Magna Carta NZ:

Power, People, Politics and Progress

An e-book edited by Jennifer Lees-Marshment

12 May 2016, the University of Auckland

https://magnacartanz.wordpress.com/

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"Those involved in the sealing of Magna Carta 800 years ago would never have imagined that one day, on the other side of the world, it would be referred to in debates on the internet. It is more important to have imagination in law and government than we sometimes realise. By looking back, and seeing how far we have come and changed, we realise that anything in the future is possible, and the more open to this we are, the better."

Associate Professor Jennifer Lees-Marshment, Chair of the Magna Carta 800th Committee for NZ, Magna Carta Parliamentary Reception Speech, 15 June 2015

The 2015 New Zealand celebration of the 800th anniversary of Magna Carta

2015 saw the 800th anniversary of the sealing of Magna Carta: an ancient document widely seen to lay the foundations of the rule of law. In late 2014 I was asked by Sir Robert Worcester, Chairman of the Magna Carta 800th Anniversary Committee in the UK (see http://magnacarta800th.com/), to form and chair a committee to mark this celebration in New Zealand. As Chair of the Magna Carta 800th Committee for New Zealand, my vision was that we use this year to reflect on our past, present and future of law and rights in New Zealand under the theme Celebrating the past; Reflecting on the present; Imagining the future (see https://magnacartanz.wordpress.com/). Three speeches I made during the year elaborate on this vision, and are presented below this introduction.

My committee oversaw, facilitated and helped promote a range of Magna Carta related events and activities including 2 parliamentary, 2 educational and 4 arts and culture events. They also included 3 exhibitions, 5 cathedral services, 6 conferences and 10 lectures and talks. A detailed list can be found at https://magnacartanz.wordpress.com/events-in-nz-in-2015/. Magna Carta anniversary events attracted significant media coverage of the anniversary in radio, television, newspaper, website and magazines including mainstream evening news on the main TV channels. The public were also engaged through Facebook and Twitter. Highlights of online engagement include a Facebook reach of up to 10569 people per post, Tweet Impressions totalling 26111, 764 hits on the Committee's YouTube videos and over 14800 views on the Committee's website.

The cornerstone of the Committee's activities was the University of Auckland Magna Carta Lecture Series in early July (see https://magnacartanz.wordpress.com/university-of-auckland-lecture-series/), organised by my colleague and Deputy Chair, Dr Stephen Winter. Each of the 5 nights in the series looked at a particular historical, legal, cultural or rights issue in relation to Magna Carta. 16 speakers took part in the series including Chief Justice Dame Sian Elias, Judge Carrie Wainwright,

Amnesty International Director Grant Bayldon, Assistant Privacy Commissioner Joy Liddicoat, as well as New Zealand politicians Hon Judith Collins and Labour Party Leader Andrew Little. The Lecture Series attracted 620 people registered for the lecture series, as well as another 50 from a live-stream to the University of Canterbury. 71% of the audience was from outside academia, from areas including community groups, government, law, media, and NGOs. The edited videos of the lectures received over 960 views on MCNZ and the University of Auckland's YouTube channel by the end of 2015.

Clearly, the 800 year old Magna Carta continues to stimulate political and policy development around the world to this day. The principles it symbolises re-emerge in modern debates and this e-book collates and features key speeches made in New Zealand in 2015 on key themes:

--- the timeless values of fair process and freedom
--- the continued need to check our rulers and the idea of a Constitutional Court of Review in New Zealand
--- advancing indigenous rights by addressing historical breaches of the rule of law through tribunals for previous mistreatment of Māori
--- the dilemma of online security versus privacy in the virtual realm
--- global applications of Magna Carta and the humanitarian need for the rule of law to be applied to the rights of refugees
--- extending Magna Carta to those outside the law including prisoners and beneficiaries without
--- the financial means to access justice

Outline of the book

The book is organised into sections focusing on key themes of importance in modern day New Zealand. Each section has an introduction highlighting pertinent excerpts from practitioner speeches made during the 2015 anniversary year, questions for reflection and discussion, followed by the full transcripts of those speeches.

Section 2: The Timeless Values of Fair Process and Freedom: the international adaptability and importance of Magna Carta features quotes from HE Jonathan Sinclair, British High Commissioner to New Zealand; Hon Judith Collins; Chief Justice, Dame Sian Elias; and Patrick Reilly, Acting High Commissioner. As the many speeches made during the 2015 anniversary year demonstrated, Magna Carta has become related to important values such as fairness, freedom, protection, equality, human autonomy and openness, on which many other developments were founded including human rights. A principle such as the rule of law is historically and politically important as well as legally, because it provides a foundation for democracy itself; ensuring power is distributed fairly from a monarch to the people, stimulating the creation of parliament, constitutional changes and enabling peace and thereby economic prosperity and innovation.

Section 3: The Case for greater legal review of Parliament in New Zealand features the proposal by Labour Party Leader Andrew Little, July 2015, at The University of Auckland Lecture Series, for greater review to prevent Parliament from overriding human rights which are often usurped by new laws. MPs oversight, provided by Attorney-General certificates in theory, cannot be guaranteed in practice. The law is not enough because parliament is not enough. This raises questions as to whether we need to return to the law and create mechanisms to ensure the rule of law is upheld.

Section 4: Advancing Indigenous Rights by addressing historical breaches of the rule of law: The Rediscovery and Reinvigoration of Magna Carta for Māori highlights the political and social consequences of ignoring the principle of the rule of law with regard to Māori but also New Zealand society as a whole; how the rediscovery and reinvigoration of the principle has stimulated redress and advancement of Māori through tribunal investigations; and then beyond New Zealand to the global implications for indigenous rights and development in all countries. It features excerpts from speeches made by the Attorney-General Hon Chris Finlayson QC; Judge Carrie Wainwright, Deputy/Acting Chairperson of the Waitangi Tribunal; and Lawyer Isaac Hikaka, member of the New Zealand Law Society's Rule of Law Committee.

Section 5: Managing the Kingless Internet: debating resolutions to the dilemma of security versus privacy in the virtual realm discusses the application of Magna Carta principles to the internet. Digital rights and regulations are not advanced easily, however, because it pits personal freedom against personal and collective security. It raises issues of trust, crosses domestic with international relations policy, and is about power and control – albeit of online information. Featuring comments from Joy Liddicoat, Assistant Privacy Commissioner and Vice President of Internet NZ; Howard Broad, Deputy Chief Executive for Security and Intelligence in the Department of the Prime Minister and Cabinet; and Martin Cocker, Executive Director of Netsafe, it raises questions about whether the current measures in place in New Zealand are enough as the practitioners suggest, or we do in fact need an online Magna Carta.

Section 6: Magna Carta goes Global: the humanitarian need for the rule of law to be applied to the rights of 21st century refugees illustrates how the principles embodied in Magna Carta are applicable to international law and practices, and very human stories, by considering policies towards refugees and migrants. It features the perspectives of Andrew Lockhart National Manager, Refugee and Protection Unit, Immigration NZ; Michael White, Senior Legal and Policy Analyst, Human Rights Commission; and Grant Bayldon Executive Director, Amnesty International, which review New Zealand's immigration and refugee law, systems, policies and practice in relation to the principles of the Magna Carta and why it is important New Zealand works to see such values upheld in international refugee practices.

Section 7: The Rule of Law for those Outside the Law: Magna Carta for prisoners and the poor encourages us to consider that whilst Magna Carta is most often debated for law-abiding citizens on the grounds that those who live and work within the law should be protected by it, we need to look to those outside or with less access to the law. It focuses on the last speaker in The University of Auckland lecture series, Johanna McDavitt, a representative from the Auckland branch of JustSpeak, who challenged us to make Magna Carta relevant for the powerless: "to use the principles of the Magna Carta… to speak up for people who don't - to speak up for our prisoners, to speak up for our beneficiaries, to speak up for people who don't have the money or otherwise the ability to give the time to these sorts of issues." This section thus shows how principles of the Magna Carta can inform present-day debate and reform in the criminal justice sector and raises questions such as how to extend effective protection of the law to marginalised groups including prisoners and their voting rights; access to justice including financial barriers; and addressing the causes of crime and rehabilitation.

Summary

Magna Carta NZ: Power, People, Politics and Progress brings together a range of reflections on the rule of law on modern society and the future development of rights, politics and the law in Aotearoa New Zealand which will stimulate debate not just in New Zealand but around the world. By looking back on what was said and debated during the anniversary year of 2015 we can see that the application of the principles Magna Carta embodies continues to be open to debate as well as application through new constitutional, legal, political and social developments in the multi-cultural commonwealth. By considering the political and social consequences of such documents over time, the importance of the law is seen not in its specific detail when written but its' symbolism/focus for debate over centuries.

About the Editor - Associate Professor Jennifer Lees-Marshment

Jennifer Lees-Marshment is an Associate Professor in political science at The University of Auckland in New Zealand and has engaged in multiple engagement roles. As well as being Chair of the Magna Carta 800 Committee for New Zealand in 2015, she was academic advisor to TVNZ's Vote Compass in the 2014 New Zealand Election and Kiwimeter during the Flag referendum in 2016. Her most recent work The Ministry of Public Input (Palgrave 2015) won the IAP2 Australasia Research Award. Jennifer is author/editor of 13 books, 3 journal special issues, and a world expert in political marketing. See www.lees-marshment.org for further details or email j.lees-marshment@auckland.ac.nz.

Magna Carta NZ Chair Address to the Service of Commemoration, open to the public at Holy Trinity Cathedral in Auckland, 14 June 2015

Thank for the opportunity to address the service, it is a great honour.

Extracts from Magna Carta and the lessons in this evening's service relate to values such as fairness, wisdom, justice, liberty. They also suggest we need to have the right to expect these values to run through our society and system of law that governs it. Moreover, we should seek to protect and promote these values not just for ourselves, but others.

Commemorations can be elite driven, historically focused events, especially those driven by a land far away which often happens in commonwealth countries. But for me this anniversary is not just history, it's an opportunity to look forward. And it's a chance to consider how something that happened so long ago in another country can still have relevance today and here.

When I was asked to chair the committee the formal remit was to coordinate events in New Zealand to commemorate the 800th anniversary of the Magna Carta. We could have focused on historical and legal aspects and leaned more towards marking what happened in England 800 years ago. But my vision was always to make our celebrations as much about New Zealand as possible, think about what the Magna Carta means in New Zealand today, and showcase New Zealand organisations, events, academics and practitioners views and activities on promoting a just rule and society.

History can connect easily to the present if you let it. And the core values of Magna Carta remain as important today even in arenas which no one in the 13th century would have dreamt of. When myself and Dr Stephen Winter, who is lead organiser of a lecture series at Auckland University in July, sat down to discuss what topics we should include, Magna Carta Online jumped out as a prime topic because digital rights are a growing concern. Universities can also play an important role in enabling a constructive and reflective dialogue. In the history of the many physical, legal and political battles for the advance of rights we find many dilemmas are raised. Freedom online can create risks; but security and surveillance can impose on freedom. Online rights raise issues of security 'versus' privacy. The battle for the appropriate move forward is not always a smooth one – as the events around and after the sealing of Magna Carta demonstrate – and it is important we enable informed dialogue in our society as we proceed to make new rules in new areas such as the internet.

We also added a lecture migration and refugees and because it is also important to look outwards and work towards ensuring those other than ourselves are also afforded the same protections. Societies are increasingly diverse; what worked to enable the maximum safety and fairness for human beings 800 years ago is not going to be the same today. So to continue to support progress on the advancement of rights in society, and ensuring the rule of law continues to provide just regulation, and to keep the spirit of that 800 year old document alive for not just us but our children and grandchildren, we also need to add values such as love, gentleness and compassion - all of which a service like this provides the ideal environment to develop.

As an academic who believes it is important that universities are connected with society, I thank the Dean and all those involved in putting this service together. It encourages reflection on history but also the future, on the rule of law but also society, and government but also the people. As chair of the Magna Carta Committee I thank you all for being here this evening to commemorate such an important event to New Zealand's present - and future - in such a valuable way.

Magna Carta NZ Chair Address to the Attorney-General's Magna Carta Reception at the Grand Hall, Parliament, 15 June 2015

I would like to thank the Attorney-General for recognising the importance of commemorating this anniversary right from the start, and providing key support by running events such as this reception and the essay-prize. Support from yourself and your staff such as James Christmas helped give us a sense of momentum from which other things have flowed.

I would also like to thank High Commissioner Jonathan Sinclair for support from him and other staff at the British High Commission. Like the Attorney-General their support was there right from the beginning. And it has been a pleasure to work with staff such as Yvonne Davidas who like me are enthusiastic for the great things that can come from connecting people across and within different countries. I appreciate the support for my vision to make our celebrations as much about New Zealand as possible, and showcase New Zealand's organisations, events, and perspectives on our progress and future plans for promoting fair rule and a just society.

Although we are here today because of an event 800 years ago, my vision has been to use this commemoration to think not just about the past, but the present and the future. Anniversaries – even those 800 years old – provide us with the chance to reflect on where we have come from, but also where we might be going. And universities in particular have an important role to play in facilitating dialogue and debate between different sections of our community on future directions.

My colleague Dr Stephen Winter, also from Politics at Auckland University, has taken great care when choosing topics and speakers for his lecture series in July to include modern applications of the basic tenets of fairness, justice and law. We will cover the history but also the current application of the rule of law, including topics such as digital rights, the rights of refugees, and visions for the future. It will combine academic perspectives with those from organisations including the Human Rights Commission, Amnesty International, the Labour and National Party, The Privacy Commission, the Department of Prime Minister and Cabinet and JustSpeak. It has been a huge job to put this together and I want to note my thanks to Stephen, not just for his hard work, but his commitment to creating a ground breaking, community-oriented event that is open to the public both at the university and online.

Indeed, I have been fortunate to serve as chair of a committee of like-minded people drawn from academia and practice who were as interested as I am in exploring a wide range of ways to celebrate this anniversary. Events this year include a Service of Commemoration; a Medieval Faire; a Peal of Bells; the lighting up of the Auckland War Memorial Museum; and public lectures at the National Library as well as history, legal and government conferences. The breadth of events is testament to the commitment of my committee, who were asked to start work just a few months before the anniversary began, when the UK had been preparing for several years! They have done a brilliant job.

Their commitment like mine stems from the realisation that Magna Carta is not just about an elite set of rules. It is about the nature of society in which we live. And this commemoration is about ensuring we continue to reflect on what changes we might need to make to ensure that the law

continues to provide appropriate and fair rule for the way we live today. As one participant at the Wellington Young Lawyers' panel discussion in May commented, whilst it is instinctive for lawyers to honour traditions and look to precedent, it is also important to discuss topics like 'the unruly world of cyber' and "assess the law and its relevance in the context of everyday life."

And of course we also know that history creates the future. Those involved in the sealing of Magna Carta 800 years ago would never have imagined that one day, on the other side of the world, it would be referred to in debates on the internet. It is more important to have imagination in law and government than we sometimes realise. By looking back, and seeing how far we have come and changed, we realise that anything in the future is possible, and the more open to this we are, the better.

Through events such as this reception, we hope to promote debate, discussion and reflection on the rule of law in society that will continue once the anniversary year has ended. Videos of the University of Auckland public lectures will be uploaded for future use after July, and reports and resources related to events that happen this year will remain on our website. As chair of the Magna Carta Committee I thank you all for being here this evening to mark such an important event to New Zealand's present - and future. Thank you.

Magna Carta NZ Chair Address to the Exhibition: The Mana of the Magna Carta: The New Zealand Experience of a Medieval Legacy University of Canterbury, 1 December 2015

Thank you to The Chancellor for his introductory comments and the College of Arts & School of Law for hosting this event. I also must give my thanks to Dr Chris Jones, not just for his work on this exhibition but as a member of the Magna Carta 800th Committee for New Zealand. Chris's positivity and vision has been inspirational to me as Chair.

As Chris said when he spoke at the University of Auckland lecture series, this year we have taken the Magna Carta out and danced with it. At this event - one of the last dances of the year - we can reflect on what we have learnt in 2015. The year has seen exhibitions, a medieval faire, a concert, cathedral services, bell ringing, and discussions at a multi-disciplinary range of academic and practitioner conferences, lectures and talks. Scholars, students, and society have worked alongside each other. The University of Auckland lecture series attracted 70% non-academics and I know Dr Jones has worked a range of groups to create this event and Magna Carta panels this week. This teaches us how university academics can have a valuable impact on society by facilitating important events, connections and discussions.

But what it has also shown is the value of history in stimulating debate about the future, and the continued relevance of 'the book.' This exhibition enables us to see an actual physical representation of the Magna Carta. This helps to bring the importance of this ancient text alive and I commend all those involved for making this happen. Despite profound changes over the last 800 years, the value of the book persists. Going forward, we will be writing a book that brings together the lessons we have learnt this year about the nature of law and society in New Zealand. Like the commemoration, it will be completed from historical, legal and political perspectives; consider the past, present and future; integrate practitioner, public and academic perspectives; and cover classic topics such as the rule of law alongside 21st century issues like digital rights and refugees. Historical reflection isn't just about dusting off old books, it's about taking the chance to re-design the future – and write new books we can all learn from.

So this evening, take the time to look at the book on display. Not just for what it is in itself, but for what it represents: the importance of looking back; of recognising past achievements; and the continued need to fight for democracy

As chair of the Magna Carta Committee I thank you all for being here to mark such an important event to New Zealand's present - and future.

Section 2 - The Timeless Values of Fair Process and Freedom: the international adaptability and importance of Magna Carta

Introduction

That Magna Carta has had so much impact was, in the 2015 New Zealand commemorations, seen as down to the core value it promotes. This is the basic idea that there should be a rule of law. Yes, there are debates as to what those laws should say, but until Magna Carta that there should even be law had not been established.

As the quotes from practitioners below show, the rule of law became a crucial principle – as Hon Judith Collins noted, "Cabinet does not consider the exact wording of the Magna Carta, not once. Parliament doesn't either. They do, however, consider the principles of the Magna Carta." Furthermore, as this book – and the many speeches made during the 2015 anniversary year noted, Magna Carta has become related to important values such as fairness, freedom, protection, equality, human autonomy and openness, on which many other developments were founded including human rights.

"The rule of law is the most important of the principles that underpin the strong institutions and accountable government on which our nations and many others have built their success. And it is on this foundation that long-term sustainable economic and political success of nations still depends...Without these elements innovation, entrepreneurialism and prosperity cannot flourish."

HE Jonathan Sinclair, British High Commissioner to New Zealand,
Magna Carta Parliamentary Reception, 15 June 2015

"The Magna Carta is just one of a number of constitutional laws, principles and conventions that comprise our uniquely New Zealand constitution... New Zealand law is based on the principles of the rule of law, the sovereignty of Parliament, in representing the people, and the separation of powers… All are entitled to the protection of the law and the exercise of that protection… All New Zealand Members of Parliament are equal. Every vote counts the same. The Prime Minister's vote has the same standing as that of the Leader of the Opposition or any other Member of Parliament. So when New Zealand laws are passed, they have to be passed by the House of Representatives and… if the people don't agree with us then, every three years, they get to decide if they still want us representing them… New Zealand has been without serious social discord since the last of the New Zealand Land Wars at the end of the 19th century. Even times such as the 1951 waterfront strike or the 1981 Springbok Tour have not led to a breakdown in society or the rule of law. The rule of law and the need to comply with the law, as exercised by the majority of people, keeps New Zealand free of major social discord."

Hon Judith Collins, The University of Auckland Magna Carta Lecture Series, 6 July 2015

"Magna Carta and legislation and the law which it has given rise to is at least acknowledged to support claims of right, recognisable as law in the courts… Magna Carta lays the foundations for the rule of law and parliamentary sovereignty, the twin elements of the New Zealand constitution today... Magna Carta confronted the arbitrary power of the Crown. Over the following centuries the ideas it launched brought the Crown under the law… Our pragmatic and adaptable constitution may suit New Zealand society and, indeed, has considerable virtues… constitutional values may provide political limits, at least if they are talked about and understood… in the necessary discussions we will continue to have on constitutional directions, the ideas of Magna Carta will continue to be drawn on."

Chief Justice Dame Sian Elias, The University of Auckland Magna Carta Lecture Series, 6 July 2015

"One of the reasons why Britain... has been so influential in exporting ideas, people and things to the world is because Britain has been so receptive to ideas, people and things from the world. That receptiveness, that openness, has been a source of strength."

Patrick Reilly, Acting High Commissioner,
The University of Auckland Magna Carta Lecture Series, 10 July 2015

Questions for reflection and discussion

--- Is the High Commissioner correct that the rule of law has created a foundation for sustainable economic and political success of nations? Is innovation, entrepreneurialism and prosperity flourishing in New Zealand because of the rule of law?

--- Debate the question raised by the Chief Justice "Is arbitrary power acceptable today if exercised by a parliament which is democratically elected?"

--- Has the New Zealand Bill of Rights stemmed from Magna Carta principles and thus, has Magna Carta led to significant political development?

--- What is the nature/extent of parliamentary power and does it need checking still like Magna Carta checked the power of the king?

--- Is Judith Collins correct that having Magna Carta and the rule of law why New Zealand has not had social discord?

--- To what extent has New Zealand been open to new ideas like Magna Carta in relation to the law, and is this strength, as the Acting High Commissioner suggests it is for the UK? E.g. something on colonisation/globalisation of the rule of law/legal development; and/or how it needs to be adapted though to suit New Zealand?

Speech by HE Jonathan Sinclair, British High Commissioner to New Zealand,
Magna Carta Parliamentary Reception, 15 June 2015

Tena koutou, tena koutou, tena koutou katoa.

Honourable Chris Finlayson Attorney-General, Honourable David Carter Speaker of the House of Representatives, Honourable Ministers, Members of Parliament, members of the diplomatic corps, ladies and gentleman.

As the Attorney-General has said, we are here today to celebrate the 800th anniversary of the sealing of Magna Carta, one of the most important documents in the development of modern democracy.

This reception is one in a series of commemorative events to be held in New Zealand. There have been lectures, panel discussions and competitions, all of which have fostered the discussion of highly relevant issues – from the role of the rule of law in cyberspace, to considerations of the rights enshrined in the Treaty of Waitangi. And there is more planned still.

I would like to take this opportunity to thank everyone involved in commemorating such an important aspect of our shared history and values, particularly the New Zealand Magna Carta 800 Committee and its chair, Dr Jennifer Lees-Marshment, who have very ably led the commemorative charge.

These commemorations are being echoed around the world, particularly in the UK, which highlights the enduring importance of Magna Carta. But the question begs, what is it that makes an 800 year old piece of paper worth such a fuss today? I doubt it is the provision standardising the measurement of wine, ale and corn throughout the nation, or the one requiring all fish-weirs be removed from the Thames.

In fact, a cursory glance at the text would suggest that much of Magna Carta has very little to do with our present day understanding of the principles of democracy. I believe that only one clause of Magna Carta is still enacted in New Zealand law – a clause which concludes with the statement “we will not deny or defer to any man either justice or right”. It is these words that capture the value that has grown out of the signing of a document in a field in England that 800 years later sits under the flight path to Heathrow airport. And that is the rule of law.

The Magna Carta has its origins in a confrontation between a King who ignored the economic and political interests of those from whom he derived his power, and those barons he pushed beyond their limits by his arbitrary use of power. This led to the (then) ground-breaking concept of “equality before the law”, and the understanding that Magna Carta inspired about the relationships between State, the individual and justice, has endured.

The drivers behind Magna Carta – concern about the unrestricted power of the executive, the state’s ability to limit individual freedoms, and a lack of due process – remain as relevant in 2015 as they

were in 1215. Arbitrary detention, torture and state-sponsored harassment of those who oppose the government remain an unfortunate reality in many countries.

Challenging such practices and advocating respect for democracy and the rule of law is very much in our national interest. The rule of law is the most important of the principles that underpin the strong institutions and accountable government on which our nations and many others have built their success.

And it is on this foundation that long-term sustainable economic and political success of nations still depends. Where political competition, rule of law, and free speech are lacking, social stability will be vulnerable at best, and absent at worst. Without these elements innovation, entrepreneurialism and prosperity cannot flourish.

The principles of Magna Carta have driven the UK's position as a global leader in commerce, law and education, influencing the way the world conducts business, resolves legal disputes and creates democracies. It is the rule of law which underpins contractual law, mediation and arbitration – all of which support global trading, a key component of both New Zealand and the UK's prosperity.

The signing of Magna Carta marked a revolutionary change in the status quo. It was the start of England's journey toward modern day democracy.

It was a critical step on an incremental process towards parliamentary democracy as we know it. We should be measured in our expectations – for ours has been and continues to be a process of evolution, not revolution.

Magna Carta has, through the ages, shown a capacity to inspire beyond its borders. Here in New Zealand and throughout the Commonwealth it has made its presence felt.

In the US, where its image adorns the great doors of the Supreme Court, Magna Carta provided inspiration for the founding fathers as they drafted their constitution.

And as the world recovered from World War II, Eleanor Roosevelt heralded the 1948 Universal Declaration of Human Rights as an "international Magna Carta", the preamble of which clearly reflects the spirit of the ancient document.

Ladies and gentlemen, as citizens of the Commonwealth we are the fortunate inheritors of Magna Carta's legacy. And although we are thankfully separated by 800 years from the group of thoroughly unpleasant men – and they were all men – who were the architects of Magna Carta, I think it is right that we recognise and commend their efforts.

Transcript of Speech by Hon Judith Collins,
The University of Auckland Magna Carta Lecture Series, 6 July 2015

Well good evening everyone. I'd just like to acknowledge a few people first. Rt Hon Dame Sian Elias, Dame Sian and I have known each other for many years and when I heard she was going to be here tonight I had to be here. Can I acknowledge Dr Lindsey Diggelmann, great to hear you Lindsey, Dr Stephen Winter and Dr Jennifer Lees-Marshment. And all of those who are doctors and aren't doctors in the audience. Thanks for being here. So, good law takes time. Sort of like a cheese really. Sometimes it takes several attempts to get it right and then as any Minister of the Crown, who has carefully shepherded major law changes through, first cabinet and secondly, through the New Zealand Parliament in the MMP era, the first thing to start planning, after implementation, are the amendments. And the Magna Carta is no exception.

The Magna Carta is one of the most quoted and occasionally misused sources of New Zealand's flexible constitutional arrangements. Recently, in one of those rare shows of unity normally reserved for New Zealand tragedies or more happily for sporting achievements, Parliament debated a Notice of Motion celebrating the 800th Anniversary of the first Magna Carta of 1215. The efforts ranged from the witty and informed to the Wikipedia version, I don't know what we used to do without that, and finally to the 'Denis Denuto' interpretation from that excellent Australian movie, 'The Castle'. That saw the effect of the Magna Carta being described as 'the vibe'. There was even some suggestion that one Member of Parliament, who shall remain nameless, should be able to speak on the matter having been there at the sealing. But that would be unfair to Rt Hon Winston Peters and, of course; I don't think we should be unfair. Some of the contributions were actually a bit embarrassing. But, to be frank, it's probably the first time that the Magna Carta has had such an airing in Parliament since a hundred years' ago in 1915.

The Magna Carta of 1215 didn't last long. It was annulled by Pope Innocent III. Imagine that happening today. Perhaps the modern equivalent would be the European Parliament or the European Court of Justice declaring a UK law annulled. That would be enough to get a referendum in the UK to leave the European Union. Oh yes, that's right, that happened just like that just recently. The annulment led to another baron's war and the Magna Carta was reissued later in 1216. It was reissued again in 1225 and finally confirmed as part of English statute law in 1297.

We've heard from Lindsey that it is now Section 29 of the 1297 version of the Magna Carta that is still in force in New Zealand. Putting it into today's language that particular section has been taken to mean that there shall be no imprisonment, no taking of land or rights, no outlawing, no denying or deferring the right of justice without first a lawful judgement of the court. It doesn't mean that a specific law applies equally to all. What it does mean is that all are entitled to the protection of the law and the exercise of that protection. It means that all are subject to the Law – not necessary every single law. The Rule of Law, in its most basic form, is a principle that no one is above the Law. No one (including the sovereign or the Crown) can ignore the Law.

I have been asked to consider the Magna Carta from my experience as a Minister of the Crown. And it might be useful to be able to consider it also as a Member of Parliament. In doing so, I am going to briefly consider our New Zealand constitutional arrangements to provide some context.

When we consider the modern day application of the Magna Carta, it is unhelpful to try to substitute the 1215 King John for Her Majesty the Queen or even for the Prime Minister John [Key]. The Barons could possibly be the Cabinet, but really the exercise of the Cabinet on behalf of the Crown sits the Cabinet more firmly with the Crown – after all Cabinet Ministers are Ministers of the Crown. Now, as representatives of all the people of New Zealand, perhaps it is Parliament that is more akin to the Barons of 1215. Our Parliament, as a unicameral Parliament, is comprised of the House of Representatives. When our forebears voted out the concept of an Upper House, they voted out the concept of a House of Lords or those who had particular leadership by birth or by political convention or even political donations. All New Zealand Members of Parliament are equal. Every vote counts the same. The Prime Minister's vote has the same standing as that of the Leader of the Opposition or any other Member of Parliament. So when New Zealand laws are passed, they have to be passed by the House of Representatives and, unlike the Barons of 1215, if the people don't agree with us then, every three years, they get to decide if they still want us representing them.

Recently, I read an opinion piece from an academic that asked whether the law change to Casino gambling to allow Sky City to have more pokie machines could be in keeping with the Magna Carta. Relatively certain they weren't thinking about it back in 1215. But I'd also say the question was asked "Was that equality before the law?" In other words, was the law change consistent with the Rule of Law? I thought it a rather spurious argument. For example, the law can take into account the special needs, rights or obligations of people in industry, or by age. Police officers, for example, are legally entitled to carry firearms in airports. I don't suggest any of you decide that you want to have that same right too unless you are a sworn police officer. Alcohol cannot be sold to those under 18 years of age but can to those 18 and over. The Treaty of Waitangi forms part of our constitutional arrangements. Certain customary rights to fishing are retained by Māori solely. It's not equality of the law but it is accepted by the law.

New Zealand Ministers of the Crown, unlike their US counterparts, are all Members of Parliament and therefore have a dual role of representing both the people, as Members of Parliament, and the Crown, as Ministers of the Crown. If we consider the US Constitution was developed during the time of King George III it's clear to see that the President gained the executive powers of the then King, George III, the Senate – those of the House of Lords and US House of Representatives – those of the then UK House of Representatives. As our New Zealand experience of self-government and democracy came considerably later than the US example, our constitutional arrangements reflect a constitutional monarchy rather than that of a monarchy (or a presidency) with executive powers. So, for instance, the US President exercises the power of veto as it was exercised by the 18th century King George III, while the New Zealand Prime Minister votes in Parliament and has no power of veto. The Governor–General, representing Her Majesty the Queen, retains that right but doesn't exercise it – respecting at all times the will of the people.

Having been a senior Minister of the Crown for 6 years, I can assure you that Cabinet does not consider the exact wording of the Magna Carta, not once. Parliament doesn't either. They do, however, consider the principles of the Magna Carta, especially as they are provided for in the New Zealand Bill of Rights Act 1990. Every proposed law is considered by my former ministry, the Ministry of Justice, which considers the proposed law against the Bill of Rights Act 1990. The Bill of Rights Act,

known as BORA, is very much part of the discussions both in Parliament and in Cabinet. It does not have the status of supreme law and it cannot be used by the Courts to overturn the Supremacy of Parliament. But it can be used to promote better law. It is, in fact, the conscience to both Ministers of the Crown and of Parliament. Provisions of BORA reflect that early rendition in 1215 and later 1279. The right against unreasonable search or seizure, the right not to be arbitrarily detained in Sections 21 and 22 of the Bill of Rights Act reflect Clause 29 of the Magna Carta. The right to a fair, public hearing by an independent and impartial court is also provided in both the Bill of Rights Act and the Magna Carta.

Section 7 of the Bill of Rights Act requires the Attorney-General to draw to the attention of Parliament any Bill that is inconsistent with the Bill of Rights Act. This is taken very seriously by both the Crown and by Parliament. It is not a finding that one takes lightly to have ones Bill alerted to the Parliament in that way.

New Zealand has been without serious social discord since the last of the New Zealand Land Wars at the end of the 19th century. Even times such as the 1951 waterfront strike or the 1981 Springbok Tour have not led to a breakdown in society or the rule of law. The Rule of Law and the need to comply with the law, as exercised by the majority of people, keeps New Zealand free of major social discord.

The Magna Carta is just one of a number of constitutional laws, principles and conventions that comprise our uniquely New Zealand constitution. Our laws belong not to Government or to the Courts, but to the people. Laws are no more static than the lives of New Zealanders. What was once thought etched in stone such as marriage being between a man and a woman, or even a Papal veto of law, can be thrown aside at the will of the people. New Zealand law is based on the principles of the rule of law, the sovereignty of Parliament, in representing the people, and the separation of powers. Our constitutional experience does not always travel well to other countries any more than theirs travels well to ours. Our history is different. Our future is different. But we can be very assured that the principle of the Rule of Law as seen in the Magna Carta will continue to be as important into the future as it has been for 800 years. Thank you.

Transcript of Speech by Chief Justice Dame Sian Elias,
The University of Auckland Magna Carta Lecture Series, 6 July 2015

E nga mana, e nga reo, e rau rangatira, tena koutou katoa. Why should it matter to us what happened in a meadow between Staines and Windsor 800 years ago? The short answer I would give is that the Magna Carta first adopted at Runnymede in 1215 is an important part of our constitution. I agree we Judith Collins that a constitution is not the preserve of the courts; it's not the preserve of lawyers. It needs to be talked about, it needs to be a living force in the life of a country, otherwise we lose it. So the great thing about the 800th anniversary of Magna Carta is that it provides a welcome opportunity to do just that; to talk about our constitution and how it was formed.

Now, I have to acknowledge that my perspective, you might think this is surprising, is what some commentators have dubbed "the lawyers view" of Magna Carta. And, oddly enough you might think, the lawyers are said to be romantic about Magna Carta. They're not normally thought of as romantic people. But, less oddly, they're also said to be bad historians. Now, it is not necessary to go quite as far as Lord Bingham. Probably, in my time, the preeminent judge of the common law world, he described the Charter as the most influential secular document in the history of the world. Now, that sort of makes you boggle a little bit. I'm sure that a very convincing argument could be made for it. But I'm not going to make it here. But the lawyer's view of the Charter is that it stands up for the ideal of the rule of law and sets it up in our constitutional arrangements. Now, the lawyer's view is often contrasted with what is said to be the historian's view which is sceptical of the Charter's constitutional significance and its resonance today. Now I am not sure to what extent Dr Diggelmann takes that view. But that view emphasises that the Charter was extracted for reasons of self-interest by a gang of disaffected barons largely, it's said, from the north of England. Although recent scholarship suggests that it was much more widespread than that. And those who subscribe to that point of view point out, quite rightly, that the ideas we see in Magna Carta in the context of the 21st century would have mystified those who had a hand in its creation. Those who take this view of Magna Carta say that it dropped from view until revived by Lord Coke in 17th century in the clashes between the King and Parliament and that Coke himself invented the lawyer's romantic notion of the Charter. Now, there is much that is valid in the view that the Charter must be seen in its own light and that it can't carry too much baggage. And the history of the Charter, in all its versions, and Maitland always said when you're referring to Magna Carta you have to say what version you're referring to. The history of the Charter is exciting enough to repay study in its own terms and in its own times. But it is interesting that modern historical scholarship, aided by modern methods of research, has turned up much more information about the circumstances of the obtaining of the Charter and its then contemporary effect.

I think there's probably a third view of the Charter, which grows out of the influence of the Charter on the great constitutional battles of the 17th century. And it might be called the political scientist's view of the Charter. That it is a critical step in the shift of power from the King to the King in Parliament. This, it has to be said, is slightly romantic thinking too, which is not surprising since the parliamentary party of the 17th century included notable lawyers. So it's just as well we've had on this panel Hon Judith Collins to speak to the influence of Magna Carta on our parliamentary traditions.

Through the Treaty of Waitangi, and the system of government it enabled, we imported into New Zealand the statutes and common law of England in effect in 1840, including the provisions of Magna Carta still in effect. And there were more at that stage than there are now in New Zealand. So in law in New Zealand we are as old as the inherited common law and its rich history and the early Charters, first of which in time is Magna Carta, which drew on the older common law and which galvanised the common law in its turn. I must admit that as a young lawyer I was never very sure of what parts of Magna Carta, or what parts of English law at 1840 remained in effect. And I once had the unnerving experience in the 1970s or maybe 1980 or 1981, of being left as junior to make a reply in a case where senior counsel had had to leave for before the reply. Senior counsel was the very learned David Baragwanath QC, and he had raised Magna Carta in his argument. The judge had sat there like a lamb when he was speaking but had got a bit suspicious overnight and certainly was a little bit terse with me. On comparing notes with another junior barrister in our rooms, Robert Chambers, I found out he'd had exactly the same experience when acting as junior to David. And neither of us had a clue whether Magna Carta was an artefact of any relevance or force at all. My recollection is that the judge was similarly mystified. Certainly there was no mention of Magna Carta in the judgment. I think Magna Carta was thought of in those days as the sort of "fighting talk" which you avoided in polite submissions. But, of course, David Baragwanath was quite correct to treat Articles 39 and 40 of the 1215 version of Magna Carta as part of the law of England, he was a man of much higher scholarship than Robert and me. And in 1988, as Dr Diggelmann has said, that was made perfectly clear by the New Zealand Parliament by the Imperial Laws Application Act, which lists the legislation of England still in force in New Zealand. Although they are listed in order of seniority, Magna Carta appears second. It comes after the Statute of Westminster the First of Edward I, but that's only because the version of Magna Carta which is enacted for New Zealand is that which was entered on the parliamentary roll in its reissue by Edward I in 1297. So the only clause in New Zealand under the Imperial Laws Application Act which is preserved is the celebrated provision prohibiting imprisonment disseising people of their properties and so on without "lawful judgment of his peers or by the law of the land" and providing the pledge for the "administration of justice": "We will sell to no man, we will not deny or defer to any man, either justice or right". This is Clause 29 as entered on the Edward I version, but originally it was Articles 39 and 40 in the original version. Although they weren't numbered so it really doesn't make much difference. The Edward I version is almost identical to the subsequent reissue by Henry III when he gained his majority. And, as I said, it remains law in New Zealand. So Magna Carta came to New Zealand and remains a provision recognised by our legislation as constitutional because in the Imperial Laws Application Act it is contained in the part of the schedule which is headed "Constitutional Provisions".

So the significance of the Charter. It has, of course, had its detractors. Cromwell jeered coarsely at it. But then he was levying taxes without Parliamentary authority. Legal philosophers in the 19th century thought that its exaltation by people like Lord Coke was romantic antiquarianism or special pleading which ignored the special-interest at work in its creation and it's said to have been misunderstood in its own terms. And it's true that the terms of Magna Carta are often misunderstood. And, inevitably, myths have grown up around it. It's true that there's nothing in Magna Carta that was truly new except for some of the specific provisions addressing grievances. Similar promises for good government had long been made by Anglo-Saxon and Norman kings. Contrary to folk-lore Magna Carta did not establish habeas corpus or trial by jury. Nor did it establish parliamentary control of taxation. Although it treats taxation by the King without the council of the

land as contrary to law and custom, the council had not yet developed into anything like even the rudimentary parliament of the time of Edward I. But in article 14, which provides for the summoning of the barons and the bishops to advise the King, there are indications of a felt need for wider and more systematic representation in the council advising the King. Magna Carta does not point to the repositioning of the sovereign power to make law, as in the king-in-parliament. Still less does it say anything about democratic government. Nor does it protect the independence of the judges, which wasn't secured until the Act of Settlement in 1701. All these things lay in the future and their achievement was by no means made inevitable by the Charter.

But none of this diminishes Magna Carta. More importantly, the folk memories of the importance of "The Great Charter of the Liberties of England", as it was called in the Petition of Right of 1628, and their persistence in popular estimation tap into enduring values despite the politics and self-interest of the moment in 1215. The clauses of the Charter repay reading, especially in the more accessible translations which have been produced for this anniversary. They indicate a seed bed for the development of law and protection of liberty, realised in succeeding centuries.

The clauses of the Charter protest against arbitrary deprivation of liberty and property and look to proper legal process. If the term "due process of law" is not used in Magna Carta, due process of law is the effect of the promises. The provisions of Magna Carta are concerned that justice is not corrupt and not delayed. It is to be provided by royal justices who know the law and are committed to fulfilling it. The Charter also looks to common laws and common measures and weights. It's concerned to protect trade and the free movement of merchants. And this it indicates a society in great change. The magnates cannot do without the towns and the merchants, both of which are specifically mentioned. The "quarrel" which gave rise to the events of Runnymede is based in the abuse of feudal privileges and there is much in the Charter which, as Dr Diggelmann says, looks back. But it's clear from the text of the Charter that, as Ferdinand Mount puts it, "the middle classes were on their way" and fifty years later knights and burgesses as well as barons were summoned to the parliament of Simon de Montfort.

So the effect of the Charter. If the Charter represented in its day, in part, claims for restitution of freedoms and liberties long known, what is interesting is that it was also a departure. Demands for the good old days were not made after Magna Carta. Instead, the focus changed to confirmation of the Charter and the better securing of its promises. Subsequent reforms invoked the Charter. The Charter was widely known and widely distributed. Encroachments on freedom were resisted in its name, both in the remainder of the 13th century and later in the times of growing absolutism under the Tudors and Stuarts and the dictatorship of Cromwell. It was cited in opposition to arbitrary power to imprison or take property, taxation without parliamentary consent, and development of Crown prerogative powers. The Charter was critical in the battle of ideas which eventually led to parliamentary government. It's not fanciful to see in the terms of the Charter ideas central to the rule of law and which have influenced modern statements of rights. It has been cited in courts from the 13th century down and in all jurisdictions which have inherited it. It continues to be cited and was, for example, an important plank in the reasoning of the US Supreme Court in Rasul and Bush in 2004 which held against executive imprisonment in Guantanamo Bay. While some of the claims made for the Charter were not wholly correct as a matter of history, one legal historian, Sir John Baker, says "that makes no difference": "Magna Carta," he says "though not in any sense a written

constitution, was morally entrenched." And Chapter 29 in particular, "was the chief legal weapon deployed against growing absolutism."

And so I want to conclude by saying something briefly about future directions. "Moral" claims, or claims as Hon Judith Collins said, claims on the conscience of lawmakers, are not the same as legal right. In our legal system moral or political claims are a twilight world. Magna Carta and legislation and the law which it has given rise to is at least acknowledged to support claims of right, recognisable as law in the courts. But entrenched rights they cannot be in a system of parliamentary supremacy, as Judith Collins says, which is why Baker accurately identifies them as "morally entrenched" only. How secure is moral entrenchment? It would be nice to think it is as secure as formal entrenchment. But that can only be if there is widespread understanding and willingness to work harder at maintaining what is essential in our mostly unwritten constitution in which the rule of law shadows but is unequally matched to the legislative supremacy of Parliament.

Magna Carta lays the foundations for the rule of law and parliamentary sovereignty, the twin elements of the New Zealand constitution today, as the Supreme Court Act so far says. Although I'm afraid that's about to go in the new Judicature Modernisation Bill. But the 800th anniversary of Magna Carta may be a good time to take stock of how well they are serving our society. It is puzzling, I think, that the constitutional conversation we have had to date seems largely hung up on the identity of the head of state, an element of the constitution that actually seems to work quite well. It seems reluctant to engage with bigger ideas, such as the fulfilment of the ideas set loose at Runnymede in the circumstances of today.

Magna Carta confronted the arbitrary power of the Crown. Over the following centuries the ideas it launched brought the Crown under the law, as Bracton and Coke insisted it was. The King, they said, is made by the law. Is parliament itself made by the law? Sir Owen Dixon of the High Court of Australia thought it was. If so, is it subject to law, as James I had the wit to see was the implication of his being made subject to law? Is arbitrary power acceptable today if exercised by a parliament which is democratically elected? Now, these are very big questions. Lord Hailsham, then the once and future Lord Chancellor of England, was raising questions such as these in connection with the constitution of the United Kingdom in his Dimbleby lecture, provocatively entitled "Elective Dictatorship", forty years ago. And his paper is worth revisiting. It accurately identifies some of the strains now evident in the constitution of the United Kingdom today.

In recent years there has been much change in New Zealand that is properly characterised as "constitutional" – The New Zealand Bill of Rights Act, the change to the system of electoral representation and the Official Information Act in particular, they've been transformative. They may be sufficient change for now. Our pragmatic and adaptable constitution may suit New Zealand society and, indeed, has considerable virtues. It would be foolish, however, to think that constitutional evolution is at an end in New Zealand. And, even if change in our institutional arrangements is not in prospect, a largely unwritten constitution needs to work and constitutional values may provide political limits, at least if they are talked about and understood. One thing we can be sure of is that in the necessary discussions we will continue to have on constitutional directions, the ideas of Magna Carta will continue to be drawn on, as they have been for the past 800 years. No reira, tena koutou, tena koutou, kia ora tatou katoa.

Transcript of Speech by Patrick Reilly, Acting High Commissioner,
The University of Auckland Magna Carta Lecture Series, 10 July 2015

Thank you and good evening, ladies and gentleman. Where I work, at the British High Commission in Wellington, in our rare moments of rest and relaxation, we sometimes play a game called "What is Britain's greatest export". The most popular answer is often the steam engine and the train it allowed, or a combination of the jet engine and radar which made modern flight possible. We do, however, have one romantic who claims that the hovercraft in the long run will be more important than either the train or the jet plane. Time will tell. Then we have colleagues who argue for antibiotics, IVF, the computer, the telephone, the Television, the World Wide Web and even the humble electric light bulb. We have an economist who argues for Adam Smith, and a driver who insists that Britain's greatest export are the Beatles. Or the Rolling Stones depending on what mood he's in. Our science promoter at the British High Commission can never decide between Isaac Newton or Charles Darwin. Can you imagine a world without gravity or evolution? Thank God for the British. And our security guard, Sole, insists that Britain's greatest export is sport. Maybe that's because one of his sons used to captain the All Blacks. And it was Sole who told me that of the ten most popular sports in the world nine of them were codified by the British. And, yes, ladies and gentlemen, Rugby is a British export and at the Rugby World Cup Final at Twickenham in October we intend to re-import it. Like the hovercraft, time will tell. So, ladies and gentlemen, when over the next nine minutes I argue that the Magna Carta is still Britain's greatest export I am keenly aware of the competition. But let me try. I have three arguments, all of them brief.

First, the impact argument. The fact that 800 years on I am standing just about as far away from Runneymede as it is possible to be, taking part in a lecture series involving some of this country's most distinguished public figures, suggests strongly that Magna Carta has made its mark. The Great Charter was agreed by King John and his rebellious barons to end a vicious and brutal civil war - what we diplomats would call a "frank exchange of views". "Who hath ever heard the like?" wrote monks in the oldest known account of the events at Runnymede. "For the body desired to rule the head, the people would govern their king." Magna Carta returned to significance again in the seventeenth century when England was wracked by another civil war involving another autocratic king. At the same time, settlers from the British Isles, including the Pilgrim Fathers, were sailing to colonise lands in the New World and taking with them a fundamental belief in their rights as set out in the Magna Carta. These ideas strongly influenced the 1776 Declaration of Independence and the newly formed United States' own Bill of Rights twenty or so years later. Indeed, the esteem in which Magna Carta is held by Americans is demonstrated by its beautiful depiction on the golden doors of the US Supreme Court. And, until recently, the only Magna Carta monument at Runnymede was one donated by the American Bar Association. If Magna Carta's influence had remained solely within the English Speaking world and the Commonwealth then its legacy would be remarkable enough. But that influence was multiplied many times over through the 1948 Universal Declaration of Human Rights. Eleanor Roosevelt – the wife of the late President who chaired the committee that drafted the Universal declaration – described the Declaration as "the international Magna Carta for all mankind". And, indeed, the similarities of language are unmistakable. That is the impact argument, ladies and gentlemen.

Now for the simplicity argument. All great things have simplicity at their core. The aforementioned Isaac Newton and Charles Darwin, both products of the University of Cambridge in England, provided answers to questions that had stumped the greatest minds since time immemorial. But their answers were remarkable for their simplicity and their clarity. Even those of us educated at the University of Oxford must bear a grudging respect to the achievements of these Cambridge graduates. To the modern reader, the significance of Magna Carta's 63 clauses is hard to distinguish. There is much about the freedom of the Church, about inheritance rights, about weights and measures and about who can fish in the River Thames. But then you get to clauses 39 and 40, which I'm sure have been quoted already this week, but do bear worth quoting again. "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". And Clause 40, "To no one will we sell, to no one will we deny or delay, right or justice." And there you have it, ladies and gentlemen. In two simple clauses the foundation of the rule of law which still forms the basis of our legal systems.

My third argument is the receptiveness argument. Let me explain what I mean. Some historians believe that King John has an undeserved reputation; that he was, in fact, an unfairly maligned victim of Britain's greatest ever practitioner of public relations, marketing and brand management, more commonly known as Robin Hood. But one thing on which historians do agree is that King John was one of the many Kings of England who did not speak English. He spoke medieval French as did all our kings and Barons for hundreds of years after the Norman Invasion of 1066. As Chris has mentioned, the Magna Carta was written in Latin - a language given to us by the Romans. The Romans also gave us the name of our state – Britannia became Britain – and the name of our capital city - Londinium. Those of us lucky enough to come from Britain's greatest city - Manchester – are still called Mancunians because of the Roman name given to the city that they founded. In turn, the Romans were overwhelmed by the Barbarians including the Angles, who came from Germany. From these Angles we get England as a country and English as a language. William of Orange oversaw the Glorious Revolution and the Bill Of Rights of 1689 that cemented modern England as a constitutional monarchy. He was another King of England who could not speak English. He was, of course, Dutch. William of Orange was succeeded by the Hanoverian Kings, Georges I, II, III and IV, who went on to create modern Britain. They were, of course, Germans. George I was another King of England who couldn't speak English. The point here, ladies and gentlemen, is that Britain's constitutional development, before, during and after the Magna Carta, has always been a multinational process.

One of the reasons why Britain – a country, let us not forget, that is smaller than NZ - has been so influential in exporting ideas, people and things to the world is because Britain has been so receptive to ideas, people and things from the world. That receptiveness, that openness, has been a source of strength. Magna Carta is great, not just because it is British, but because the greatness of that simple idea, at its core, is universal. And it is a simple idea that also provides us with a model for the future.

Last year we saw one European country annex the territory of another for the first time since the Second World War. Meanwhile, in this region, territorial disputes over uninhabited rocks have the potential to spark an international confrontation. And with nations connected like never before, there are few parts of the world that can consider themselves safe from the contagious effects of conflict. That's why, in the 21st Century, the best hope of resolving these challenges lies in a rules-

based international system. This means that nations, in how they conduct themselves internationally, are driven by rules, not power - abiding by the rule of law on land, on sea, in the air, in space and, perhaps most importantly of all, in cyber space. Of course, we cannot entirely avoid disagreements between countries. But we can try to contain those disagreements within the dispute resolution mechanisms of international organisations - the UN, ASEAN, the EU, the African Union. Avoiding the conflicts that so scarred the 20th Century would be a truly enormous prize.

So I have used impact, simplicity and receptiveness to argue that the Magna Carta is still Britain's greatest export; that we as citizens of the Commonwealth are the fortunate inheritors of its legacy; and that the simple idea, at its heart, provides a rule for global as well as constitutional politics.

Let me finish with a well-known quote from one of my favourite British exports, albeit one who was half American. Those brutal and self-interested men at Runnymede 800 years ago might be surprised to hear me use these words to describe their actions "Never in the field of human conflict was so much owed by so many to so few". Ladies and gentlemen, I rest my case. Thank you very much.

Section 3 - The Case for Greater Legal Review of Parliament in New Zealand

Introduction

The values that Magna Carta embodies need to be continually fought for in any democracy. As society continues to fight for the spirit of fairness and just review in New Zealand, further ideas for constitutional development will continue to be placed on the agenda. As the Chief Justice said "a constitution is not the preserve of the courts; it's not the preserve of lawyers. It needs to be talked about, it needs to be a living force in the life of a country, otherwise we lose it" (Sian Elias, The University of Auckland Magna Carta Lecture series, 6 July 2015). In 2015 Leader of the Labour Party and Opposition, Andrew Little, argued that current legal and parliamentary arrangements are a threat to the rule of law because politicians are able to pass legislation overriding previously legislated rights and freedoms. He argued that New Zealand needs stronger protection of rights.

Speaking at The University of Auckland Lecture Series on 10 July, Mr Little argued that change is needed to preserve the defining values of Magna Carta:

"Change is needed if we want to preserve what we have come to see as the defining values of the Great Charter… The two clauses that have acquired considerable force – that dealing with the rule of law, and another dealing with liberty – need constant, if not eternal, vigilance in any representative democracy.

…The principle of the rule of law is meant to mean that no one is above the law, not even lawmakers, and that laws themselves must be made and enforced according to democratically mandated processes… The Parliament that makes our laws in New Zealand is a single house, not two houses as is usual in other Westminster democracies… [and] our style of Parliamentary democracy is one in which ministers of the government predominantly set the agenda.

The second surviving Magna Carta principle, that we should be free from undue and unjust restraint, as well as undue intrusion into our personal lives, our property, and our liberty by the Crown or state, is as justified today as it ever was… The machinery of modern government is large and complex. It still has and needs coercive and intrusive powers to enforce the rule of law and to protect its citizens, albeit with more legislative controls than were in place when the Magna Carta was sealed…"

Andrew Little, Leader of the Labour Party,
The University of Auckland Magna Carta Lecture Series, 10 July 2015

Mr Little argued that another principal achievement of the Magna Carta that has been renegotiated repeatedly throughout history "is the moderation of absolute power and the redistribution of power." This has been repeatedly negotiated and fought for during the last 800 years of history and such a fight continues in different ways. We still need to reflect on how Parliament – albeit filled with democratically elected politicians – exercises its powers.

Mr Little argued that another principal achievement of the Magna Carta that has been renegotiated repeatedly throughout history *"is the moderation of absolute power and the redistribution of power."* This has been repeatedly negotiated and fought for during the last 800 years of history and such a fight continues in different ways. We still need to reflect on how Parliament – albeit filled with democratically elected politicians – exercises its' powers.

Mr Little argued that *"Parliament can, and does, legislate against what we regard as fundamental human and civil rights. This most often arises in legislation dealing with search and seizure powers. We see it in legislation dealing with our security agencies. Two years ago immigration legislation was amended, purportedly to deal with the threat of mass arrivals of refugees, and created powers of detention with few or no appeal rights of appeal and powers that go beyond anything we had seen previously. Parliament recently amended the right of habeas corpus on the grounds of judicial efficiency rather than human rights effectiveness. Even a Bill dealing with something as innocent as natural health products contains significant powers of entry, search and seizure. The Bill is yet to be passed into law."* Whilst there is, at present, requirement the Attorney-General certify each piece of legislation and note any loss of those rights to the attention of Parliament. This leaves it to MPs to stand up against the loss of those rights and this can depend on their time, resources and understanding of such potential losses, and then willingness to stand up on this issue.

Little argued that in New Zealand politics, *"Attorney-General certificates, especially those concluding that a piece of legislation contravenes the Bill of Rights Act, are often disregarded."* Despite civil rights preserved in NZ's Bill of Rights being seen as fundamental "Parliament can so easily override them." MPs oversight, provided by Attorney-General certificates in theory, cannot be guaranteed in practice and thus:

> *"Lawmakers put themselves above the law when they pass laws contradicting widely accepted basic rights and freedoms. In doing so they offend against the rule of law principle of the Magna Carta."*

Lawmakers put themselves above the law when they pass laws contradicting widely accepted basic rights and freedoms. In doing so they offend against the rule of law principle of the Magna Carta. Parliament is therefore not always able by itself to protect citizens' basic rights, even when previously passed legislation has included them, and it may erode them. The law is not enough because parliament, left unchecked, is not enough. Following the tradition of Magna Carta we need to return to the law and create mechanisms to ensure the rule of law is upheld.

Mr Little therefore proposed a solution: following recommendations by a Constitutional Advisory Panel at the end of 2013 to allow courts to declare proposed statutory provisions to be invalid due to being in contravention of basic rights; and require Parliament to reconsider the law:

"It is now time, in my view, to debate the recommendation of the Constitutional Advisory Panel made at the end of 2013 to allow our courts to consider the question of compliance by statues with basic civil rights. The panel came up with a half-way house that would see a court, rather than simply declaring a statutory provision to be invalid, declaring it to be in contravention of basic rights and for the time being unenforceable, and then requiring Parliament to reconsider the law… In my view, such an arrangement would act as an effective discipline on lawmakers' powers, and would act as a check and balance on lawmakers' powers that do not presently exist."

Andrew Little, Labour Party Leader,
The University of Auckland Magna Carta Lecture Series, 10 July 2015

Questions for reflection and discussion

--- What can we learn from reviewing the historical development (or medieval history/origins/views) of the rule of law/curtailing political elites (king, nobles, parliament) power? What can we learn from looking back about this new idea? Why – when we look back at history - might we anticipate another check on power is needed?

--- What legal methods are there to check executive authority and how effective are they, and to what extent is Andrew Little's proposal for greater legal review of parliamentary legislation a good idea? What are the merits/potential problems?

--- Discuss whether a constitutional court of review might go further in protecting Magna Carta principles.

--- Is Little right that we need change in New Zealand now to preserve what we have come to see as the defining values of the Great Charter… the rule of law and liberty? And/or do they need constant, if not eternal, vigilance in any representative democracy anyway and if so how do we do this?

Transcript of Speech by Andrew Little, Leader of the Labour Party,
The University of Auckland Magna Carta Lecture Series, 10 July 2015

Tena koutou katoa. Good evening everybody. Thank you Stephen for the introduction. I understand we're on time constraints so we'll get right into it. You've asked what the future might hold based on the principles and values of the Magna Carta. And the question is, in my view, a timely one. Change is needed if we want to preserve what we have come to see as the defining values of the Great Charter.

Even though the bulk of the document dealt with contemporary issues long since totally irrelevant (although tonight I've seen the relevance of the Welsh clauses being brought back to life), the two clauses that have acquired considerable force – that dealing with the rule of law, and another dealing with liberty – need constant, if not eternal, vigilance in any representative democracy. The principle of the rule of law is meant to mean that no one is above the law, not even lawmakers, and that laws themselves must be made and enforced according to democratically mandated processes. What this means in New Zealand is that democratically elected members of Parliament collectively make our laws – or at least some of them. Those same MPs decide on the rules of how laws are made through the Standing Orders of Parliament.

Other laws, in the form of delegated legislation or regulations, are made by officials and Cabinet ministers under power conferred by statutes. This subordinate legislation must also be made according to the rules; the most important of which is that this type of law must be within the power granted to ministers and officials.

Let's remember, too, that the Parliament that makes our laws in New Zealand is a single house, not two houses as is usual in other Westminster democracies. Let's also accept that our style of Parliamentary democracy is one in which ministers of the government predominantly set the agenda.

The second surviving Magna Carta principle, that we should be free from undue and unjust restraint, as well as undue intrusion into our personal lives, our property, and our liberty by the Crown or state, is as justified today as it ever was. The modern state is a giant machine. This is different from a time when power was exercised by a bunch of loosely co-ordinated and mostly-competing feudal landlords. The machinery of modern government is large and complex. It still has and needs coercive and intrusive powers to enforce the rule of law and to protect its citizens, albeit with more legislative controls than were in place when the Magna Carta was sealed. The technology available to exercise coercive powers and for surveillance is changing rapidly, making it harder to control. Surveillance technologies can be used and abused by both the state and private citizens. The challenge in a liberal democracy that champions not only personal freedom but the need for personal and collective security is to get that balance right, more so when the threats to us are apparently growing.

These principles of the rule of law and freedom from unjust restraint have, of course, spawned many more expressions of rights and protections. The Universal Declaration of Human Rights sets out many human rights and freedoms. Our own New Zealand Bill of Rights Act sets out what might be

regarded as the most basic civil and political rights, all of which, arguably, stem from the original claim in the Charter; to be free from undue restraint.

Of course, history isn't as simple as drawing a line between events hundreds of years apart and declaring that they are related. The twentieth century context, in which these modern expressions of freedoms and rights have been made, derive equally from views about humanity; what it means to be human as well as enlightenment ideals of equality of people and, of course, individual autonomy.

But all of this simply reflects another principal achievement of the Magna Carta, the very thing that has been renegotiated repeatedly throughout history, and that is the moderation of absolute power and the redistribution of power.

True, the Charter represented a shift of power from the monarch to feudal landlords who already exercised considerable and mostly unrestrained power over tenants and peasants. But it was still a change in the locus of power achieved through a struggle, of sorts – basically holding London to ransom. Something that only the financial sector does these days.

Other struggles in the 16th and 17th centuries between monarchs and citizens, or at least the elites amongst them, saw a greater shift towards Parliament in terms of the distribution of power. Struggles in the 19th and 20th centuries have seen a shift of power to citizens in the form of the universal franchise and electoral systems such as MMP.

Moving on 800 years; the Westminster system of Parliamentary government is defined by the supremacy of Parliament. It's Parliament that has the last word. It can legislate as it wishes. It has been called “the highest court in the land”. But is Parliament a real safeguard any more against its own denials of freedom which the feudal barons accused King John of? Is the due process of Parliament today robust enough to protect citizens from legislation that impinges on their rights and freedoms as citizens?

Parliament can, and does, legislate against what we regard as fundamental human and civil rights. This most often arises in legislation dealing with search and seizure powers. We see it in legislation dealing with our security agencies. Two years ago immigration legislation was amended, purportedly to deal with the threat of mass arrivals of refugees, and created powers of detention with few or no appeal rights of appeal and powers that go beyond anything we had seen previously. Parliament recently amended the right of habeas corpus on the grounds of judicial efficiency rather than human rights effectiveness. Even a Bill dealing with something as innocent as natural health products contains significant powers of entry, search and seizure. The Bill is yet to be passed into law.

The only safeguards we have in the law-making process protecting us against the loss of basic citizens’ rights is the Attorney-General’s certificate required for every piece of legislation, which merely brings the loss of those rights to the attention of Parliament, if that's what's in a particular bill, and MPs’ own understanding of potential threats to rights and freedoms, and their willingness to stand up against the loss of those rights.

Attorney-General certificates, especially those concluding that a piece of legislation contravenes the Bill of Rights Act, are often disregarded. The contents of a certificate might be raised in debate, but then that serves only to illustrate that this important safeguard, or what should be an important safeguard, is nothing more than a debating point. This is no safeguard at all. How can we regard the civil rights in our Bill of Rights Act as fundamental when Parliament can so easily override them?

As for MPs, many struggle to keep abreast of every piece of legislation going through Parliament at any one time. Opposition parties, arguably the most important in applying critical scrutiny of legislation as it passes through the House, are far less resourced than the Executive which produces the legislation.

The reality is that no single MP (and Jacinda Ardern who is here can correct me if I'm wrong) is across every piece of legislation going through the House at any point in time. The oversight intended by MPs cannot be guaranteed in every case. Lawmakers put themselves above the law when they pass laws contradicting widely accepted basic rights and freedoms. In doing so, they offend against the rule of law principle of the Magna Carta.

We might also consider the attitudes of some MPs towards the exercise of powers by state agencies. Consider the recent statements by a former Minister of Justice defending the actions of Police in misleading a court in order to secure a conviction. Where was that MP's concern for the rule of law?

And even though I have talked about legislation contravening citizens' freedoms, what about when Parliament appears to be failing to provide sufficient protection of citizens' interests against threats to their security? In the Netherlands, recently, the courts ordered its Parliament to consider its action – or inaction – on climate change on the grounds that its failure to do so was a breach of its duty to protect its citizens against threats.

What recourse do New Zealand citizens have, apart from civil disobedience such as scaling up the front wall of Parliament, if they consider that Parliament is failing to properly protect their security interests, whether now or in the long term? In my view, it's time to reconsider whether at this point in our history Parliament is capable on its own of providing an effective enough safeguard of citizens' basic rights.

Some other countries, including Westminster-style democracies such as Australia and Canada, make their equivalent of the Bill of Rights Act superior law – that is law which overrides any legislation that contradicts it – and at the same time entrenching that legislation so it cannot be repealed on a simple majority. This allows their courts to declare a statutory provision in contravention of those rights to be invalid.

New Zealand has studiously followed the English tradition of requiring the judiciary to apply statue law regardless of its adherence or not with basic civil rights. It is now time, in my view, to debate the recommendation of the Constitutional Advisory Panel made at the end of 2013 to allow our courts to consider the question of compliance by statues with basic civil rights. The panel came up with a half-way house that would see a court, rather than simply declaring a statutory provision to be

invalid, declaring it to be in contravention of basic rights and for the time being unenforceable, and then requiring Parliament to reconsider the law.

The New Zealand Bill of Rights Act carries an important proviso that is used in many international conventions and agreements on many civil and political rights. This is the “justified limitation” proviso, which accepts that there will be circumstances in which an abrogation of basic rights will be justified. This would still feature in any assessment by a court, and I can think of legislation passed recently which permits intrusion into one’s person and property but which, in my view, would meet the justified limitation test. In my view, such an arrangement would act as an effective discipline on lawmakers’ powers, and would act as a check and balance on lawmakers’ powers that do not presently exist. Such an arrangement would amount to an acceptance of nothing more than possibility that, on rare occasions, even conscientious lawmakers can get it wrong when it comes to laws affecting basic rights. Enacting such an arrangement would give 21st century life to the 13th century Magna Carta in an ever-adapting New Zealand.

Thank you.

Section 4 - Advancing Indigenous Rights by Addressing Historical Breaches of the Rule of Law: the rediscovery and reinvigoration of Magna Carta for Māori

Introduction

In New Zealand the relationship between Magna Carta and New Zealand's founding colonial document, the Treaty of Waitangi, was a source of significant debate. Not just for the treaty itself, but broader indigenous rights issues which have played an even bigger major role in political discourse during the last 30 years.

As the excerpts from speeches made at the University of Auckland by politicians and lawyers show, the importance of Magna Carta lay in what it symbolised or represented, as did Te Tiriti (the Treaty of Waitangi). Historical reflection on the political and social consequences of such documents over time makes clear that the importance of the law is not in specific detail of a document at a said time. Instead, the importance lies in the reiteration of, and reflection on, the principle of the rule of law.

The fair treatment principle embodied in Magna Carta was extended through the Treaty, to provide an 'exit route from tyranny' for Māori in New Zealand in the same way it was intended to protect barons from King John. It is this core principle which has stimulated the recent redress of previous disregard of the rights of Māori – though due to the lack of adherence to it by colonial rulers: as Judge Wainwright said, the Crown "applied different standards altogether to acquiring Māori land than they would have applied to acquiring land that Pākehā owned." In modern politics, returning to those core legal principles led to the creation of tribunals to compensate for losses as a result of rights being denied. The ancient values from medieval England 800 years ago thus weave their way through to modern political development in 21st century New Zealand in a way that is both a celebration of Magna Carta and disappointment that it has taken so long to implement its' values of fair and equal process.

"Both Charters were invoked in the courts from their beginnings. Magna Carta has been regularly cited since the 13th century in all jurisdictions which have inherited it. And as the Treaty has been in New Zealand cases since 1840… Through my work as Minister for Treaty of Waitangi Negotiations I have great appreciation for the rule of law component in Treaty settlements. The Crown, like any other party, has an obligation to adhere to its own undertakings… The Great Charter has become a powerful symbol of the rule of law... today it certainly embodies the idea that everyone, including the lawmakers, should be held accountable to the same law. Like Magna Carta, the Treaty has come to represent so much more than the mere wording of its original articles. The Treaty is so woven through the fabric of modern New Zealand that it would be impossible to unravel the threads, nor would we want to. Like Magna Carta, the Treaty was a document of its time but remains a document of our times."

Hon Chris Finlayson, Attorney-General and Minister for Treaty of Waitangi Negotiations,
The University of Auckland Magna Carta Lecture Series, 7 July 2015

"In article 3 [of the Treaty] Māori have all the rights and benefits of British citizens. And those rights, of course, include the brilliant and moral Magna Carta precept that the same consistent set of ascertainable laws applies to everybody. And that, right there, was an exit route from tyranny, and became the cornerstone of democracy… the light of civilization, supposedly imported with the English, should have had as its' most intense and brightly-burning part the light of the rule of law: a fair, impartial system of laws and obligations to which all were equally bound. And if the colonizers had maintained their focus on that gift of the Magna Carta, the worst Treaty breaches that the Waitangi Tribunal investigates today would have been many fewer… the acts of the Crown that were most egregious, and we look at them through the Magna Carta lens we see that we don't actually require any principles of the Treaty to find those actions, those failures wanting. The situations arose because the Crown's representatives did not apply to the Crown and its transactions with Māori the very law that underpinned the foundation of the new colony."

Judge Carrie Wainwright, Kaiwhakawā of the Māori Land Court and Deputy/Acting Chairperson of the Waitangi Tribunal, The University of Auckland Magna Carta Lecture Series, 7 July 2015

"There are a number of historical similarities in the treatment of Magna Carta and Te Tiriti. Both were signed in response to particular historic circumstances, both then went through a period of being ignored or devalued, and both went through a period of rediscovery and reinvigoration – that period we are in now… Having regard to its position as a constitutionally significant foundational document, in my view it is appropriate to consider Te Tiriti to be akin to a Māori Magna Carta"

Lawyer Isaac Hikaka, partner at specialist dispute litigation firm LeeSalmonLong and member of the New Zealand Law Society's Rule of Law Committee,
The University of Auckland Magna Carta Lecture Series, 7 July 2015

Questions for reflection and discussion

--- What can we learn from a historical review of the problems that arose because "the Crown's representatives did not apply to the Crown and its transactions with Māori the very law that underpinned the foundation of the new colony" – E.g. provide an overview of how this history to the current situation? Thus, has the breach of Magna Carta led to the current problems today?

--- Legally, is Carrie Wainwright correct, that "'if the colonizers had maintained their focus on that gift of the Magna Carta, the worst Treaty breaches that the Waitangi Tribunal investigates today would have been many fewer"? Does this then provide a valuable illustration of the importance of adhering to Magna Carta principles given the potential social and political problems both for Māori and the whole of New Zealand this caused?

--- What might a review of the Waitangi Tribunal and Office of Treaty Settlements show us? How have they operated and how does this relate to Magna Carta principles?

--- Could other countries use the core principles of Magna Carta to create redress in similar situations?

--- Is Isaac Hikaka right that Magna Carta is being "rediscovered and reinvigorated" for Māori?

Kaumatua by Tame Te Rangi

Kia tatou. Ladies and gentleman it is, indeed, my pleasure and privilege and honour to be here and extend to you all a very warm welcome to, what I understand, is day two of this 800 year old event. And I'm certainly not anyone of any status or certainly with any insights other than what I know about the present and certainly into the future of what this all offers us as citizens of New Zealand. I'm particularly interested in learning about beyond. Not the past, but more into the future. And I'm not even going to attempt to translate what I've said in Maori, but wanted to extend to you all on behalf of Ngati Whatua a very warm welcome. To the organisers and, of course, our illustrious panel that we're going to hear from. So, enough from me, tena koutou, kia ora tatou.

A video of the full speech is at https://www.youtube.com/watch?v=piU_hu7uttA

Transcript of Speech by Hon Chris Finlayson, Attorney-General and Minister for Treaty of Waitangi Negotiations, The University of Auckland Magna Carta Lecture Series, 7 July 2015

At this point, I'm sure you're all very well aware that this year marks the 800th anniversary of the sealing of Magna Carta. Largely thanks to the work of the Magna Carta 800 Committee for New Zealand, there have been a number of commemorative events and activities across New Zealand, just as there have been in other countries such as Australia and the United Kingdom.

In my capacity as Attorney-General, I've held an essay competition and asked students to write about the significance of Magna Carta in New Zealand today. We received some high quality submissions and a student of this university, Max Ashmore, won the university student category. I also hosted a reception at Parliament last month to mark the occasion. At that event I started my remarks by quoting Lord Sumption: "It is impossible to say anything new about Magna Carta, unless you say something mad. In fact, even if you say something mad, the likelihood is that it will have already been said before, probably quite recently." He is right. Looking at the document in its original context alone makes it difficult to see how it still forms one of the cornerstones of New Zealand's constitution in the 21st century, especially because much of the original text of Magna Carta dealt with grievances specific to that time.

There are parallels here with another cornerstone of our constitution, which also happens to be marking a significant anniversary this year. That is of course, the Treaty of Waitangi which turned 175 in February. In her address at the swearing-in of Justice Davidson to the High Court last month, the Chief Justice reflected on the anniversaries of these two documents and their importance to our constitution. The swearing in of a High Court Judge is a significant but under-publicised event, so I want to share with you some of what the Chief Justice said. "Both Magna Carta and the Treaty arose in dramatic circumstances, which certainly fix them in the national consciousness. Both have their detractors. They are said to be misunderstood or misused through 'bad history' or 'romantic thinking'. It is true that in 1215 and in 1840 many of the things now claimed for these documents lay in the future and were uncertain. But the big ideas they represent and their persistence in popular estimation speak to enduring values which transcend the politics and self-interest of the moment in which they came into being."

Only one article of the Great Charter of Liberties remains in force in New Zealand. Although that is only because most of the others have been developed in other measures. It is identified in the Imperial Laws Application Act as one of the enactments recognised by Parliament to be "constitutional". The Treaty of Waitangi, sometimes referred to as "the Māori Magna Carta", is not yet formally acknowledged to be constitutional, but that may be only a matter of time. For present purposes, what is of significance is that both Charters were invoked in the courts from their beginnings. Magna Carta has been regularly cited since the 13th century in all jurisdictions which have inherited it. And as the Treaty has been in New Zealand cases since 1840.

1840 marked the foundation of the New Zealand we know today. The meaning of the Treaty signed that year has been the subject of legal, historical and political debate ever since. While the Treaty of Waitangi does not form part of the statute books, at a bare minimum, it was a guarantee the Crown

would treat Māori with respect and honour and would deal in good faith. It does not seem too much to have asked back then, and it does not seem too much to ask now.

Indeed seeking to remedy the Crown's numerous breaches of its own Treaty since 1840 forms the basis of my role as Minister for Treaty of Waitangi Negotiations. One of my greatest privileges in public office has been to work towards remedying the Crown's actions towards Ngai Tūhoe. Throughout the 20th century, the story has been one of Tūhoe being misled, ignored and not consulted on decisions affecting their homeland. Even as late as 1954, just for example, the Crown established Te Urewera National Park which included most of Ngāi Tūhoe's traditional lands. The Crown did not consult Tūhoe about this and did not recognise Tūhoe as having any special interest in Te Urewera or its management. Tūhoe has always tried to approach resolution of its dispute with the Crown in a principled and determined manner. But up in Te Urewera the messages were passed down from generation to generation about the unfairness of it all. I will never forget the elderly gentleman who said to me at Ruatoki in relation to the 2007 raids, "I said to my grandchildren: it happened to my grandparents and now it's happening to you". The Tūhoe settlement legislation passed by Parliament in 2013 has provided the foundation for a new relationship between the Crown and Ngāi Tūhoe, a relationship in which I hope we will "walk and work together for our mutual honour, dignity, advantage and progress."

Through my work as Minister for Treaty of Waitangi Negotiations I have great appreciation for the rule of law component in Treaty settlements. The Crown, like any other party, has an obligation to adhere to its own undertakings.

This is where we can draw parallels to a vital legacy of Magna Carta. The Great Charter has become a powerful symbol of the rule of law. It may not have been the original source of the principle, as Lord Sumption points out in his address, but today it certainly embodies the idea that everyone, including the lawmakers, should be held accountable to the same law. Like Magna Carta, the Treaty has come to represent so much more than the mere wording of its original articles. The Treaty is so woven through the fabric of modern New Zealand that it would be impossible to unravel the threads, nor would we want to.

Like Magna Carta, the Treaty was a document of its time but remains a document of our times. Thank you very much.

Transcript of Speech by Judge Carrie Wainwright, Kaiwhakawā of the Māori Land Court and Deputy/Acting Chairperson of the Waitangi Tribunal,
The University of Auckland Magna Carta Lecture Series, 7 July 2015

Kia ora mai tatou nei korero nei whakaaro tera papanui the Magna Carta. Na reira he nui aku mihi kea koutou katoa.

Thank you, Lisa. Thank you all for coming. Now, I could say many things about the Treaty of Waitangi, because I have spent a great deal my professional life thinking about it. But you'll be relieved to know that I'm only going to venture upon a corner of it tonight. And I should also add that I have not spent much of my professional life thinking about the Magna Carta. However, lately my contemplations have been trending in that direction.

I have been toying with the idea that for some people, for some New Zealanders, it might be relevant, or even cogent, to look at our colonial past through a lens other than the Treaty of Waitangi. And I'd like to suggest that a possible alternative lens is the Magna Carta, which 800 years ago, as we all know, introduced the legal norm that the rulers and the ruled must comply with the same law. Now this is a lens that is not unrelated to the Treaty, because in article 3 Māori have all the rights and benefits of British citizens. And those rights, of course, include the brilliant and moral Magna Carta precept that the same consistent set of ascertainable laws applies to everybody. And that, right there, was an exit route from tyranny, and became the cornerstone of democracy.

So here in New Zealand, who are the rulers? Well, when the colony of New Zealand began the rulers were embodied in the person of the Crown, which effectively meant the state.

And in our colonial past – and even, dear I say, occasionally today – the Crown has engaged in conduct vis a vis te iwi Māori that the Waitangi Tribunal, in its numerous reports, has famously found wanting. Now, the Waitangi Tribunal, of course, doesn't apply the Magna Carta. It sets as a standard for Crown conduct the one that Parliament set, namely compliance with the principles of the Treaty of Waitangi. Those principles have a common root of good faith, fair dealing and proper process, and I've been privileged over the last 15 years to be among those who've created the jurisprudence of the Tribunal that has those principles as its core. However, there is no denying that for some the principles of the Treaty occupy a legal space that can seem amorphous. More amorphous than some lawyers feel comfortable with. Because the principles come out of the vast power imbalance that has come to pass through colonization, and from the fact that the Treaty essentially failed as a means of protecting the interests of tangata whenua. So those principles are political as well as legal. And perhaps that is why their critics label them as airy-fairy and presentist, and say that they're not firmly rooted in general legal principle.

So, I think it's useful to see that if you set the principles for now to one side and instead look at the failures of the Crown, the acts of the Crown that were most egregious, and we look at them through the Magna Carta lens we see that we don't actually require any principles of the Treaty to find those actions, those failures wanting. The situations arose because the Crown's representatives did not apply to the Crown and its transactions with Māori the very law that underpinned the foundation of the new colony.

Now, I've only got ten minutes to address you on this topic, so I'm going to leap straight into examples that I hope will illuminate what I'm trying to talk about. The examples that I'm going to use come from the area of Whanganui, where I led the Waitangi Tribunal's district inquiry. And we're just coming to the end of the very long process of writing our report.

Now, you all know there were huge purchases of land from Māori in the 19th century. And the incomers to these islands, the Pākehā, saw land as the chief asset of Māori. But from the Māori point of view, and from the point of view of their culture, land defined who they were in terms of whakapapa, and in terms of their creation through Papatūānuku, the earth mother. So by any standard it was vital that the process of converting the customary land interests of tangata whenua into legal title, and then subsequently their purchase, it was vital that that process was robust and fair.

But in many cases it wasn't. The colonists applied different standards altogether to acquiring Māori land than they would have applied to acquiring land that Pākehā owned. And it was the Crown that conducted these huge purchases. The Treaty made the Crown the only show in town when it came to purchasing Māori land – and that was a circumstance that put the Crown in a very privileged position. One that you might think would have placed on it an obligation to meet a high standard of conduct. But, as it turned out, no.

In Whanganui, there was a purchase in 1848 – eponymously called the Whanganui purchase – and the Crown acquired 89,000 acres. The Crown was actually following up on a shonky purchase that the New Zealand Company had negotiated directly with Māori before the Treaty was signed. And what happened was that a commission was set up to look into purchases that had happened before the Treaty. And when the commissioner did that he said that the company had bought 40,000 acres. So it fell to the Crown to conclude the purchase. The land was surveyed and the Crown quietly expanded the area to 89,000 acres while paying the owners of the land for 40,000 acres.

So where does the Magna Carta come in? Well, the Crown did not apply to itself English law applying to land transactions. The law required, as a minimum, that you'd have a willing buyer and a willing seller, that the parties would know what was in the bargain, and they would have the ability to negotiate the price. So even if we put aside the proper identification of who the people were who were entitled to sell the land, and that was always a tricky area for the Crown - who usually performed poorly – how could the vendors know what was in the bargain – that is, what land they were selling – when there had been no survey? And then, when the survey was done, and the Crown representatives realised that the true extent of the land was 89,000 acres it paid only for 40,000 acres.

And then if we move into the 1880s, by this time the colony was much better developed and arguably the Crown had fewer excuses for engaging in poor process, it set about the purchase of an even larger area of land and it was called the Waimarino block. This was the biggest block that the Crown bought in the North Island. It was vast, it occupied 1,145 square kilometers, and it stretched from Taumarunui in the North to just south of Raetihi to the summit of Ruapehu. And when the Crown set about buying up individuals' interests in that land, the block hadn't not been surveyed. So

the Crown did not – as the law said it should – wait for the Native Land Court to say which Māori owned which land. And it did not wait for a survey. The Crown purchase agents were under instructions to buy up as much land as they could as quickly as possible and as cheaply as the possible, for they needed that land for the construction of the North Island Main Trunk which was, at that time, the foremost policy of the government.

So the Crown purchase agents went out and they brought up interests from individual Māori for a fixed price at a time when the Māori owners simply could not know what they were selling because what they owned had not yet been defined. And so they didn't know how many interests they owned in the land and they didn't know where their interests were. The Crown agents would not tell the Māori vendors how much they were paying them per acre because the Crown agents didn't know how many acres there were, and they were under instructions to keep the price to a minimum. So they simply handed over to each individual interest holder an amount of money to cover whatever the interests were that they turned out to own.

And in that block, the Waimarino block, an unusually high proportion of the owners were children. Now, the law specified a process that involved the Governor General in Council appointing trustees for minors. But this would have taken way too long. So the officials asked the court to bypass the formalities so that the Crown's purchase activities wouldn't be delayed. And the agents for the Crown bought up nearly all the minors' interests over the course of a few months from people who were not appointed according to law.

So these two purchases, the Whanganui purchase and the Waimarino purchase in the Whanganui district, are clear examples of how the impact of colonization – which, if you look around the world you will note is always a brutal process for the colonized – how that was exacerbated when the Crown failed to regulate its own conduct in conformity with the norm that it too was subject to the law. The norm for which we have the Magna Carta to thank.

So when we try to address the question 'what did Māori get out of colonisation?' the light of civilization, supposedly imported with the English, should have had as its' most intense and brightly-burning part the light of the rule of law: a fair, impartial system of laws and obligations to which all were equally bound. And if the colonizers had maintained their focus on that gift of the Magna Carta, the worst Treaty breaches that the Waitangi Tribunal investigates today would have been many fewer.

Kia ora tatou.

Transcript of Speech by Lawyer Isaac Hikaka, partner at specialist dispute litigation firm LeeSalmonLong and member of the New Zealand Law Society's Rule of Law Committee, The University of Auckland Magna Carta Lecture Series, 7 July 2015

Kia ora ra tatou katoa. Ko Taranaki te maunga. Ko Aotea te waka. Ko Nga Ruahine te iwi. Ko Ngati Tumaahuroa te hapu. Ko Hikaka te whanau. Ko Oeo te marae. Ko Greg te matua. Ko Geraldine te whaea. Ko Isaac Tama ki te Rangi Finbar Hikaka ahau. Tihei mauri ora. Thank you for the privilege of addressing you today on Magna Carta and the Treaty of Waitangi. I was very surprised to hear my introduction and wish I'd heard it beforehand because then I could have disabused the people of the notions that have just been put to you about me. But there have been a large number of speeches made about the Magna Carta this year from very learned persons and it has already been pointed out today that it is impossible to say anything new about the Magna Carta unless one says something mad. Now, I do not suggest that I will say anything new, though there is a much greater chance I will say something mad. What I would like to do is suggest some links, or potential links, between the Treaty of Waitangi and the Magna Carta. And I'll address three aspects.

First, I will suggest that there are a number of historical similarities in the treatment of Magna Carta and Te Tiriti. Both were signed in response to particular historic circumstances, both then went through a period of being ignored or devalued, and both went through a period of rediscovery and reinvigoration – that period we are in now.

Second, I will examine the notion of the rule of law and how it is important in both documents. I will suggest that, not only is the concept of the rule of law present in both documents, but the underlying principles of that doctrine would not have been foreign to Māori in 1840. And, finally, I'll seek to illustrate an important difference between Magna Carta and the Treaty and suggest how this difference can be viewed in a more global jurisprudence of constitutional interpretation.

So, though signed centuries apart, there are some similarities in the historical stories, or narratives if you will, of Te Tiriti and the Magna Carta. Both were signed to address particular concerns, and in particular circumstances. And it was these circumstances and concerns that framed the language of the two documents.

In Magna Carta's case, the document was a temporary peace agreement between King John and his barons, and responded directly - though not necessarily comprehensively - to the concerns that had led to the rebellion in the first place. In its long and archaic text are littered provisions about taxation, river weirs and repayment of dowries – some of which have precious little resonance to the modern audience, but had significant import to those feudal landowners who thrust the Articles of the Barons before a rapacious king in a muddy field. But just as the climes of Waitangi were, I imagine, much more hospitable than those of Runnymede, so too were the circumstances that led to the signing of the Treaty of Waitangi. There was no state of active hostilities between Māori and the British Crown that was to be resolved through the Treaty. Rather, the Crown is likely to have seen the Treaty as being for the benefit and protection of Māori from the ravages of lawless settlement and the French, though the British Crown may have seen little difference between lawless settlement and the French, and to the outside observer the inherent self-interest in the Crown's position is obvious. But it was this context, an attempt to obtain sovereignty by treaty, that explains

the character and language of the document, or at least its English language version. Of course, whether it actually achieved that aim of sovereignty, especially in the light of the recent Waitangi Tribunal report, is a much more vexed topic.

The second stage of similarity is the ignoring of the two documents soon after their signature. In the case of the Magna Carta, it was only a matter of weeks before the terms were broken, and in a matter of months it was denounced by the Pope. Though it was reissued, albeit in somewhat watered-down versions by successive kings until 1455, it ceased having any practical effect until around the late 17th century despite extensive efforts of Edward Coke in the early 1600s to buttress his challenge to an absolutist monarchy.

In New Zealand, the active disregard for Te Tiriti throughout the early colonial history is well known. Though Chief Justice Prendergast's dismissal of the document as a "legal nullity" in the case of *Wi Parata and the Bishop of Wellington* was less juvenile than Oliver Cromwell's dismissal of the "magna farta", it was no less troublesome. Early colonial governments took many actions, some of which you've heard about already, that were clearly in breach of the Treaty. There's no sensible way to defend legislation such as the Native Lands Act 1865 as consistent with the Treaty.

But, on a happier note, as alluded to earlier, we're now in a third stage of the process where both the Magna Carta and Te Tiriti have been reinvigorated. In terms of Magna Carta, that can most obviously be seen by the fact that we are here celebrating its 800th anniversary. Images of its sealing adorn the doors of the US Supreme Court and sit above the doors of the United Kingdom Supreme Court. While it may be that celebration of the document is more a celebration of what it has become more than what it was originally, this doesn't lessen its significance - its position as a founding document in the Western legal system is secure.

And so too, I say, has the Treaty of Waitangi emerged as the most important document in New Zealand's constitutional history. Its recognition through the legislature and the Courts have enabled it to take a central position in New Zealand's political and social dialogue. It is a mainstay of our education system and a mainstay of our legal system. Though it has not obtained the same uncontroverted status in the minds of the New Zealand public as Magna Carta has in Great Britain, it is something that has been taken up by successive governments as a guiding policy toward Māori and something they've made extensive efforts to remedy the past breaches of.

So, on the topic of the rule of law, Lord Sumption whose speech you heard about earlier, in a recent address at the Franco-British Council Conference noted that "Magna Carta is one of those documents which is important not so much because of what it says as because of what people wrongly think it says". Notwithstanding that, even his Lordship acknowledged that "Magna Carta stands for the rule of law". Articles 39 and 40 of Magna Carta are justly its most famous clauses, and it is appropriate that they are the clauses that endure on the New Zealand statute books through article 29 of Magna Carta 1297 and section 3 of the Imperial Laws Application Act 1988, to prove that I know some statues.

The rule of law is most conveniently summarised, as a principle, as the requirement that power must be exercised in accordance with law, rather than on a whim. Though not a principle created by

Magna Carta, that document has become the touchstone for the principle in modern democracies stemming from Great Britain and Great Britain's colonial exploits.

However, it is not a concept unique to the British legal tradition. As the Waitangi Tribunal has recently noted, Māori had their own system of laws and authority. "The Māori system of law centred on the imperatives of tapu and utu, handed down by atua but interpreted and applied in the temporal world by rangatira and tohunga." So where Article 3 of the Treaty of Waitangi guaranteed to Māori the rights and privileges of British subjects, including the rule of law, the translated phrase for that of "tikanga katoa" would have been recognised by Māori as a system of law and not a system based on whim.

The final point I wish to make is based on the difference between Magna Carta and Te Tiriti. As I noted earlier, much of Magna Carta's importance is based on its 'mythic' significance, rather than its actual words. Though arguments have been made that in Magna Carta one can, if we adopt the words of Lord Neuberger, detect the "green shoots" of democratic government, freedom of expression and economic prosperity, in my view one has to strain very hard to actually read such grandiose proclamations into Magna Carta's text, the rule of law being an obvious exception.

And I say that's not surprising. As referred to earlier, Magna Carta was a product of very particular circumstances, and those circumstances did not include a desire to make a provision for the majority of the British population. In contrast, the Treaty of Waitangi was specifically aimed to provide for all Māori, though not necessarily in a directly enforceable way. Though significantly shorter, Te Tiriti's words provide a more direct and broad basis for the recognition of a wider range of rights relevant to modern society than those addressed in Magna Carta.

To this extent, I suggest that the Treaty of Waitangi can be seen as closer to being a foundational constitutional document, such as the Constitution of the United States of America, than the actual Magna Carta document. Similar interpretation conventions should appropriately apply in reading Te Tiriti in a manner that responds to contemporary issues as a living document if you will. A recent example of this principle of interpretation, probably the most recent example, is the majority decision of the US Supreme Court in the *Obergefell and Hodges* decision, the gay marriage decision. And that same principle is a convention that New Zealand Courts and the Waitangi Tribunal have adopted.

So, whereas Magna Carta has developed its importance less through what it actually says and more through what it represents, the languages and circumstances of Te Tiriti are such that its importance need not be created through romanticism. Having regard to its position as a constitutionally significant foundational document, in my view it is appropriate to consider Te Tiriti to be akin to a Māori Magna Carta.

No reira, mauriora kia koutou katoa.

Section 5 - Managing the Kingless Internet: debating resolutions to the dilemma of online security versus privacy in the virtual realm

Introduction

The barons involved in the sealing of Magna Carta 800 years ago would never have imagined that one day, on the other side of the world, it would be referred to in debates on the internet. But just as in the UK Tim Berners-Lee, the 'Inventor of the Internet', argued we need an online version of the Magna Carta, in New Zealand the actions of the Government Communications Security Bureau's became a major public issue in the 2014 general election. Speaking during the 2015 anniversary year, Leader of the Labour Party and Opposition Andrew Little noted that "the second surviving Magna Carta principle, that we should be free from undue and unjust restraint, as well as undue intrusion into our personal lives, our property, and our liberty by the Crown or state, is as justified today as it ever was… The technology available to exercise coercive powers and for surveillance is changing rapidly, making it harder to control."

Whilst no one in medieval England involved in the sealing of Magna Carta 800 years ago could have imagined it, the principles the ancient document extol have become reignited in modern political and public discourse through rapid technological advancement. It was a theme at the University of Auckland lecture series, a workshop and several conferences during 2015. Digital rights and regulations are not advanced easily however, because it pits personal freedom against personal and collective security. It raises issues of trust, crosses domestic with international relations policy, and is about power and control – albeit of online information.

Below are practitioners perspectives on the issues involved in digital rights in relation to Magna Carta principles, the effectiveness of current responses to these issues and whether there needs to be an online Magna Carta.

"There is no king in relation to the internet. The internet has no central single point of control. And, in fact, that was the genius and simplicity of why it was created. Information travels from your screen, gets divided into hundreds of small data packets, travels across many different pathways and gets together at the other end. And there's no single point of control in that process….[but] public concerns about security and privacy remain… revelations about data breaches that came to light with ACC and MSD, concerns about mass surveillance without due process, secret courts in other countries established to oversee secret law for authorising access to information…are the very sorts of things which were to come to the fore in the pathways that followed the Magna Carta itself…That great charter was about principles over power. It was about bending the knee of the King to listen to what it was the people had to say. And even though those principles now, quite rightly, look quite medieval, although we might still be concerned about the trees that get chopped down in different parts of our native forest, it's still a testament I think to the potency to the central idea of principles over power and to the Magna Carta itself it holds such a place with us even today."

Joy Liddicoat, Assistant Privacy Commissioner and Vice President of Internet NZ,
The University of Auckland Magna Carta Lecture Series, 8 July 2015

"The Government Communication Security Bureau and the New Zealand Security Intelligence Service… on the grounds of national security, have the authority of the state to access and acquire personal information and information about organisations that are deemed of security interest. Applying the Peelite principles to security organisations is a little more problematical: although the source of authority to exercise power is statute based, mostly the individual exercise of powers is an administrative one and a tightly held secret; Although the purpose of the organisations are known and publicly discussed, meaningful discussion of the specific risks that they deal with have been discouraged for the advantage such discussion provides adversaries; The identities of the agencies officials and their tradecraft are secret for the same reason…Traditionally the organisations, the security organisations, have taken the view that the less said is the better…[but] the traditional settings around national security to have been inadequate when allegations about the practices of the security agencies are published… times are changing… [and] These agencies also use opportunities to assure the public that what they do is proportionate, authorised and otherwise lawful….They're subject to much stronger and more independent oversight…The 2013 legislative changes brought about a significantly expanded and strengthened Inspector General of Intelligence and Security Office. There is a full time inspector, a deputy and team of investigators who deal, not only with complaints, but also reviews."

Howard Broad, CNZM, Deputy Chief Executive, Security and Intelligence, Department of the Prime Minister and Cabinet, The University of Auckland Magna Carta Lecture Series, 8 July 2015

"Principles that apply offline apply online. Online or offline is a fallacy. I am me. You are you. Your rights are constant. When you go online you don't exit the jurisdiction of the place you are physically located. New Zealand laws apply to you regardless of where you connect to. Therefore, you don't have to say freedom of expression online or offline. It is just freedom of expression. That's already your right and it continues to apply… it's not about the rules that have changed, it's the tools. The tools we use to protect rights and the tools that we use to impinge on people's rights… [but] I don't actually see the need for an online Magna Carta or an online bill of rights. Or at least – I don't think that's the best way to make the internet into the thing we want. We already have the necessary existing rights and justice concepts, and some of those date back to the Magna Carta. Our current legal, political, and corporate structures, they might need some reshaping to make better use of technology – but they're still doing a reasonable job of maintaining a balance in society."

Martin Cocker, Executive Director, NetSafe,
The University of Auckland Magna Carta Lecture Series, 8 July 2015

Questions for reflection and discussion

--- What can we learn from looking back at developments in political power and public consent related to information?

--- Explore whether Howard Broad is right that applying the Peelite principles to security organisations is a little more problematical.

--- Discuss whether Martin Cocker is correct that "Our current legal, political, and corporate structures, they might need some reshaping to make better use of technology – but they're still doing a reasonable job of maintaining a balance in society".

--- Review the Harmful Digital Communications Act – is it enough?

--- Is Joy Liddicoat correct that there is no king in relation to the internet? Should there be?

--- Critique Howard Broad's assertion that the strengthened Inspector General of Intelligence and Security Office has worked well? Should be adopted by all countries?

--- Review New Zealand's current measures regarding information control, transparency, open government - Do we in fact need an online Magna Carta?

Transcript of Speech by Joy Liddicoat, Assistant Privacy Commissioner and Vice President of Internet NZ, The University of Auckland Magna Carta Lecture Series, 8 July 2015

Kia ora tatou, welcome. It's a pleasure to be here with you tonight. And I'm grateful for the opportunity to support the program focusing on the Magna Carta. It's a funny thing, something I was thinking about in preparing for the speech tonight, and I thought just imagine being one of those knights mucking around underneath a tree by the Thames waiting for the king to arrive trying to steal yourself for this very difficult conversation that you're about to have and hoping that the King would accede to your wishes. And it's an interesting year to have watched, there's been so many things written about the Magna Carta, the great charter as it's being called. So many tales told. And I won't rehearse them all here. But I do think it's worth noting that many commentators agree that there's very little in the Magna Carta, if you were to be able to read it today, because it was written in Latin of course, that would contain anything that looks remotely like the modern society that we have. And I think the Attorney-General, Chris Finlayson, recently said "simply looking at the document itself, it is difficult to make a strong case for the Magna Carta being the cornerstone of any nation's constitution in the 21st century."

So it's interesting to think about what that means in the context of the digital age in security and privacy. The document, the original document, was written in Latin, as I mentioned, it had 63 clauses that dealt with important issues of the medieval day such as the release of the Welsh solders, the right not to be compelled to build bridges, limiting the taking of property and wood without consent. And, interestingly enough, matters such as the rights of widows, which centuries later were still relevant. But it was almost immediately repudiated, resulting in a civil war that only ended with the death of King John. And it was really honoured more in the breach than it was in the honouring of it. And really only revived in the 16th century. So it's interesting to think then how is it this document's led to having these enduring values that we would still even think might be remotely relevant in an era of the internet. But I think it's true that some of the values that are in that document, and in the process and in the history in the environment that gave life to it do still resonate today. And those are things such as the limiting of the power of the king, freedom of movement, the rule of law, due process, forgiveness. I think this is so interesting that the charter included this requirement that they wanted pardons for people hurt and who'd held grudges that had arisen at the start of the dispute that led to the charter. Very much a rights and responsibilities aspect to it. And I do think that some of those resonate in a digital age?

It's interesting if we come forward through time New Zealand was one of the first countries to legislate for, and establish, a Privacy Commissioner by law. I don't know if any of you are watching the New Zealand TV series the Westies or the Westside at the moment. It's absolutely fantastic. As someone who grew up in the 1970s, it's full of all this wonderful history and period about the time. And including some of you, might remember the controversy there was about the Wanganui Computer Centre in those days. That was in the days when they needed like a four story building to house the computers that held this information which now we can probably you have more processing power in your average smart phone for. But it was really in response to some of those issues of trust that Howard Broad has mentioned that the oversight agency of the Privacy Commissioner was first established. And it particularly focused on law enforcement and the power of law enforcement agencies. And now, 40 years later, public concerns about security and privacy

remain, albeit for different reasons. I've read time and again the headline "privacy is dead". Privacy is not dead. New Zealanders are more concerned than they've ever been about privacy. But they're defining for themselves and in their own ways what those concerns are. So revelations about data breaches that came to light with ACC and MSD, concerns about mass surveillance without due process, secret courts in other countries established to oversee secret law for authorising access to information. These are the very sorts of things which were to come to the fore in the pathways that followed the Magna Carta itself. And I think as we stand in New Zealand today it's important for us to understand how do we help and support that wider conversation to respond to some of those changes and what they mean here.

The current Privacy Commissioner, John Edwards, has advocated, for example, for privacy by design and a proportionate response to emerging threats. For example, we've urged what we've called resistance to “authentication inflation”; this idea that there are so many reference points now for how you're identified online and how that information can be aggregated into one place to identify by reference to the data about you, or metadata. But at the same time we've supported initiatives such as RealMe so that it is possible to identity clearly who a person is dealing with online. So we're at this interesting point where we're reaching for, trying to understand, what the internet is. And I think the key difference from the Magna Carta days is that there is no king in relation to the internet. The internet has no central single point of control. And, in fact, that was the genius and simplicity of why it was created. Information travels from your screen, gets divided into hundreds of small data packets, travels across many different pathways and gets together at the other end. And there's no single point of control in that process.

So Tim Berners-Lee, who invented the World Wide Web, some of you might remember Alta Vista which was a search engine that existed before Chrome and Firefox and Internet Explorer did. Tim Berners-Lee invented this idea that you could browse online using this web. And he's been supporting the idea that Magna Carta for the Internet in the last couple of years. And before I started at the Privacy Commissioner's office I had the opportunity to be on the advisory committee supporting the development of ideas around this. And I think it's very interesting because this was a global group with representatives from Pakistan, India, Kenya, different parts of South Africa, Latin America, and Europe and the Pacific. And their views about a Magna Carta were extremely mixed. Some of the voices from the global south, for example, resisted this idea that there should be these legal norms imposed on them from their northern American and northern counterparts. Whereas voices from the global north said "look, there are these issues we see problems with what democratic governments are doing with the internet and we need levers for power against them." Others pointed to the fact that there are a million other documents around already. The Charter of Internet Rights and Principles had already been developed. The Italian Government had introduced legislation at national level. There was the feminist principles for the internet. There were a thousand flowers blooming. Why did we need a grand charter? And still others pointed to the much older documents than the Magna Carta and said "call that a grand charter. What about the Hindu Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran, and the Analects of Confucius, the great works of the Inca and Aztec. They were far more advanced at the same time as a few knights sitting under a tree worrying about the wood that was being cut down." So it was quite interesting to see them debate about that idea. And I think where Web We Want started to say "let's start those conversations and support those conversations locally so that people can be debating those ideas.

Do we even have rights online? What does that mean? What could that look like? What are our duties and responsibilities." And much more a conversation about bringing in those who created the internet and those who are using it. The private sector for example.

And we've seen new things emerge as a result. So, for example, just last month, or a couple of weeks ago the United Nations appointed a brand new mandate holder, a special rapporteur on the right to privacy. And this follows specifically from government's concern about revelations of surveillance of the German Chancellor and the Brazilian President's cell phones by their political counterparts. Government's also reaching for new ways to hold each other accountable and understand what the right to privacy means in a digital age. So we don't have a grand Magna Carta yet. But we're still in a point of evolution. And we just don't have one yet. We might. And I think it's interesting to think about if you had the chance to put forward what you think should be some of those core principles what do you think they might be.

I think, just in closing, I'd reflect that in New Zealand I see some quite strong parallels between those wider discussions about 'do we need new law or not in relation to the Web We Want proposal?' with some of the discussions around the Harmful Digital Communications Act which has just recently been passed and about which I'm sure Martin will speak more eloquently than me. The Act took quite a few years to develop and we saw these debates and quite clear divides actually around "isn't the internet this wide wide west and it's completely unregulated?" With others says "there's so much regulation on the internet, how much more do we need?" And others seeing it as this grand space that should always be open and free. And I think New Zealander's did take a common sense approach. They developed a set of quite clear principles that they wanted to apply and thought about mechanisms they could use in a practical way in their daily lives that would help them with the sorts of interactions they need help with. And the time will tell if those work or not. But I think it's a sort of, it's another moment in our progression, in our history, around the development of new norms in a digital age. So I think at the Privacy Commission, we've welcomed that new act. We like the principle based approach, the Privacy Act itself contains principles which we think have stood the test of time. And I think it's worth saying then that I do see a parallel between modern privacy and the Magna Carta. In a way that great charter was about principles over power. It was about bending the knee of the King to listen to what it was the people had to say. And even though those principles now, quite rightly, look quite medieval, although we might still be concerned about the trees that get chopped down in different parts of our native forest, it's still a testament I think to the potency to the central idea of principles over power and to the Magna Carta itself it holds such a place with us even today.

Thank you very much.

Transcript of Speech by Howard Broad, CNZM,
Deputy Chief Executive, Security and Intelligence, Department of the Prime Minister and Cabinet,
The University of Auckland Magna Carta Lecture Series, 8 July 2015

Notwithstanding we're in a digital age as a former policeman I am going to take you back in time a little bit to tell you a little bit about my connection with things that are in the digital age. I'll tell a story first. During the time of the Commission of Inquiry into Police Conduct, a time when the measure of public trust and confidence in the Police had tanked by ten to thirteen points, I found myself in the old regional services space at the Auckland Domestic Air Terminal. I was sitting waiting for a flight to Palmerston North, dressed in the full uniform of an Assistant Commissioner of Police. And I was looking at Ian Smith, seated opposite, the great New Zealand cricketer and television commentator, and I was wondering what it would be like to be such a recognisable face. That time, a young mother came into the terminal. She was obviously in a state. She had with her an infant in a stroller and had a curly haired two year old by the hand. Bags of all description draped from the stroller. She spied me, rocked up and said "would you look after this lot for me please" and she promptly parked the stroller, the child, the other child, and shot out the door. I looked up and saw Ian Smith's eyebrow wrinkle, shot up, and a smile broke onto his face and I could imagine him thinking "how are you going to deal with this big fella?"

Of course, my flight to Palmerston was then called, followed by the final call. No sign of the young mother. I became resigned to missing the flight, Ian Smith was watching me closely, so were the two children. Just as the gate was about to close, she came back and without a word picked up her family and rushed off up the concourse. And I made my flight. What does this got to do with the Magna Carta?

Well, I imagine that you recognise this as a testament of trust. My uniform, a solid statement of state authority, meant something, sufficient for the young mother to place her trust in its wearer, no further questions. Trust and confidence speaks, in my view, to risk appetite in those who grant power and those who use it. Trust and confidence is critical for Police. More than just being lawful, police action needs to be supported. Police Commissioners' hold office solely on the question of confidence; a police officer attending a pub fight knows all about confidence – will the public turn on them or support them in resolving the incident? Trust inspires confident and thus effective policing, or not. More technically, note that the police have a duty to enforce the law but have discretion in how that occurs. This discretion is not unfettered, decisions to prosecute or not can be challenged in a variety of ways. Therefore, every day in the courts, and also every day in the court of public opinion, the police are judged on how they do their job. It has always been so.

You know that modern policing traces its evolution back to London in 1829. Trust and confidence, and the means of acquiring it, was high in the mind of Sir Robert Peel when he then established the Metropolitan Police. He believed safety and security was best achieved by inspiring citizens to voluntarily comply with the law; and this is more likely if they participate and believe in the systems and people involved in enforcement. Peel's principles stitch together the means of such an ambition for policing: No army of occupation was to be created; Police officers were to be selected from citizens of integrity likely to maintain respect; Malpractice was not to be tolerated; Officers were to be identifiable and function in full public view, wearing uniforms of blue, not the red of the British

Army, and commanded to use techniques that inspire co-operation; Their mission to prevent crime, and so to avoid or mitigate the need for arrests and prosecution, and use the minimum force or power in any situation requiring action; Further, to take no side regardless of the position and standing of those who come to their notice; And to stay within role – and particularly avoid the space reserved for lawmakers or the judiciary. Adhering to these principles, particularly balancing prevention against enforcement, has been a constant challenge. There's a lot more law, and more pressure to enforce them. It's easier to focus on, and measure, disclosed offences than the more opaque concept of prevented offences. 20th century policies that committed police to a rapid incident response, and the rise of more effective detective techniques based on the forensic and analytical crime sciences has further emphasised the piece work side of policing rather than the relationship development side upon which prevention derives. There's no doubt short term vigorous to the point of harsh enforcement practice changes behaviour – but the public tires quickly of the stick and withdraws consent. The ideal of the respected local police as the primary foil against criminal behaviour is hard to sustain in the face of determined criminal opposition which can isolate and pick on individual police officers – undermining their willingness to work alone or be publicly identified. Obtaining consent from local communities is also more complicated as communities get larger, become more itinerant, and more diverse.

I think we're fortunate in New Zealand that Governments have consistently set an ideal of good community/police relations: Legislation of recent times authorising the police had significant public input; Local engagement practices are now more sophisticated, police are more competent at tapping into public opinion, and there's less defensiveness; The primary policing strategy that's been cemented as one of prevention first – Peel would be proud of that; I think that it's admirable that police have steadfastly defended a policy of allowing officers involved in cases to speak publicly, thus making the police action more personal and accountable to the public; Although not all police would care to admit it, but they have been major beneficiaries of modern criminal disclosure and oversight regimes; the public examination of cases has dramatically improved accountability and consequently policy and procedure. Of course, the outing of poor practice and attitude is painful, but it remains my belief that the professional track of the police is a positive one.

So, to summarise – police get better if the public get to actively consent to policing – and particularly if they know: who is responsible for the exercise of a power?; why the power is required to be exercised – what risks require policing intervention?; that there are limitations on the power and that there are clear and objective systems that monitor that power; and that the citizen has options to deal with their perception that power was not exercised properly. Long lead in to a simple point really.

In respect of the police, the public do get answers to these questions. It follows that the police can be found wanting in cases, even suffer criticism of major strategic programmes – but public support will hold up if the Peelite principles are promptly and genuinely respected. This translates into confidence – and the willingness of the public to place their issues into the hands of the police for resolution, and to remain amenable to the function of law enforcement systems and contribute to a community policing system. These principles in my view apply just about everywhere in public administration.

But here I am now, as I'm not the police commissioner anymore, I'm this Deputy Chief Executive of Security and Intelligence responsible for the national security system. I have day to day contact with national security agencies, and in particular I am involved with our intelligence agencies, the Government Communication Security Bureau and the New Zealand Security Intelligence Service. These agencies, on the grounds of national security, have the authority of the state to access and acquire personal information and information about organisations that are deemed of security interest. Applying the Peelite principles to security organisations is a little more problematical. Although the source of authority to exercise power is statute based, mostly the individual exercise of powers is an administrative one and a tightly held secret. Although the purpose of the organisations are known and publicly discussed, meaningful discussion of the specific risks that they deal with have been discouraged for the advantage such discussion provides adversaries. The identities of the agencies officials and their tradecraft are secret for the same reason. The operational significance of cases doesn't end when the case is disposed of, the competition in which the state might have engaged that might have focused on individuals typically is a response to a challenge to our state's integrity by a rather more generally described adversary that takes a long run view of the battle. Traditionally the organisations, the security organisations, have taken the view that the less said is the better; and in operational terms this might seem justifiable. Knowing the purpose, strategy and capability of our security agencies does provide advantage to those who seek to avoid detection of their harmful actions. Even oversight was seen as problematical – knowledge of actions taken by the state in its own defence was tightly held – and security has been an interest considered to outweigh the usual programmes of transparent planning, budgeting and performance reporting required in a parliamentary democracy.

Recent history shows that the traditional settings around national security to have been inadequate when allegations about the practices of the security agencies are published. The public has great difficulty making its judgments about confidence in these circumstances. But times are changing. Whereas in the past you would have only have heard about the security agencies when things have gone wrong, they now: provide more information publicly about their work, about the systems of oversight, and their policies. Check out their websites – they're regularly updated. They take up public speaking opportunities. They make their directors more visible and accessible to media and to the public. They provide greater detail in planning, budgeting and other accountability documents; and they publicly appear before the Intelligence and Security Committee of Parliament during annual reviews.

These agencies also use opportunities to assure the public that what they do is proportionate, authorised and otherwise lawful. You don't just have to take their word for it though. They're subject to much stronger and more independent oversight – and this is welcomed. The 2013 legislative changes brought about a significantly expanded and strengthened Inspector General of Intelligence and Security Office. There is a full time inspector, a deputy and team of investigators who deal, not only with complaints, but also reviews that they themselves decide. They've been increasingly open with the work they do – and the agencies themselves even have their own twitter account. There are also to be regular reviews of these agencies – the first such review is being conducted by Sir Michael Cullen and Dame Patsy Reddy and this week published a set of questions asking the public what they thought about the policy settings around these agencies.

These and ongoing changes we believe will lead to a more informed public and build up awareness and understanding of the work these agencies do, leading to increased trust and confidence. In my view, we're on the way to national security by consent. Consent, though, that needs constant attention so that it strikes at the appropriate point between security and privacy. Therefore, that young mother who once tackled me in relation to her personal family safety and security should be able to feel confident that that's the same that she should feel about her country and the security of her family and that the security agencies are part and parcel of providing that.

Thank you very much.

Transcript of Speech by Martin Cocker, Executive Director, NetSafe,
The University of Auckland Magna Carta Lecture Series, 8 July 2015

So, Sir Tim Berners Lee, he says we need an online Magna Carta because he's worried the internet is not serving users whom he refers to as "Netizens". And I remember when he made that call. He didn't ask me to work on it, but when he made that call and I remember thinking "that's great Tim. What's the Magna Carta?"

So today I know the Magna Carta, thanks to Google, I know the Magna Carta is a document of significance as a symbol of the rule of law. But I also know that it wasn't actually written with that purpose in mind. It was constructed by the people of the time, as Joy mentioned, for the challenges of the time – which I would summarise like this – it's 1215, the Barons of England had a problem - the King. The King of England also had a problem - the Barons. The Magna Carta detailed 63 specific requirements that could make everybody's problems go away. Of course, in hindsight it didn't actually achieve that. And it could so easily have been consigned to history as a failed peace treaty. Instead here we are, 800 years on, talking about its potential application in the digital age.

Tim Berners Lee is certainly not the first person to talk about an online treaty to protect people's rights. Over the last five or ten years it seems that nearly everybody has had a pop at it. Before the last election, Gareth Hughes of the Green Party crowd sourced an online bill of rights for New Zealand which you can still find online on his blog. The questions really is, do we really need a new one – or does the old one suffice in the digital age?

And when you look at these online bill of rights they're mostly just take our existing rights and then add the words online. The Web We Want project that was promoted by Tim Berners Lee, and that Joy talked about, was at least differentiated because part of it spoke specifically to technology choices. So its five guiding principles include two you'd expect to find in pretty much any bill of rights or any charter like this; Freedom of expression online and offline; and protection of personal user information and the right to communicate in private - i.e. protection to privacy.

And, before we move onto the topic of the night, I just want to take offence essentially to that concept in that first line. Online or Offline. Principles that apply offline apply online. Online or offline is a fallacy. I am me. You are you. Your rights are constant. When you go online you don't exit the jurisdiction of the place you are physically located. New Zealand laws apply to you regardless of where you connect to. Therefore, you don't have to say freedom of expression online or offline. It is just freedom of expression. That's already your right and it continues to apply. Now, having said that - you can group communication technologies together for the purpose of regulation. The recently passed Harmful Digital Communications Bill does exactly that. It targets New Zealanders who use digital technologies to harm people. But it does not seek to regulate an online space as some would contend.

My key question is about what changed when technology came along. Our rights remain constant. Our expectation that governments protect citizens remains constant. Our expectation that corporates follow rules remains the same. And that's where the Web We Want project gets more

interesting, because its' next three guiding principles where: affordable access to a universally available communications platform; siverse, decentralised and open infrastructure; and neutral, that's the future again, neutral networks that don't discriminate against content or users. Because, you see, it's not about the rules that have changed, it's the tools. The tools we use to protect rights and the tools that we use to impinge on people's rights.

So what does that mean? Is Tim Berners Lee right that we need an online Magna Carta or do our existing rights frameworks, including the legacy of original Magna Carta, continue to be relevant? Could we achieve more with a few tweaks to our current legal, political, and corporate structures and expect technology to create the future we want?

Tim Berners Lee is the father of the web – so it seems reasonable to push on and explore his concepts. And I've got five questions to frame up my thinking on this: so we actually need to change anything? Who is our online Magna Carta actually for? What do we actually want? How do you actually get change? At this point I realise I've used the word actually a lot in those. And isn't it just about money in the end?

So question one: do we really need to change anything? Today I used the internet for email, for work, to purchase items, to transfer money, and to watch a video that I'm told rich people really didn't want me to see. Other than the video being clickbait for a scam - everything else worked exactly as planned. So why then do people regularly say we need a new charter to protect the internet? To answer that question we travel back twenty years. Yes, to 1995 – when Suzy poisoned the All Blacks and South Africa won the World Cup. The core technology of the internet by now is just a few decades old, but the web as we know it is only just coming online thanks to Tim Berners Lees' work with HTML. NetScape Navigator and Internet Explorer hit the shelves and the internet boom begins. And that's when things changed, and pretty quickly – some of the early netizens were very concerned by what was happening. But why? I mean this thing that they'd built was becoming a huge success. What bugged them so much about that?

Well, the answer lies in the internet's libertarian roots. And I note that the urban dictionary describes and internet libertarian as "a smart ass on the internet that claims the economy can work itself out on its own, as long as there is no government regulation. This belief is usually based on the ECONOMICS 101 class they took a few years back. On closer inspection, most of the internet libertarian's facts don't check out." My apologies to anyone here who's an economics student. But the mockery of libertarianism is an indicator of how far the internet has come. But certainly, the leading internet figures of that time were unapologetically libertarian. Their ethos is best captured by the work of people like the Electronic Frontier Foundation's founder John Perry Barlow who wrote the Declaration of the Independence of Cyberspace. Many of you will be familiar with the text. I'll just read you the opening paragraph. "Governments of the Industrial World, you weary giants of flesh and steel, I come from Cyberspace, the new home of Mind. On behalf of the future," so I suppose on behalf of us here today, so thanks for that, "On behalf of the future, I ask you of the past to leave us alone. You are not welcome among us. You have no sovereignty where we gather." This declaration was written at a time when true "netizens" were actually limited in number, and relatively powerful as a result. Their special knowledge gave them opportunities that others could not access. They were the geeks and the nerds operating in spaces most people didn't know existed.

Bulletin boards and alt. binaries. They got technology when most people didn't and this made them - in practical terms - a law unto themselves.

But the internet quickly grew away from those libertarian roots. Those early Netizens have been trying to turn the clock back ever since. The internet is a space that resisted rules by design - as we heard. And that was fine when it was dominated by academics in pursuit of free communication and knowledge exchange. Today it is a place dominated by business. Where there is business, there has to be regulation. Where there is a need for regulation, there is a need for regulators. So libertarians don't like regulators. But there you go. The tool the libertarians built now needs regulators.

So that brings me to question number two: who is our Online Magna Carta for? The internet is for everybody. I don't say that as a slogan. I say that as a matter of fact. 95% of New Zealand households already have a broadband or dialup internet connection. That's without counting the countless phones connected to the internet. In the near future it's fair to say the internet will connect everybody to everything. So in Tim Berners Lee's call for an Online Magna Carta he talked about protecting the internet for "Netizens". By that he means all internet users – which by inference means everybody. So that means our online Magna Carta should serve everybody.

Tim Berners Lee also identified that the groups who are not making the internet better. As large corporates and governments. Government's desire for control and corporate greed are killing the opportunity of the internet. But, at this point, I'm getting a little bit confused about who our treaty is for, and between. So, for the sake of a little piece in my own mind I cast my mind back to 1215, Runnymede, doesn't matter, they may have gone by different names, who knows? The rows of tents with the various pennants flying. Horses and armoured men everywhere. If we fast forward to 2015, would those pennants be replaced by the corporate banners of Google, Facebook and Twitter. The horses replaced by rows of segways and hybrid cars? Are those businesses the equivalent of the Barons? Would the role of King John really be played by the governments?

To date – that would be the most realistic model. Just as the voice of the peasant wasn't really heard at Runnymede, so too the voice of the netizen is not really heard at the international negotiating table. But, as we've heard, the governments are certainly not the king on the internet. There is no king of the internet. So, we do have at least three parties at the negotiation - governments, business, and netizens. And then, of course, both governments and industry will claim to operate in the interests of the netizen. But who really best represents your interests? Is it your democratically elected government, or a US based corporate? And the answer to that would sound obvious. We elect a government, so therefore they represent us – and perhaps the equation is that simple in New Zealand. But it's not as easy to decide in other countries. There are places where Google resists government requests or demands to protect users.

Question number three: What do we actually want? Let's assume we could get those three representative groups to the negotiating table. After some serious negotiating we have three signatories sitting and posing for photos. Much like this, holding nice pens. And in front of them is this new treaty. What is written on that document? Tim Berners Lee said that the main driver for an online Magna Carta was based on principles such as "privacy, net neutrality, free expression, affordable access and open and diverse infrastructure." But is that what Netizens really care about?

In early 2010, The BBC world service commissioned a poll of 27,973 adults in 26 countries. At first glance that poll supports the idea with 53% responding that "the internet should never be regulated by any level of government anywhere." But is “government regulation of the internet” what really keeps people up at night? That same poll asked people what cause them the greatest concern online. They said, top five, “fraud 32%, violent and explicit content 27%, threats to privacy 20%, state censorship of content 6%, and the extent of corporate presence 3%." So the truth is that people want a safer internet. And by safer they mean less fraud, less offense and less offensive content. Not less regulation.

The document the average modern netizen would sign would not please the internet libertarians. The average user would not choose absolute freedom at the expense of safety and stability. Most people are prepared to accept some level of surveillance to ensure safety. However, most users would support the Web We Want's goal of “affordable access to a universally available communications platform” but who really cares if its built on “diverse, decentralised and open infrastructure” or that “neutral networks that don’t discriminate against content or users” as long as I turn it on and I can get to Facebook, that's all I really care about. And internet libertarians will say "that is because the average internet user doesn’t realise the significance of their choices." That may be so. But that’s the thing. If you write a charter that reflects people’s needs – then that’s what you’d get. That the web they want. They just want the rule of law to apply as much in a digital society as it ever has. And ideally more so.

So question number four: How do you actually get change? The Magna Carta, as we've heard is a very specific document. It names names. “We will remove completely from their offices the kinsmen of Gerard de Athée”. And I will not have said that rightly, but it doesn't matter, he's long gone. It give’s specific numbers “the heirs of an earl shall pay £100 for the entire earl's barony”. It solves specific problems that clearly existed at the time “No town or person shall be forced to build bridges”, “All fish-weirs shall be removed from the Thames”. And I think that's actually a very important lesson. People love the idea of creating symbols, but actually it's is very hard to deliberately do in practice. Symbols become symbols over time. Sometimes it is better to just focus on solving the problem in front of you. And information technology and the internet have a history of doing this by themselves. Technology seldom waits for a treaty or an accord. People talk about a need to have freedom of expression. But the internet grants you the tools to enjoy freedom of expression today. People talk about the right to avoid surveillance. But there are any number of tools that allow encryption. In fact major email providers are now encrypting email traffic by default for you. And, yes, some of these tools are only accessible to the people with the skills to use them – but if anything - the Internet’s natural ability to circumvent controls is more powerful than any treaty or statement has been so far.

Question number five: Isn’t it just about money in the end? Truthfully, how would you get corporates, governments and users to stick to the rules? How would you even get them to the negotiating table? What is their motivation? In a word, money. And a lot of the Magna Carta was devoted to the protection of barons property; to taxes that the King needed to support his army. Those were the key negotiating points in the Magna Carta. Money and power might have been used differently 800 years ago, but it was still a powerful motivator. As it is today. In fact, money is the key lever that negotiators have. The internet is driven now by business and money, as I said earlier.

Governments need money to perform their various functions. Corporates exist to make money. And that money comes from, or is generated by people like us – who also want money. At the heart of any meaningful long term agreement today would be key statements about who pays taxes to whom and where. And perhaps an international tax agreement is really the key to creating the web we want.

So, in summary, I don't actually see a need for an online Magna Carta or an online bill of rights. Or at least – I don't think that's the best way to make the internet into the thing we want. We already have the necessary existing rights and justice concepts, and some of those date back to the Magna Carta. Our current legal, political, and corporate structures, they might need some reshaping to make better use of technology – but they're still doing a reasonable job of maintaining a balance in society. And perhaps most of all, the technology that people are so worried about being captured or controlled is constantly evolving and avoiding that outcome anyway.

Thank you.

Section 6 - Magna Carta goes Global: the humanitarian need for the rule of law to be applied to the rights of 21st century refugees

Introduction

In today's global and interconnected world, international laws affecting immigration and refugees are increasingly on domestic agendas. As an increasingly diverse and multi-cultural country, the way refugees are treated attracts public attention in New Zealand, even if we are not as physically close to the issues related to Syria that caught global headlines during 2015. The kiwi desire to play a role on the global stage extends to compassionate action in response to international conflict, with calls to the Prime Minister to expand the New Zealand annual quota of refugees, which had not increased for nearly 30 years. Many migrants-turned-citizens still have links to relatives and friends in countries affected by war, and reflect on how their own treatment affected their life stories.

Magna Carta may have been about elites – barons fighting kings for their rights to their land. But at the University of Auckland lecture series on Magna Carta Beyond the Commonwealth we were reminded of the impact on rights to life itself, with practitioners from government immigration, the Human Rights Commission and Amnesty International discussing where it is in the handling of refugees and migrants. The excerpts below show the human aspect of the rule of law and due process, a very people-focused illustration of how the principles of liberty and freedom embodied in Magna Carta are as applicable to inter-country policies as national law.

"Countries neighbouring conflicts and even those further away have responded humanely to the situations by providing temporary protection and a commitment to non-refoulment which so importantly underpins protection. However, like the Barons of 1215 who lost the rights they had secured in a matter of days, these rights accorded to those fleeing conflict remain fragile, especially given the number of protracted crises and the highest number of refugees since the Second World War. The Magna Carta – the significance of which in its time was unrealised – has evolved to mean so much more than a list of demands. The principle of the rule of law and, in particular, due process that evolved from the Magna Carta underpins… the Refugee Convention in New Zealand and at least influence the international approach to protection."

Andrew Lockhart National Manager, Refugee and Protection Unit, Immigration NZ,
The University of Auckland Magna Carta Lecture Series, 9 July 2015

"What does the Magna Carta say about immigration? If we look at article 42 it states 'it shall be lawful to any person, for the future, to go out of our kingdom, and to return, safely and securely, by land or by water, saving his allegiance to us, unless it be in the time of war, for some short space, for the common good of the kingdom: excepting prisoners and outlaws, according to the laws of the land, and of the people of the nation at war against us, and merchants both foreign or local, who shall be treated as it is said above'… the right to leave and the right to return can be limited in certain circumstances. And, in this case, in times of war, for a short period of time for the common good of

the Kingdom. Now, the principle of such limitations on rights has been translated into contemporary international human rights law, where very few rights are absolute. And most can be restricted in certain circumstances... it is generally accepted that a state may discriminate in its immigration policy. In other words if a state does not want to admit people from a particular country at a particular time they don't have to. New Zealand follows this approach. In fact, section 392 of the Immigration Act expressly removes the content and scope of immigration regulations and instructions from the ambit of the Human Rights Act… it seems to me that such an approach is at odds with the principle of equality in the Magna Carta. And clearly at odds with chapter 42 which guaranteed to foreign merchants the right to come… stay… and to go through England…In an increasingly globalised world and economy, it is time to reconsider the application of the principles of the Magna Carta to contemporary immigration policy… In 2012 an amendment to the Immigration Act was passed [the Mass Arrivals Bill which] allows for the detention of a group of asylum seekers under a group warrant – on the sole basis that they are part of a "mass arrival group"… [here] due process and natural justice rights are engaged. The question will be how these provisions are implemented in practice – if they ever are – and whether this achieves the right balance…[I]t is clear that the ancient principles of liberty and freedom, founded on the Magna Carta, are relevant to immigration law, policy and practice today. And, in fact in my view - in an increasingly challenging global environment - they have never been more important."

Michael White, Senior Legal and Policy Analyst, Human Rights Commission,
The University of Auckland Magna Carta Lecture Series, 9 July 2015

"We've got the biggest number of people displaced since the Second World War. And it's really easy for that just to become a statistic, for it to just seem just too big. But…we're really talking about real people here…. at the heart of every refugee story is a similar failure of rights, failure of the government and the country that they're fleeing from to protect their rights... [and when refugees arrive in a new country] we see the principles of the Magna Carta breached once again. There's, of course, no speedy access to trial, no ability to challenge indefinite detention… those who manage to get into the country to escape what's happening in their own country effectively have no recognised rights. Generally they live as undocumented illegal immigrants… The rights that we do recognise are still largely skewed to people who are citizens of a particular country. And the rights that a recognised are much less for people who have come across the border seeking protection. Clearly what we need now is to look and see and recognise the rights of refugees, people seeking protection, those who are most vulnerable, and to not just define access to rights tightly around people who are already citizens to our own countries… A state's obligation to protect individuals is a principle that really began with the Magna Carta. And it now resonates in current refugee law. The Magna Carta lies at the origin of the right to freedom and liberty and, on a grander scale, the origin of human rights themselves... these principles have survived 800 years which demonstrates, I think, the value and necessity that they hold…now is the time to properly put these into action for those who need it most…refugees."

Grant Bayldon Executive Director, Amnesty International,
The University of Auckland Magna Carta Lecture Series, 9 July 2015

Questions for reflection and discussion

--- Explore the human/people side of a lack of Magna Carta principles – why is it so important these values are upheld? What are the damaging consequences of not having them?

--- Critique New Zealand's current refugee law, systems, policies and practice in relation to the principles of the Magna Carta including the rule of law and due process.

--- Michael White noted that in the Magna Carta article 42 states "it shall be lawful to any person, for the future, to go out of our kingdom, and to return, safely and securely, by land or by water, saving his allegiance to us, unless it be in the time of war, for some short space, for the common good of the kingdom: excepting prisoners and outlaws, according to the laws of the land, and of the people of the nation at war against us, and merchants both foreign or local, who shall be treated as it is said above". How would you rewrite this clause for the 21st century on a global scale?

--- Discuss why it is also important New Zealand works to see such values upheld in international refugee practices.

--- Given this is a global issue, how can individual nations like New Zealand respond appropriately? How does Magna Carta play out on a global scale?

Transcript of Speech by Andrew Lockhart National Manager, Refugee and Protection Unit, Immigration NZ, The University of Auckland Magna Carta Lecture Series, 9 July 2015

Thank you and thank you to the organisers for the opportunity to participate in this 800th anniversary of the Magna Carta. And tonight, as the chair said, looks at the area of immigration and refugees and its relationship to the Magna Carta. The Magna Carta itself was a short lived document signed by a king under duress from the Barons aggrieved over a number of matters they wanted addressed, some of which were specific grievances and others that were more fundamental. The 1215 Magna Carta lasted only a very short period before it was annulled by Pope Phillip, but the ideas continued to evolve and strongly influenced the constitution and arrangements in the United Kingdom.

So what is the influence of the Magna Carta on immigration and refugees and what has been the impact on both New Zealand's approach and the international context in which we operate? I'm going to look at the systems that support the refugee determination process and how the principles of the Magna Carta actually contribute to that.

The important influence of the Magna Carta which is so well covered in literature is that in sealing the document King John subject himself to the law and whilst this particular commitment was short lived for King John the principle resurfaced in subsequent documents. And that over time established principles that came to be known as the rule of law, which eventually was incorporated, as I said, into the English Constitution and eventually exported out to the Commonwealth.

The rule of law at its heart is the principle that no one is above the law and that governmental authority is to be legitimately exercised in accordance with adopted laws with the administration of them undertaken with due process and fairness so as to avoid arbitrary decisions. For those of us who work in the immigration field that is a critical part of our training and development right from the beginning, especially around the due process and fairness. Underpinning those rules of law are the principles of parliamentary sovereignty, which we've come to know, the separation of powers between the executive, the legislature and the judiciary and the judicial independence and impartiality which supports the premise that no one is above the law and all are subject to it.

So how overtime has the refugee system in New Zealand paid heed to those principles evolved from the Magna Carta? The Convention on the Status of Refugees came into effect internationally in 1954. But New Zealand only signed the Convention in 1960. And it wasn't given effect in legislation. But in the 70s the Government established the inter-departmental committee to consider refugee cases, which were at that time very few in number. The committee consisted of officials from the Ministry of Foreign Affairs and the Department of Labour who was, at that stage, responsible for immigration. The recommendations of the committee were referred to the Minister of Immigration and the Minister of Foreign Affairs. Final decisions were made by the Minister and there was no established mechanism for an appeal. These arrangements continued right through up to the 1980s, and the number claims at that stage started to rise. Then, in 1983, the system was challenged, robustly challenged, by the arrival in New Zealand of Jagpal Singh Benipal. And I know many of you will know the decision. He arrived with no passport and was detained under Section 14 of the Immigration Act 1964. This made him subject to immediate removal. But, while he was being held

pending removal he made a claim for refugee status. That was considered by the Committee without Benepal being present or represented. His claim to status was declined. However, intervention by Amnesty International and others secured him a second opportunity to have his claim decided and he was this time interviewed at the prison. The second claim was again declined by ministers and Mr Benepal then sought a writ of Habeas Corpus, which was successful, and he was then released from prison on bail. At the same time he sought a judicial review of the Ministers' decision. It is in that review that the judge held the committee had not acted fairly in that it had not disclosed the substance of prejudicial material against Benipal. The court also found that some committee members had approached his hearing with closed minds and there was a very likelihood that the decision had been predetermined. The case was appealed to the Court of Appeal but by that stage Mr Benipal had residence under the regularisation programme.

This case was instrumental in spurring significant change to the refugee determination system which were incorporated into the Immigration Act in 1987. The changes provided for the initial claim to refugee status to be determined by a Refugee Status officers with appeals heard by the Refugee Status Appeal Authority - an independent body with members appointed for a fixed term by the Governor General. The 1987 Act did not codify the Refugee Convention, but it did provide a reference to the way cases were to be determined and removed ministers from the refugee decision-making. The Secretariat supporting the Refugee Status Appeals Authority consisted of staff from Immigration New Zealand as part of the Department of Labour. And the establishment at the same time of the Removals Appeal Authority was responsible for considering humanitarian appeals for those liable for removal provided an additional avenue for those who may not have met the requirements to be recognised as a refugee, but nevertheless had exceptional humanitarian circumstances which could be taken into account.

In addition to these independent appeals bodies, the 1987 Act provided for an appeal on point of law to the High Court and left open the door for judicial review, although it restricted the time that the review could be taken following an adverse decision or finding. It was about that time that the Convention Against Torture came into force. But this instrument was not bought within the jurisdiction of the Refugee Status Appeals Authority nor the Refugee Status Branch or Status Officers. It was left to be considered by immigration officers with support from legal division. This included assessments undertaken prior to removal.

These arrangements lasted until 2010, when the Immigration Act 2009 came into force. The 2009 Act bought together four previous appeal authorities, including the Appeal Review Tribunal and established the Immigration and Protection Tribunals within the Ministry of Justice. In addition, the Convention against Torture and the International Covenant on Civil and Political Rights were bought into the broader immigration decision-making process providing for what is now called Refugee Protection Officers, who are responsible for those determinations. It provided for an appeal to the IPT and appeals on the point of law and the right to judicial review remained.

So how has the Magna Carta influenced the system and judicial arrangements over the history of the refugee status determination in New Zealand and to what extent has its influence strengthened protection? Clearly the Benipal case demonstrates that investing all the decision making with the Crown did not provide the checks and balances that you might expect to find in a system established

to provide protection. However, the writ of habeas corpus, so clearly associated with the Magna Carta, did provide a safeguard to support protection. The subsequent court findings provided a very clear steer towards the useful next stage in the refugee status determination in this country.

The changes in the 1987 Act did provide due process, even though the convention itself was not codified in the act. The changes establishing the appeal process and placing the initial decision making in the hands of specialists more closely aligned to the principle of the Magna Carta relating to due process and the rule of law. There was, however, still criticism that the Appeal Authority was within and supported by Immigration New Zealand who was also responsible for those initial determinations. The Immigration Act 2009 moved the appeals, as I said earlier, to the Immigration and Protection Tribunal under the Ministry of Justice. That Act strengthened protection by including the two complementary protection issues within those arrangements. These new arrangements follow the principle originating from the Magna Carta, but I am sure that any future changes will continue to be influenced by the enduring principles of due process and the rule of law.

I do want to conclude by taking a quick look more broadly at international protection provided by those states who are not signatories to the Convention. The 1951 Convention relating to the status of refugees and its protocols have been called the Magna Carta of international refugee law but only just over 140 countries, or states, are signatories. And yet 80% of the world's 20 million refugees are hosted in developing countries - most of which are not signatories. How is that protection and the rights of those ensured? The Universal Declaration of Human Rights is also often called the "International Magna Carta" and provides civil and political rights internationally which no doubt influence the way in which states respond, as does customary international law which recognises the role of states as international citizens and the rights and commitments that come with that.

It's not clear whether these ideals stemming from the Magna Carta have influenced the responses by states. But what is evident is that countries neighbouring conflicts and even those further away have responded humanely to the situations by providing temporary protection and a commitment to non-refoulement which so importantly underpins protection. However, like the Barons of 1215 who lost the rights they had secured in a matter of days, these rights accorded to those fleeing conflict remain fragile, especially given the number of protracted crises and the highest number of refugees since the Second World War.

The Magna Carta – the significance of which in its time was unrealised – has evolved to mean so much more than a list of demands. The principle of the rule of law and, in particular, due process that evolved from the Magna Carta underpin and provided under the Refugee Convention in New Zealand and at least influence the international approach to protection.

Thank you.

Transcript of Speech by Michael White, Senior Legal and Policy Analyst, Human Rights Commission, The University of Auckland Magna Carta Lecture Series, 9 July 2015

Thank you to the organisers for the opportunity to speak this evening. Now, what I want to do in the 10 minutes that I have with you this evening is to provide some reflections on current immigration and refugee law, policy and practice. And to provide those reflections through the lens of the Magna Carta. And in doing so I'm going to look at the specifics of the Magna Carta and also the principles that underpin that important document.

So, first of all, what does the Magna Carta say about immigration? If we look at article 42 it states "it shall be lawful to any person, for the future, to go out of our kingdom, and to return, safely and securely, by land or by water, saving his allegiance to us, unless it be in the time of war, for some short space, for the common good of the kingdom: excepting prisoners and outlaws, according to the laws of the land, and of the people of the nation at war against us, and merchants both foreign or local, who shall be treated as it is said above." Now, when I reflect on chapter 42 there's two things that strike me immediately. And the first thing is that we see that the right to leave and the right to return can be limited in certain circumstances. And, in this case, in times of war, for a short period of time for the common good of the Kingdom. Now, the principle of such limitations on rights has been translated into contemporary international human rights law, where very few rights are absolute. And most can be restricted in certain circumstances. The restrictions in contemporary human rights law are broader than just in times of war. But the test is more nuanced. And a careful balancing act is required.

As a general principle, 'permissible limitations and restrictions must constitute an exception to the rule and must be kept to the minimum necessary to pursue the legitimate aim of safeguarding other human rights.' 'Necessary' means that any proposed restriction is pursuant to that legitimate aim, is proportionate to that legitimate aim and is no more restrictive than is required to achieve that. This test, of course, is being codified in New Zealand's own Bill of Rights Act through section 5.

Now the second thing that strikes me when looking at chapter 42 is the scope of the right itself. Chapter 42 refers to leaving and returning. It also extends to both local and foreign merchants. Now, this is in stark contrast to subsequent human rights instruments, whether right to free movement is codified. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In both cases it has been argued that the right to free movement is an incomplete right because it's not matched by a state duty of admission – except in those limited cases of asylum and protection.

So, how does this play out in current state practice? Well, there's numerous examples of State's placing restrictions on peoples' right to leave. Now, most recently we have seen this play out in New Zealand is through the passage of the Countering Terrorist Fighters Legislation Bill. Now, that Bill amended the Passports Act to allow a minister to refuse to issue a passport on the grounds of national security if he or she believed that the person was a danger to another country and there were no other means of mitigating that danger. In doing so such, legislation obviously limits the right to free movement. In that particular case the limit on the right may be justified because it's

prescribed by law, it's deemed necessary to protect national security, and it does so in a way which infringes the right as little as possible. Only where there is no other means to mitigate the risk.

In other cases the balance may not be so easily reached. For example, it is generally accepted that a state may discriminate in its immigration policy. In other words if a state does not want to admit people from a particular country at a particular time they don't have to. New Zealand follows this approach. In fact, section 392 of the Immigration Act expressly removes the content and scope of immigration regulations and instructions from the ambit of the Human Rights Act.

While the principle of sovereignty may justify a state determining who may enter and remain within its borders, it seems to me that such an approach is at odds with the principle of equality in the Magna Carta. And clearly at odds with chapter 42 which guaranteed to foreign merchants the right to come to England, to stay in England, and to go through England. This begs the question - remembering that the Magna Carta is a living document – as to whether, in an increasingly globalised world and economy, it is time to reconsider the application of the principles of the Magna Carta to contemporary immigration policy.

Now I just want to take a moment to paint a picture for you. People are being held in detention. People are being held in detention indefinitely because they potentially pose a risk to security. These same people are unable to challenge secret evidence against them. These same people are victims of cruel inhuman treatment and, in some cases, torture. And they're unable to seek redress or demand accountability. The people I am speaking about are asylum seekers. Asylum seekers who are fleeing persecution and trying to find safe-haven, and instead find themselves detained indefinitely in many countries around the world.

So what would the Magna Carta say about this? Chapter 39, which I'm sure you've heard many times, "to no one denied or delayed the right of justice." Tom Bingham once reflected on chapter 39, saying "even in translation the terms of chapters 39 and 40 have the power to make the blood race. These are words which should be inscribed on the stationery of the Ministry of Justice and the Home Office, in place of the rather vapid slogans which their letters now carry." Thankfully New Zealand has a proud history of only detaining asylum seekers in exceptional cases and then for only for the shortest time possible. However, New Zealand should not be complacent. In 2012 an amendment to the Immigration Act was passed – an amendment often referred to as the Mass Arrivals Bill. This amendment allows for the detention of a group of asylum seekers under a group warrant – on the sole basis that they are part of a “mass arrival group”. While there remain differing views between government and commentators on the legality of these provisions at international law, what is clear is that due process and natural justice rights are engaged. The question will be how these provisions are implemented in practice – if they ever are – and whether this achieves the right balance.

Furthermore, the Immigration Act 2009 anticipates a number of situations where decisions may be made based on classified information. In these cases applicants, or appellants as the case may be, have more limited opportunities to view and comment on potentially prejudicial information. This obviously also raises questions of due process. In an attempt to mitigate this, the Immigration Act provides for what it calls special advocates to represent the interests of the effected person. This goes a significant way towards mitigating the risk of breach of due process rights. However, concerns

have been raised about the statutory restrictions on the communications between the special advocate and the affected person and that the extent of those restrictions render it difficult for special advocates to mitigate the unfairness that is inherent in the non-disclosure of that information. Only time will tell whether the application of the special advocate's procedure achieves the right balance.

So, as can be seen through these examples, it is clear that the ancient principles of liberty and freedom, founded on the Magna Carta, are relevant to immigration law, policy and practice today. And, in fact in my view - in an increasingly challenging global environment - they have never been more important.

Thank you

Transcript of Speech by Grant Bayldon Executive Director, Amnesty International, The University of Auckland Magna Carta Lecture Series, 9 July 2015

Kia ora koutou. Has anyone here been to Phuket in Thailand? A couple of people. You'll know that there's beautiful beaches, tropical palm trees, margaritas in the resorts. But just a little further up the coast you see something quite different. If you travel about half an hour from Phuket north away from the beach lounges, away from the cocktails. And it's something that the Thai Government definitely doesn't want you to see. And it's there because that part of Thailand is very close to the Myanmar border. And, as you may know, large numbers of people are right now fleeing Myanmar; trying to escape.

I want to tell you about one of those people; a woman I met there about a year and a half ago. Her name's Arefa and you may have heard a little bit about the ordeal of the Rohingya. It's because they have, they're a small ethnic minority group inside Myanmar. And because they look different and have a different religion Myanmar considers them to be immigrants; undocumented people who have no rights within the country. Now, the only actual academic debate on this is whether they've been there for centuries or millennia. But certainly they've been there long before Myanmar became a country in 1948. So there's no question about their actual legal status under international law within Myanmar. Sadly the government there doesn't see it that way. They've been denied citizenship, access to schooling; they can't marry without permission, restrictions on numbers of children. And if that's not bad enough they've been in large numbers herded into essentially concentration camps to starve, to be killed. Really the picture couldn't be bleaker. So it's no surprise that so many have tried to flee the country. Afria, who I met, told me the story of what had happened to her. She saw her parents killed, her house burnt, and fled into a boat. And she had a small baby. I saw her about two or three months after she'd arrived. And the baby looked about two or three months old and I asked her how old the baby was and she told me and I said "well, did you already have the baby when you were on the boat?" And her answer was "no, I gave birth to the baby on the boat." And it turned out that this boat was one of those, I don't know if you've seen those banana fishing boats - very open, outboard on the back, about thirty feet long and a hundred people crammed on to this boat. So I can't even imagine the ordeal of travelling across really tough seas in that kind of situation fleeing for your life. They were lucky in some ways because they got past the Thai Navy. And what the Thai Navy's been doing there, as you've seen more of recently, has been towing boat loads of Rohingya back out to sea. Their "helping on" policy. In theory it's give them some supplies and point the way to Malaysia. In practice often it's been taking the supplies, dumping them out at sea to slowly die of thirst or drown at sea. But she'd made it there onto land in Thailand and immediately been detained. As Michael was talking about, this is the lot for a lot of people who flee as refugees, asylum seekers in other countries. And, if we look at the Magna Carta and the principles there about not being detained without trial, speedy trial of course, there's no hint of any of that. Her husband had fared even worse. The men had been locked up into tiny cages, crammed together. At least she had some room to move around in the detention centre that she was in.

So for people like Afria and millions of others around the world the stories of King John and the Barons and what happened at Runnymede could hardly be further away from their present day reality. Yet I think there are some really important principles that still come out of the Magna Carta,

especially when we think about refugees and what they're facing in the world right now. I wanted to tell her story because right now we've got the biggest number of people displaced since the Second World War. And it's really easy for that just to become a statistic, for it to just seem just too big. But, of course, all those people have faces and have stories just like you and I and just like Afria. So for me that that reminds me that we're really talking about real people here.

I want to start by what caused her to flee in the first place. And, of course, we see a total breakdown in the recognition of her fundamental rights within her own country. The Magna Carta established that, I'm quoting here, "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 lawful judgment of his equals or by the rule of the land." Clearly none of that in evidence in what's happening in Myanmar right now. And at the heart of every refugee story is a similar failure of rights, failure of the government and the country that they're fleeing from to protect their rights. Whether that's deliberate or not, at some stage there has been a breakdown in the protection of those rights.

And, of course, once Arifa arrived in Thailand we see the principles of the Magna Carta breached once again. There's, of course, no speedy access to trial, no ability to challenge her indefinite detention. And I don't know whether she's still in detention now or not. And, in fact, the long arm of Myanmar's oppression of the Rohingya had even reached her there because Thailand, at that stage, had stopped UNHCR, the High Commission for Refugees, from registering Rohingya refugees, at least in that part of Thailand. For those who actually avoid detention life can still be very hard. And we see in many countries, like in Thailand, those who manage to get into the country to escape what's happening in their own country effectively have no recognised rights. Generally they live as undocumented illegal immigrants, they don't have access to schooling for their children, to health, to any of the kind of services. And that means that they're also liable consistently to being blackmailed by locals to the threat of deportation at any time if they're caught. So it's no wonder that people get really desperate and try and do things, dangerous things, like getting on boats to places like Australia to try and get to somewhere more stable and safer.

As Michael outlined, the refugee convention, also known as the Magna Carta of refugee protection, sets out principles, many of which can be traced right back to the Magna Carta, by which people who have a legitimate fear of war or for their human rights could claim protection from those threats. Before that was set up pretty much the only recognised rights that were recognised were for those within our own countries, were for the subjects of any given country. Not for people who come across the border seeking protection. So the Refugee Convention set that up. But it also set up something really practical, which was a system of resettlement for refugees. And the two things were supposed to go together. Firstly, the recognising refugee rights; secondly, setting up a system of refugee protection. And, in many ways, the constant failure of countries to actually respect basic refugee protection, refugee rights, can be traced back to the failure of the second part, which is governments that have not stepped up to offer enough refugee resettlement. Or, to put it another way, if you're the Thailand Government you're much more likely to recognise the rights of Rohingya refugees coming across your border if you know there is a resettlement system where other countries are helping to share that responsibility with you. But sadly right now that system is under incredible strain and many countries clearly aren't doing their fair share. This is where the

international community comes in. And just like in the days of King John, the instinct of the barons was to draw the lines even within the Magna Carta pretty tightly around who those rights were given to. So it was a big improvement on what had been there before. But it was a long way away from what we expect today, which is basic human rights recognised for all people regardless of who they are.

But, actually, as we've already heard, the rights that we do recognise are still largely skewed to people who are citizens of a particular country. And the rights that a recognised are much less for people who are come across the border seeking protection. Clearly what we need now is to look and see and recognise the rights of refugees, people seeking protection, those who are most vulnerable, and to not just define access to rights tightly around people who are already citizens to our own countries.

So what about New Zealand? Just to finish off. How are we doing at this? Michael's talked about the mass arrivals legislation that went through a couple of years ago which to both the Human Rights Commission and Amnesty International was clearly in breach of New Zealand's own Bill of Rights as well as flying in the face of some of the provisions of the Refugee Convention because it discriminates against people based on their mode of arrival into the country. But once people are here, or in terms of talking about bringing people here, refugee resettlement is something that we do very well in New Zealand. Back in 1944 New Zealand, as you probably know, accepted 800 Polish refugees. A really large number at the time based on the population, especially considering that most of them were children. David Lange's government back in 1987 introduced the annual refugee quota initially at 800 people. It was reduced by subsequent government down to 750. As it's a very good program. There's dedicated people at the Immigration Department, the Red Cross, NGOs, volunteers, some of you are probably involved in some way in that refugee resettlement programs. A lot of good work goes on.

But here's the problem. And that's that despite the biggest humanitarian crisis ever going on right now New Zealand's intake has not increased for almost 30 years, so since 1987. And it's easy to forget just how tiny that intake is. It puts us 90th in the world right now per capita in terms of total refugee intake. And there aren't too many indicators that New Zealand would be happy to be 90th in the world on. Even Australia, for all its faults in the way it deals with refugees, takes three times as many as New Zealand on a per capita basis. So sadly we can come to no other conclusion than that the Government here isn't doing its fair share on refugee resettlement if we look at it from a global perspective. Which is especially troubling at the moment given New Zealand's role in Presidency of the United Nations Security Council. We've heard New Zealand speaking out, commending Syria's neighbours on not closing their borders, urging them to keep their borders open. Which does start to ring a little hollow 30 years on from increasing their own refugee quota.

I just want to finish with a really short story. This is from Andrew Bartlett, who's a former Queensland senator. Last time Australia used offshore processing he visited Nauru to meet with asylum seekers who were imprisoned there, in this case for years, by the Australia Government, and refugees were and still are, and are yet again, kept in appalling conditions there. Some of those he met were eventually granted refugee status and resettled in Canberra. So while he was there he took the chance to take some of those people he met on a tour of Parliament House and to see a

sitting Senate - the place where so much debate goes on about the treatment of refugees. This is what he said; “whilst there were being shown around parts of Parliament House by one of the excellent tour guides who work there. We were taken to one of the four known copies of the 1297 version of the Magna Carta which is on permanent display there. Without a hint of irony, the tour guide told the assembled group of refugees, including the interpreter, that the Magna Carta was a historic document because it guaranteed that under our system of law, people could not be jailed or tried without charge." The irony was completely lost.

Just to conclude, a state’s obligation to protect individuals is a principle that really began with the Magna Carta. And it now resonates in current refugee law. The Magna Carta lies at the origin of the right to freedom and liberty and, on a grander scale, the origin of human rights themselves. Sadly there isn't time to go into that now. But these are principles have survived 800 years which demonstrates, I think, the value and necessity that they hold - and the timelessness. That they have survived for 800 years really means that now is the time to properly put these into action for those who need it most. And we see right now some of the most vulnerable people in our world are refugees.

Thank you.

Section 7 - The Rule of Law for those Outside the Law: Magna Carta for prisoners and the poor

Introduction

Magna Carta is most often debated for law-abiding citizens; that those who live and work within the law should be protected by it. JustSpeak are a new generation of thinkers who want change in our criminal justice system, look at criminal justice from the other side, and seek to create a safer and more just New Zealand by minimising imprisonment, enabling better rehabilitation for offenders, and focusing on the social problems that lead to offending.

The last speaker in The University of Auckland lecture series was Johanna McDavitt, a representative from the Auckland branch of JustSpeak. Ms McDavitt spoke about the rights of people not normally considered when thinking about the Magna Carta - in particular, prisoners' voting rights and access to justice. She alerted us to a sometimes neglected point that "the Magna Carta wasn't really intended to be a document that gave power to the powerless or a voice to the voiceless. Essentially it was about a struggle between barons and a king – between a man who had immense power and a group of men who also had quite a lot of power as well." Furthermore, the principles we now argue it led to did not spring into action overnight: "they took time to grow through legal precedents, through lawyers and judges drawing different points from them for different cases and for different purposes" as well as "uprisings by different groups of people who stood up for their rights."

McDavitt thus argued that we need to make Magna Carta relevant "to people who have traditionally been left out in the dark" and "give the voiceless a voice and… power to the powerless." It could otherwise become "a relic of the intelligentsia; something that the middle class talk about while they drink their tea." She thus asked "how can we make the Magna Carta relevant to those who don't usually sit down and think about the deep constitutional questions? Probably because they're working three jobs and they've got three kids to look after."

McDavitt's talk focused on prisoners' voting rights and access to justice in relation to key Magna Carta principles:

"Since 2010, if you are in prison in this country you can't vote. You don't have the right to vote. You don't have the capacity, or the ability, to exercise that core civil duty. Some of the work that we do in JustSpeak is talking about how we need to make sure that our prisoners are part of our community, that often the reason people end up in prison in the first place is because they feel isolated from the broader community. And that people if they don't, are not reintegrated into communities will only end up back in prison…. If we want successful outcomes for them then we've got to find ways to make sure that they feel part of that community again and they feel empowered as part of that community….We need to recognise the humanity of the people behind bars in this country. And taking away their right to vote is contrary to that humanity and it's contrary to the basic principles of the Magna Carta."

"Some of the core principles of the Magna Carta, and its relevance today in our constitution and legislative setting through Chapter 29, which we've heard about already tonight, is ideals of access to justice and right to a fair trial and equality before the law. But you can't have access to justice and right to a fair trial and equality before the law if we have a user-pays justice system. If you can't get into the courts, even, without having thousands of dollars of money sitting in the bank… We have a legal aid system in this country; we recognise that legal costs are out of reach for many. But government funding for legal aid has continued to decrease. Not only has it not been increased to keep up with inflation, it has actively decreased budget to budget over the last few years. Furthermore, eligibility for legal aid has been significantly restricted."

Johanna McDavitt, a representative from the Auckland branch of JustSpeak,
The University of Auckland Magna Carta Lecture Series, 10 July 2015

McDavitt therefore challenged us to make Magna Carta relevant for the powerless: "to use the principles of the Magna Carta… to speak up for people who don't - to speak up for our prisoners, to speak up for our beneficiaries, to speak up for people who don't have the money or otherwise the ability to give the time to these sorts of issues."

Questions for reflection and discussion

--- Is Johanna McDavitt right that we need to explore where Magna Carta principles are not, in effect, applied, such as to beneficiaries?

--- How would you respond to McDavitt's challenge that we need to use the principles of the Magna Carta to speak up for our prisoners, beneficiaries and people who don't have the money or otherwise the ability to speak up for themselves?

--- Critique the idea of giving prisoners voting rights back.

--- Reviewing legal aid provision and whether cut backs mean it is denying justice to all, as per Magna Carta principles.

--- Should we be looking at the causes of crime when implementing Magna Carta Principles? E.g. from a criminology/sociology perspective?

Transcript of Speech by Johanna McDavitt, a representative from the Auckland branch of JustSpeak, The University of Auckland Magna Carta Lecture Series, 10 July 2015

The Magna Carta that we celebrate today, I imagine, is quite different to what the barons thought they were signing up for 800 years ago on the fields of Runnymede. On convincing King John to sign the Magna Carta what the barons did is they insured for themselves a bigger slice of the pie that was power in England at the time. They had more control over their own assets essentially. They didn't have to worry about tax so much. And they weren't compelled to build bridges at riverbanks anymore. So that was the agreement that the barons signed up to 800 years ago.

With that background you have to wonder if those barons thought that they would be sealing a document that 800 years later would be hailed as the cornerstone of our constitution of New Zealand - a country that they didn't even know existed at the time. And I point out that background to say that the Magna Carta wasn't really intended to be a document that gave power to the powerless or a voice to the voiceless. Essentially it was about a struggle between barons and a king – between a man who had immense power and a group of men who also had quite a lot of power as well.

So in terms of the challenge today to look at the Magna Carta in a new way, that's my perspective on it. So think about the history of the Magna Carta and the fact that it was essentially about power sharing between those who had power and the challenge of making that relevant to a broader population in New Zealand. And I found it interesting what Patrick Reilly had to say about the idea of the Magna Carta as Britain's greatest export. Because that's another facet of what's going on here. The Magna Carta, of course, is for us a colonial import. It's part of a justice system that isn't native to this land. But that's not why we're celebrating the Magna Carta today. We're celebrating the Magna Carta because, as we've heard, it's acted as a foundation for many of the principles that are vital to the health of our constitution and our representative democracy. Principles like access to justice, right to a fair trial, the rule of law, freedom of religion. The Magna Carta has become a powerful symbol to build up all of those principles that our ancestors battled to entrench.

But, of course, none of those principles sprang into being overnight. And that's another element of the history of the Magna Carta that we should be aware of when we think about the place of the Magna Carta going forward. They took time to grow through legal precedents, through lawyers and judges drawing different points from them for different cases and for different purposes. The Magna Carta provided that the King should be advised by the barons and the bishops. And over time that became the principle that it's the Parliament that has power, has law making power, in our society and not the monarch, not the executive.

And drawing on something that Andrew Little pointed out that's a shift that has happened quite slowly really over hundreds of years. And it's a shift that has been born out of uprisings by different groups of people who stood up for their rights, and stood up and said 'no we want more power in this situation as well' until we came to the situation that we have here which is a Parliament that has supreme law making power but still, perhaps, leaves some out in the dark.

And that's what I want to talk about today, is about how we make the Magna Carta relevant to people who have traditionally been left out in the dark. How we give the voiceless a voice and how we give power to the powerless. If we think about the way that the Magna Carta is talked about today we see that if we don't rise to that challenge it's at danger of becoming a relic of the intelligentsia; something that the middle class talk about while they drink their tea. And the makeup of this panel tonight is, maybe, an exemplar of that. I think I'm probably quite safe to say that I'm the only person under thirty; shall we say on the panel? I'm the only member of that minority group we call women. And the panel tonight is whiter than our judiciary, which is 93% white.

So we're not doing great on that front there. So how can we move on from that? How can we make the Magna Carta relevant to those who don't usually sit down and think about the deep constitutional questions? Probably because they're working three jobs and they've got three kids to look after. There are many answers to this. But I want to focus on two points in particular. The first thing I want to talk about is prisoners' voting rights. And the second thing is access to justice. Both areas which come back to key principles in the Magna Carta.

So, on prisoners' voting rights. Since 2010, if you are in prison in this country you can't vote. You don't have the right to vote. You don't have the capacity, or the ability, to exercise that core civil duty. Some of the work that we do in JustSpeak is talking about how we need to make sure that our prisoners are part of our community, that often the reason people end up in prison in the first place is because they feel isolated from the broader community. And that people if they don't, are not reintegrated into communities will only end up back in prison. But when we take away that core civic responsibility what message is that sending our prisoners? We're not sending our prisoners a message that we want them back in our society. We're not telling them that they're valued members of our society and that they have a role in decision making and in making choices for themselves; really undermines the kaupapa of what goes on in the justice system to try and make sure that prisoners, when they are released back into the community, because we don't just throw people away and that's it for the rest of their lives because they were found with marijuana one time. If we want successful outcomes for them then we've got to find ways to make sure that they feel part of that community again and they feel empowered as part of that community. And so that's my first challenge is to start talking about prisoners' voting rights. Start advocating for our prisoners - because if we don't want to become a prison state, which we're quickly becoming, then we need to recognise the humanity of the people behind bars in this country. And taking away their right to vote is contrary to that humanity and it's contrary to the basic principles of the Magna Carta.

The second thing I want to talk about tonight is access to justice. And there's a lot of talk around this topic right now, particularly within the legal profession after Justice Winkelmann's challenging Ethel Benjamin address last year which talked about right to access of Justice, particularly in civil cases. And, of course, some of the core principles of the Magna Carta, and its relevance today in our constitution and legislative setting through Chapter 29, which we've heard about already tonight, is ideals of access to justice and right to a fair trial and equality before the law. But you can't have access to justice and right to a fair trial and equality before the law if we have a user-pays justice system. If you can't get into the courts, even, without having thousands of dollars of money sitting in the bank. And that's the case now. We have a legal aid system in this country; we recognise that legal costs are out of reach for many. But government funding for legal aid has continued to

decrease. Not only has it not been increased to keep up with inflation, it has actively decreased budget to budget over the last few years. Furthermore, eligibility for legal aid has been significantly restricted. I'm not positive of the figure off the top of my head, but for civil cases I think it's for a single person I think it's something like $22,000 a year. If you're earning any more than $22,000 a year you don't have access to legal aid. And people on legal aid, be it civil or criminal, except for the most serious of offences don't have the right to choose their own lawyer. They just have to put up with whoever they get given. But the whole basis of that relationship between you and your lawyer is based on trust and confidence. If you don't trust your lawyer then there's no way that your lawyer can represent you effectively. If you don't trust your lawyer enough to tell them about your mental health issues which underlie the reasons why your offending then there's no way that that lawyer can represent you efficiently. And that's the system we find ourselves in today. And, on the other side of this story, lawyers are finding it increasingly difficult to operate at all within the legal aid system. Noel Sainsbury, who is a member of the Criminal Bar Association, estimated that in a recent law talk article, and Law Talk's sort of the trade journal of lawyers, that a lawyer operating on a simple one day trial in the High Court on legal aid would make about a $3 profit from that. So $3 for a day's worth of work. It's just not that it's not profitable to be a lawyer in the legal aid system; it's just that it's not feasible anymore.

Furthermore, we've moved from a charging by hour system to fixed fees which means that the incentive is to get the case over with as quickly as possible so you can fit in as many cases as possible into your day. And what's the quickest way to finish a case? Get your client to plead guilty. So that's the criminal side of things.

On the civil side of things, things are just as bad. So a simple one day hearing in the High Court will set you back about $7,000 all up. And that's in court fees alone. That's before you talk about hiring your lawyer. So that means it's just impossible for many people to access our court system. But our courts, again touching on something Andrew Little has said, play such a core role in holding our government to account in our constitutional system where we are supposed to have power against or lawmakers. So judicial review, for example, is a core part of a public law toolkit. It's the way that we as individuals can challenge decisions made by the Government that affect us. But if it costs $7,000 just to get into court then imagine if you, as a disability beneficiary, WINZ decides to cut your disability benefit. You're not going to judicially review that decision. And so, on the one hand, we have Parliament taking in increasing powers for itself. And, on the other hand, traditional methods of challenging those powers are being undermined because they are becoming unaffordable.

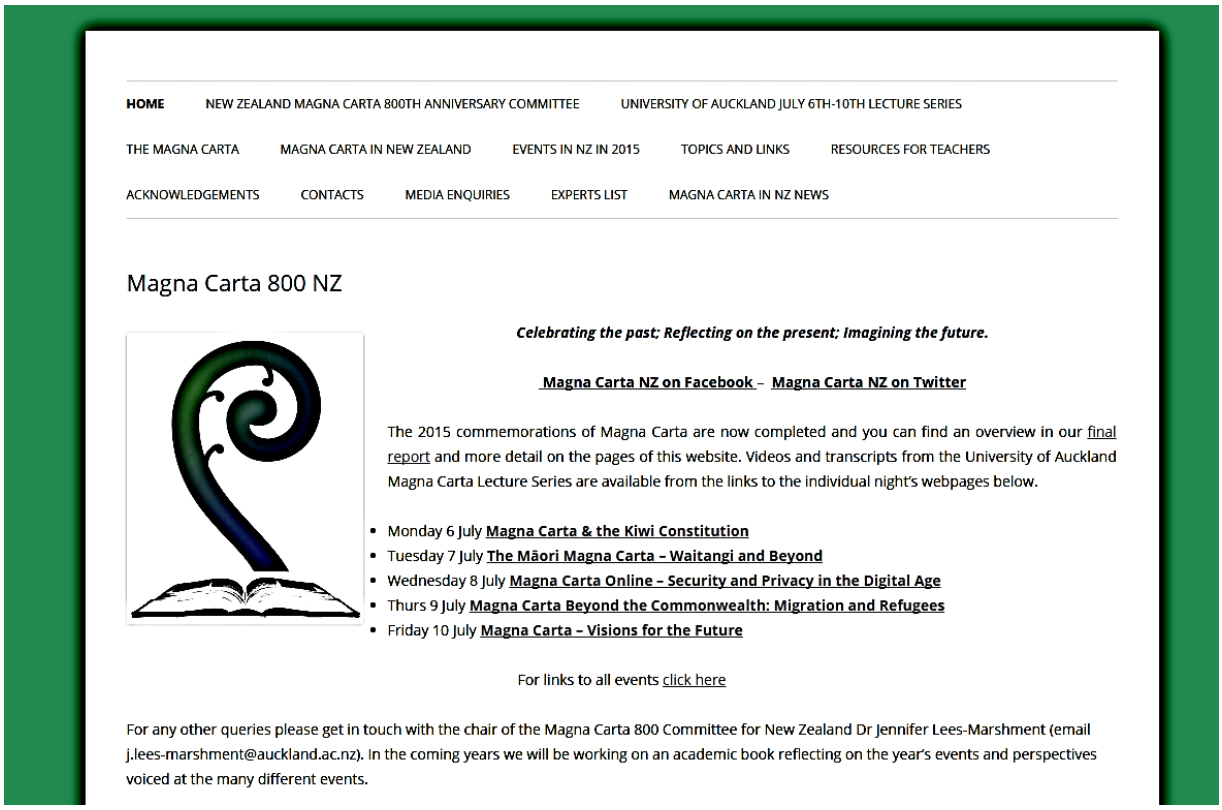
And so to sum up tonight the challenge for the Magna Carta going forward is to become relevant for more than just people who already have power, more than just people like you and me who are educated, who were brought up in good homes, who have the good fortune to be white in a society that privileges whiteness. The challenge is to use the principles of the Magna Carta for people like us, people who have the political and social power, to speak up for people who don't - to speak up for our prisoners, to speak up for our beneficiaries, to speak up for people who don't have the money or otherwise the ability to give the time to these sorts of issues. Moving forward that's the challenge for the Magna Carta. And I think it's a challenge that I make to all of you here today. Think about how you can use your position of influence, be it just among your friends group, be it among your professional network, to advocate for those that don't have the power to advocate for themselves. Thank you.

Section 8 - End Matter

Further Resources

Magna Carta NZ website *https://magnacartanz.wordpress.com/*

The Magna Carta NZ website is an extensive resource which hosts a wealth of Magna Carta related information, including resources on related topics such as the rule of law and human rights, information about 2015 events, resources for teaching Magna Carta in schools, and links to videos from the lecture series.



Topics and Links

Here are links to media articles, academic literature, and organisations' pages to do with the Magna Carta and various rights topics.

Please do see the individual pages for links relating to the specific areas. If you have any links that you think we should add please do email magnacartanz@gmail.com

The Magna Carta, as the foundation of our modern conception of rights and the rule of law, can be related to many areas and current debates in NZ society. For example:

Rule of Law – History of the Magna Carta – NZ Bill of rights – Human rights – Youth – Children – Women/Gender – Prisoners – Maori – Pacific – Multicultural/Ethnic – Digital access/privacy/security – Property/Housing – Consumer rights – Security – Immigrants – Refugees – Employment – Animal rights – Environmental – Educational – Constitutional – Religious – Health – Privacy – Sexuality – Shared values between NZ and the UK.

Links to external articles, authors and organisations are provided here to stimulate thinking and debate on Magna Carta related topics. We are not responsible for or endorsing the views expressed or the rest of a website or organisational materials.

Resources for Teachers

The Magna Carta 800th anniversary is more than an occasion for historic celebration. It is a unique opportunity to strengthen public understanding of the role Magna Carta has played in the United Kingdom and New Zealand's development, as well as its impact globally, and provides as an opportunity to defend and strengthen human rights around the world. This is your opportunity to be a part of Magna Carta's heritage. As New Zealand School Teachers you are encouraged to help young people in schools and universities across the country understand the impact of Magna Carta and the importance of the rule of law. Below are links to a range of resources, including pdf and powerpoint resources developed for the UK junior lawyers in schools project which can be adapted by NZ teachers. Also don't forget the Attorney-General's essay prize, deadline for which is 1 May 2015.

UK junior lawyers in schools resources – learning resources with ideas and suggestions to deliver talks either to school assemblies or as interactive discussions to secondary school students by CILEX, the Junior Lawyers Division of the Law Society and the Young Barristers Committee of the Bar Council here.

UK Parliament Lesson on the Magna Carta – A complete lesson on the Magna Carta, including a seven minute video, post-video activities, fact file, and lesson plan, is provided by the UK Parliament here.

UK Magna Carta 800th anniversary committee: Downloads and resources for schools – A slew of resources, including several bibliographies, a list of quotations, Q and As, Political Studies Association essays, videos and teaching ideas are provided here.

UK Magna Carta 800th anniversary committee: Books for younger audiences, schoolchildren, and adults – The UK Magna Carta 800th anniversary committee has been working with various historians and authors to create a list of books that are accessable to everyone. Many of the books would be a great addition to any library. The list can be found by clicking here.

University of London Online course on the Magna Carta – This free six week online course includes short lectures (5-12 minutes each) from members of the History Department at Royal Holloway, a college of the University of London. Each lecture includes a brief quiz to go with it and the final week includes a peer assisted assignment. You can access the course here.

NZ History Teachers' Association: Magna Carta in NZ Essay – The committee is looking for history teachers to help judge the Attorney General's essay prize for the best essay by high school students and university students on how the Magna Carta is relavent to NZ today. If you're interested, please check out the link here.

UK National Archives: Magna Carta, 1215 and beyond – This document collection is designed to allow students and their teachers to develop their own questions and lines of historical enquiry on Magna Carta and its legacy throughout the Middle Ages and beyond. You can access it here.

Magna Carta in NZ News

TV3 feature on 1531 copy of Magna Carta on display in Christchurch

In December 3 News online also released a piece on how the exhibition 'The Mana of the Magna Carta: The New Zealand Experience of a Medieval Legacy' in Christchurch was hosting the oldest copy of Magan Carta in New Zealand. To view the video report, click here.

CTV piece on copy of Magna Carta on display in Christchurch

On 2 December Canterbury's CTV News included a piece about the Magna Carta exhibition at the University of Canterbury, which can be viewed here.

Magna Carta owned by Henry VIII's lawyer makes debut public appearance

On 2 December NZ Lawyer Magazine's Samantha Woodhill also released a piece on how the exhibition 'The Mana of the Magna Carta: The New Zealand Experience of a Medieval Legacy' in Christchurch was hosting the oldest copy of Magan Carta in New Zealand. To view the article, click here.

New Zealand's oldest Magna Carta on display

On December 1st Radio New Zealand's Sally Murphy released a piece on how the exhibition 'The Mana of the Magna Carta: The New Zealand Experience of a Medieval Legacy' in Christchurch was hosting the oldest copy of Magan Carta in New Zealand. To view the article, click here.

Hamilton lawyer reflects on career 'swimming against the current'

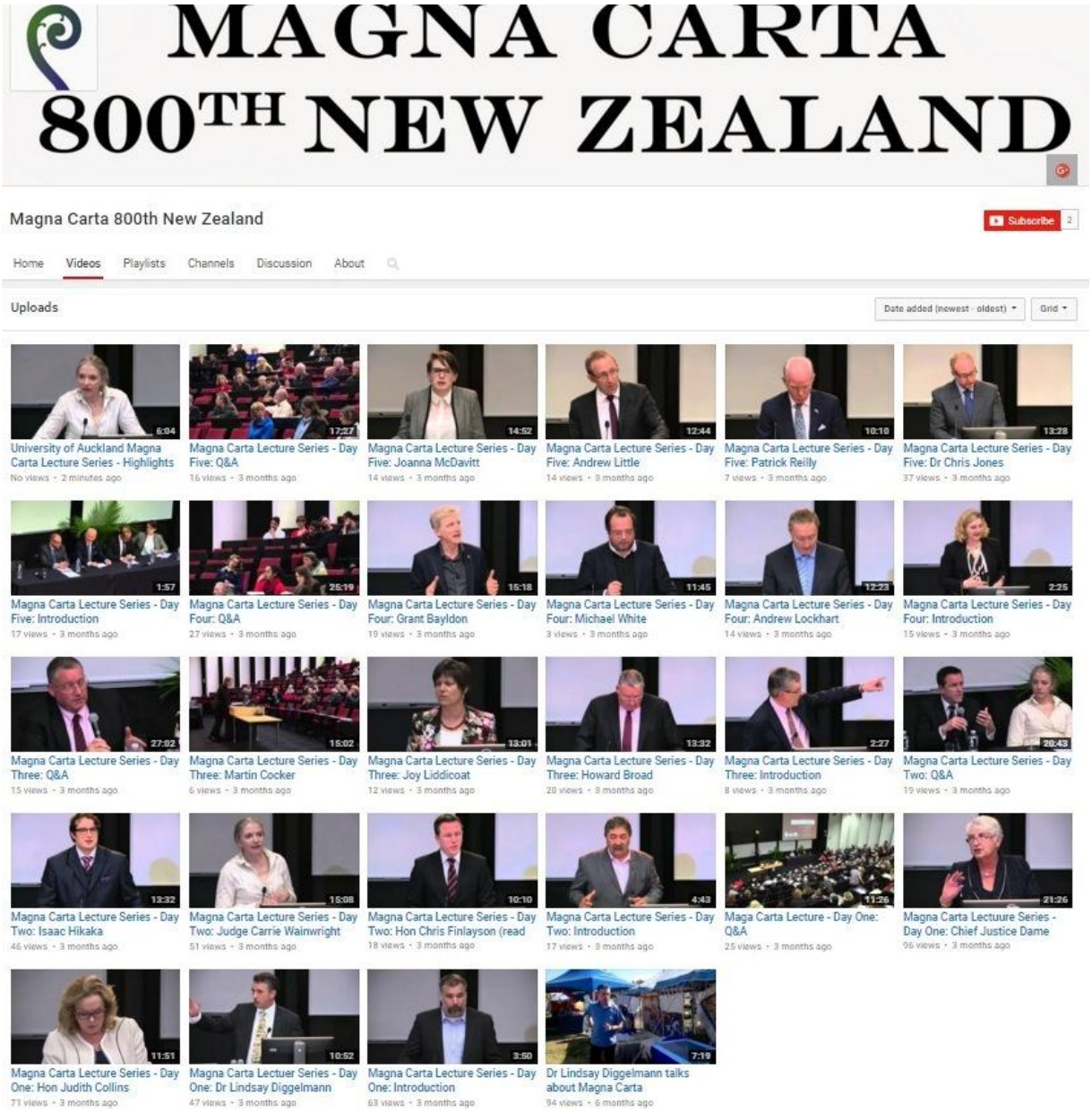
In this piece from the August 9th copy of the Waikato Times prominent Hamilton barrister Roger Laybourn said the Magna Carta, produced 800 years ago, remains the cornerstone of democratic societies. Laybourn said the core principles of Magna Carta remained a key part of New Zealand law and sent a clear message that the privileged and the powerful were not above the law. Magna Carta also underpinned modern human rights and established that every citizen was equal before the law. To view the article, click here.

Prisoner Portrait Exhibition Launches

Teina Pora and Louise Nicholas are household names in New Zealand, and they have become faces of innocence and advocacy. Now portraits of them, as well as past and present prisoners, are part of a new exhibition, aiming to show the faces of New Zealanders whose identities are intertwined with the justice system. The exhibition commemorates the 800th anniversary of the signing of the Magna Carta, a document that established that the law should apply to everyone. To view the video, click here.

Magna Carta NZ on YouTube – Videos of the University of Auckland Lecture Series

28 videos are hosted here and available for viewing at any time: see https://www.youtube.com/channel/UCjvDFN0dUmLq2Zp1xsA4hzg/videos



Magna Carta 800th Committee for New Zealand

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Politics and International Relations, University of Auckland

Deputy Chair and Lead Organizer of the Lecture Series
Dr Stephen Winter
Politics and International Relations, University of Auckland

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Chris Finlayson QC
Attorney-General

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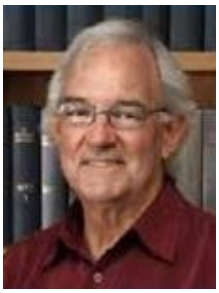

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Crown Law in Wellington, Human Rights and Constitutional Team

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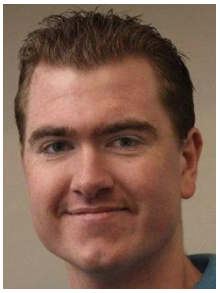
Tom James

Politics and International Relations, University of Auckland



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Images from the New Zealand Commemorations of the 800th Anniversary of the Sealing of Magna Carta, 2015


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TE REO IRIRANGI O AOTEAROA
The Timaru Herald
LawTalk
15 August 2014 · 848
Evening Report
Happy Birthday Magna Carta !
Voxy
Waatea
AUCKLAND URBAN MĀORI RADIO | NEWS & CURRENT AFFAIRS
THE DOMINION Post
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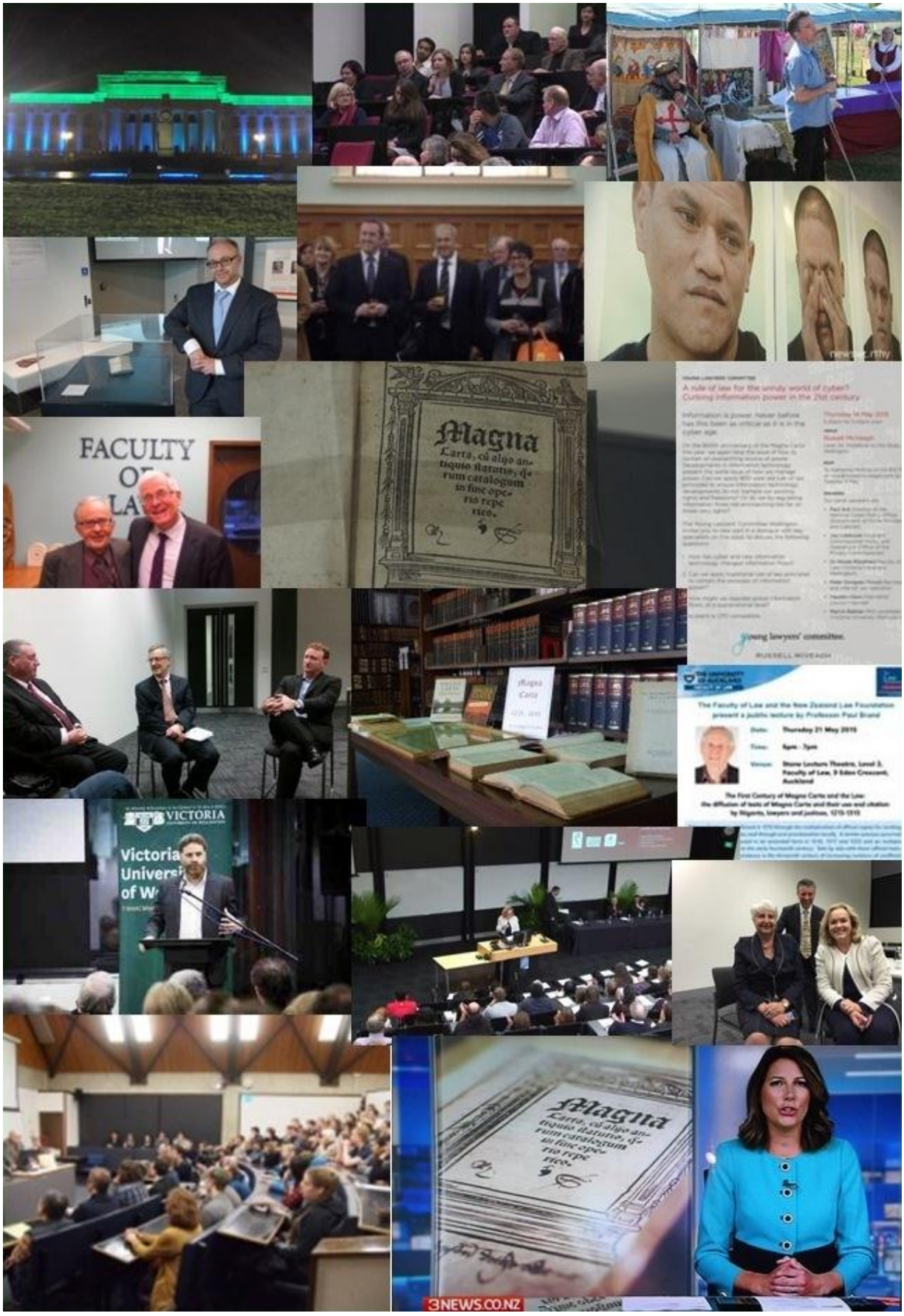
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