

The Magna Carta and democratic rights

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Today marks the 800th anniversary of the Magna Carta, a major historical event in the social and political development of England and in the emergence of the rule of law against arbitrary power.

In 1215, English noblemen, rebelling against the abuses of power by King John, forced the king to agree to the Magna Carta (the “Great Charter”) at Runnymede. Their struggle was rooted in profound economic processes, which were undermining the foundations of feudal society and the political power of the monarch.

The development of agriculture and land productivity was more advanced in England than elsewhere. While still very much in their infancy, capitalist relations were emerging out of the constraints of feudalism, which were in any event less restrictive in England than on the Continent.

The Magna Carta enumerated, in fairly comprehensive terms, the rights of “freemen”—essentially, landowners. Its 63 clauses set out the restraints on the king’s absolute powers, especially over economic life, property and legal procedure. The Charter (as set out in the translation available on the British Library website) proclaimed: “To all free men of our kingdom we have also granted, for us and our heirs forever, all the liberties written out below, to have and to keep for them and their heirs, of us and our heirs.”

The Magna Carta was directed toward the freer and more productive exercise of property rights by landowners and against the exercise of royal power by the king and his court over land and other property. Rights of free trading by merchants were also given concrete legal protection, along with the basis for the standardisation and regulation of commodities. Clauses 35 and 41 stated:

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 selvages. Weights are to be standardised similarly.

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.

Alongside the codification and systematisation of land usage rights and trade, the Magna Carta effectively declared that the king was subject to the law and that freemen could not be fined, arrested, forced to confess, imprisoned, exiled or otherwise subjected to official power without proper legal process and the judgment of their peers. Clauses 38, 39 and 40 declared:

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.

As expressed in the Charter, one of the founding documents of English law, the interrelationship between freedom of property rights and legal process made clear the class character and historical content of law. The freedoms and rights declared and protected by the Charter were the rights of property owners. The document was silent about the peasantry, who remained subject to the tyranny of their lords. In 1215, a lord had the power to kill a peasant for disobedience with impunity.

In the context of medieval England itself, the social reality behind the formal rights of freemen and the continuing struggles of the peasantry was revealed in the Peasants’ Revolt of 1381, 166 years after the Magna Carta. Led by Watt Tyler and Jack Straw, 60,000 peasants marched on London to demand the abolition of serfdom, tithes and the poll tax. The rallying cry of the peasants was the rhyme “When Adam delved and Eve span, who was then the Gentleman?”

Nevertheless, the formal rights and freedoms, and constraints on arbitrary power, enunciated in the Charter also contained a more universal content. Essentially, they gave early expression to the assertion of the inherent rights of man, however necessarily constrained and formed within the prevailing historical realities and class relations of early 13th century England. These political rights were the subject of centuries of struggles waged by the masses against the property-owning classes in England, the Continent and, later, America.

The ensuing major intellectual developments and historical conflicts included the English Civil War, the Enlightenment, the French Revolution, the American Revolution and Civil War, and the Chartist movement of the 19th century. Many participants in these struggles invoked the Magna Carta as a source of basic rights. They included the Levellers and Diggers, the most radical and egalitarian tendencies in the English Civil War, Thomas Jefferson in the American Revolution and the Chartists in 19th century England, who demanded the right to vote, without property qualifications.

The most significant of these events in advancing democratic rights, however, were undoubtedly the Enlightenment and the French Revolution, which shattered the old feudal order.

The Enlightenment made a frontal assault upon religious belief and thereby made Man, rather than God, the centre of intellectual inquiry. With the attack on the Church and the monarchy, it was inevitable that the great Enlightenment thinkers raised the issue of equality. The feudal system, with the Church and Crown at its apex, rested upon the

unchallenged premise of man's natural inequality.

The intellectual orientation of the Enlightenment was universalist in its conceptions, irrespective of the fact that its thinkers were drawn almost exclusively from the bourgeoisie. The natural and inalienable rights of man of which they spoke were not intended to be limited to a privileged class, but rather were directed to the emancipation of all mankind. Rousseau, perhaps the most complex and contradictory of the great Enlightenment thinkers, attacked private property as the basis of human inequality and hence the wretchedness and misery of man's condition, declaring "the fruits of the earth belong to all and the earth to no one."

The intellectual climate created by the Enlightenment provided the ideological weapons for the French Revolution. The revolutionary zeal of the Parisian masses on the one hand, and the ferocious resistance of the *ancien regime* on the other, drove the revolution further to the left and, with it, the universalist conceptions and demands of the masses. The 1789 Declaration of the Rights of Man and of the Citizen was conceived as a statement of the natural and universal rights of every citizen, valid at all times and in every place.

In 1789, however, the Third Estate, in whose name the revolution was made—consisting of all those in society except for royalty, the nobility and clergy—remained undifferentiated between the rising bourgeoisie, on the one hand, and the artisans, peasants and the *sans-culottes*, the propertyless masses of Paris, on the other hand. Over the ensuing 50 years, with the development of industrialisation, the downtrodden masses emerged as the new working class, the modern "proletariat," demanding the broadening of democracy to social rights—equality in living and working conditions, health and education—that were fundamentally incompatible with the profit interests of the bourgeoisie and the private ownership of the means of production.

As Karl Marx and Frederick Engels explained in the *Communist Manifesto*, published in 1848, the bourgeois society that sprouted from the ruins of feudalism did not do away with class antagonisms. On the contrary, the system of wage labour established "new classes, new conditions of oppression, new forms of struggle." In fact, it split society into "two great hostile camps, into two great classes directly facing each other—bourgeoisie and proletariat."

In his famous essay *Socialism Scientific and Utopian*, Engels, writing of the legacy of the Enlightenment and the French Revolution, observed:

Now, for the first time, appeared the light of day, the kingdom of reason; henceforth superstition, injustice, privilege, oppression, were to be superseded by eternal truth, eternal Right, equality based on Nature and the inalienable rights of man.

We know today that this kingdom of reason was nothing more than the idealised kingdom of the bourgeoisie; that this eternal Right found its realisation in bourgeois justice; that this equality reduced itself to bourgeois equality before the law; that bourgeois property was proclaimed as one of the essential rights of man; and that the government of reason, the *Contrat Social* of Rousseau, came into being, and only could come into being, as a democratic bourgeois republic. The great thinkers of the 18th century could, no more than their predecessors, go beyond the limits imposed upon them by their epoch.

But, side by side with the antagonisms of the feudal nobility and the burghers, who claimed to represent all the rest of society, was the general antagonism of exploiters and exploited, of rich idlers and poor workers.

In Engels' words, with the emergence of the working class, "universal emancipation" became "the historical mission of the modern proletariat." The capitalist class, which could put itself forward as the spokesman for

suffering humanity as a whole, in the battle against feudal and aristocratic privilege, sided with the forces of militarism and reaction rather than acceded to the social demands of the working class.

Confronted by the threat from below to its material interests, the bourgeoisie turned to the violent use of the state apparatus against the proletariat in the 1848 European revolutions, and in 1871 brutally suppressed the Paris Commune, the first attempt by workers to take political power into their own hands.

As Leon Trotsky explained in *Terrorism and Communism*:

As a battle cry against feudalism, the demand for democracy had a progressive character. As time went on, however, the metaphysics of natural law (the theory of formal democracy) began to show its reactionary side—the establishment of an ideal standard to control the real demands of the labouring masses and the revolutionary parties... In the real conditions of life, in the economic process, in social relations, in their way of life, people became more and more unequal; dazzling luxury was accumulated at one pole, poverty and hopelessness at the other. But in the sphere of the legal edifice of the state, these glaring contradictions disappeared, and there penetrated only unsubstantial legal shadows.

The working class, socialism and democracy

By the turn of the 20th century, the development of global capitalism had created both an international working class and driven the major capitalist nation-states into growing conflicts over the division of the world market, resources and colonies. The fundamental contradictions of capitalism—between the old nation state system, in which the bourgeoisie was rooted, and the development of world economy, and between the private ownership of the means of production and socialised production—erupted to the surface with the outbreak of World War I, plunging human civilisation into an unprecedented catastrophe, and signaling the dawning of "the death agony of capitalism," as Trotsky defined it, a new imperialist epoch of wars and revolutions. Lenin explained that one of the characteristic features of imperialism, along with the domination of parasitic finance capital, was "political reaction *all along the line*." The brutal and anti-democratic colonial exploitation of the oppressed nations was combined with the turn to increasingly anti-democratic forms of rule at home.

Under these conditions, the struggle for genuine democracy became indissolubly bound up with the fight of the working class to overthrow the imperialist order, and to develop the scientific socialist perspective and leadership necessary to accomplish that historic task. Led by Lenin and Trotsky, the Russian Revolution of October 1917 pointed the way forward, overturning capitalist rule and beginning to establish the democratic control of the producers themselves over all aspects of economic and political life.

The subsequent degeneration of the Soviet Union at the hands of the Stalinist bureaucracy enabled global capitalism to survive, despite the horrors and depredations of the Great Depression of the 1930s, the turn by the capitalist class to fascism and dictatorship, and the descent into another world war.

Today, 70 years after the end of World War II, mankind faces once again the descent into war, dictatorship and repression. Social inequality, which has reached levels exceeding those of the *ancien regime*, has become incompatible with even the semblance of democratic rights.

In order to impose its brutal agenda, capitalist governments everywhere are repudiating the entire framework of legal and democratic rights. With unspeakable hypocrisy, Western governments, aided and abetted by a

compliant corporate media, are, at the same time, commemorating the 800th anniversary of the Magna Carta and claiming to represent its heritage. In reality, the list of core rights enunciated in the Charter stands as an indictment of world capitalism.

Habeas corpus, the principle of no detention without trial, has been violated by the return of arbitrary and often indefinite imprisonment, from Guantanamo Bay to Australia's inhuman refugee detention camps. Torture and forced "confessions" have returned as instruments of government control, accompanied by illegal renditions. Mass electronic surveillance has been imposed, in denial of free speech. Police forces are being trained and equipped like standing armies, directed against the most vulnerable sections of the working class and youth. The very notion of a fair trial by jury, with the safeguards of the presumption of innocence and the right to remain silent, is being renounced. Without any semblance of due process, the US president orders and oversees drone assassinations and other extra-judicial killings of citizens and non-citizens alike on a weekly basis.

Citizenship rights themselves, the bedrock of legal and democratic rights, are being eviscerated, with the fundamental right not to be "outlawed or exiled" without "lawful judgment" being jettisoned. Both the British and Australian governments, while cynically trying to wrap themselves in the mantle of the Magna Carta, have moved to strip people of citizenship by ministerial decree, the modern equivalent of the royal prerogative.

Significantly, this assault has been spearheaded by the major so-called "democratic" powers, above all, the United States. Facing historic economic decline, and determined to retain its global hegemonic position, Washington is waging war against its competitors around the world and against the working class at home, under the pretext of the fraudulent "war on terror." In the process, both Republican and Democratic administrations alike have renounced constitutional and legal limitations on executive power, and erected the scaffolding of a police state.

Today, 800 years after the Magna Carta, the working class confronts the reversal of the social gains of centuries of struggle for political and democratic rights. No constituency remains within the bourgeoisie anywhere for the defence of even the most fundamental rights. The only progressive alternative is the independent political mobilisation of the working class, on the basis of a socialist program, to conquer state power. New forms of genuine democracy—arising in the course of revolutionary mass struggles by the working class, the vast majority of the population—will become the foundations for workers' governments, committed to world socialism, that is, to peace, justice and social equality for all.



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