party leaders issued a letter which basically said: “we all agree on climate change, so it isn't an issue in this election”. This could be a model applied more widely to long-term issues, with party leaders campaigning only on things they can actually change within a three year time-frame. That would be a refreshing change!

That brings me to the **sixth and final clause** of a 21<sup>st</sup> century Magna Carta. And it's probably the most important, since it underpins almost everything else I've said today.

You may remember that in the quote I read out earlier, our Foreign Secretary stressed the central importance of both our national security and prosperity objectives in how we conduct our foreign policy. That's because these are inextricably linked to the way in which we and other countries deal with each other.

We know that the world today faces many challenges, including some that we had hoped were consigned to the past. Last year we saw one European country annex the territory of another for the first time since the Second World War. In our own Asia Pacific region, territorial disputes over uninhabited rocks and reefs have the potential to generate enough friction in international affairs to spark a confrontation.

With nations connected like never before, there are few parts of the world that can consider themselves safe from the contagious effects of conflict between states. Even for those countries not directly affected, the global reach of news and the almost universal access to it means there are no more "far-away countries of which we know little".

That's why in the Twenty-First Century, the best hope of resolving these challenges lies in what is sometimes called the rules-based international system.

It is a concept that comes up regularly in diplomatic circles but what does it mean in layman's terms? Essentially, it means that nations are driven by rules, not power, in how they conduct themselves internationally – so abiding by the rule of law, good governance, ending corruption. Of course, we cannot entirely avoid disagreements between countries but we can try to contain those disagreements within the dispute resolution mechanisms of international and regional organisations – such as the United Nations, ASEAN or the African Union. If we are successful in avoiding the wars – both hot and cold – that so scarred the history of the Twentieth Century then the prize – in terms of peace and prosperity for all our countries – is a truly enormous one.

That's why the final principle of my Magna Carta for the Twenty First Century is this: for all states **to abide by the rules-based international system**. A system that ensures, just as Magna Carta did 800 years ago, that no one – neither king nor country – is above the law. That, ladies and gentlemen, would be worth celebrating for at least another eight centuries.

We've covered a lot of ground today: from Runnymede to the English Civil War; from Alistair Campbell to Ban-ki Moon; from America to Australia. And from a document written 800 years ago on sheepskin to some ideas for a Magna Carta for this, our 21<sup>st</sup> century. I hope I have convinced you, at least, that the Magna Carta has relevance and resonance in our complex, globalised world today.

So I thank you all for your time and attention and I look forward to hearing your questions and comments.