

Devised and written by:
Xiao Hui Eng and Lawrence McNamara

Layout and illustrations:
Cai Jia Eng

Multimedia:
Sam Mejias

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The Bingham Centre for the Rule of Law is devoted to the study and promotion of the rule of law in the UK and around the world. The Centre's focus is on considering the challenges the rule of law faces; providing an intellectual framework within which it can operate; and fashioning the practical tools to support it. The Bingham Centre was launched in 2010. Its Director is Professor Sir Jeffrey Jowell QC, KCMG. It is part of the British Institute for International and Comparative Law (BIICL) which is an independent research institute established in 1958 and a registered charity.

MAGNA
800th CARTA

**The Rule of Law for
Citizenship Education
MAGNA CARTA RESOURCE PACK**

Magna Carta and the Rule of Law – Resource Pack

This introduction explains:

- How these resources enable teachers to teach a lesson on Magna Carta and the Rule of Law
- What the lessons and resources contain, including:
 - o Lesson map
 - o Materials for teachers with glossary
 - o Materials for students
 - o PowerPoint slides
 - o Multimedia resources

I. About the resources: Magna Carta and the Rule of Law

This resource on Magna Carta is intended for use in Citizenship classes for Key Stages 3 and 4. It has been produced against the backdrop of the 800th anniversary of Magna Carta.

Magna Carta is remarkable because provisions in the original 1215 document and later versions set out some fundamental values that are the foundation for many of the principles that we still strive towards today in the justice system. These include, for example, some very broad principles that students and teachers may already have come across in one form another, such as, 'innocent before proven guilty,' and 'nobody is above the law.' This resource explores these and other enduring principles underpinning our justice system and their relevance today to modern day society. (Of course, much of the historic document is no longer relevant to modern day life - for example the parts referring to the rights of the barons of the day and to societal norms and systems that no longer exist – and the resource does not examine these aspects of the document.)

This resource can be used as either:

- a standalone lesson without any other resources
- or
- an additional component to the Bingham Centre's resources for a six-lesson Key Stage 3 citizenship course on the justice system. For more information on using the Bingham Centre's free resources on the justice system, please contact schools@binghamcentre.biicl.org or visit our website at <http://binghamcentre.biicl.org/schools> .

2. About the Bingham Centre's resources on the justice system and the rule of law

Our wider project responds to the 2013 government review of the citizenship curriculum which resulted in a stronger focus on understanding law and democracy. Against this backdrop, we have created materials that guide students through topical, curriculum-relevant issues where democracy, justice, and individual rights arise in contexts such as immigration, criminal justice, diversity at work, right to a fair trial, access to justice, equality before the law and the abuse of power. Our materials move away from teaching only the procedural elements of the law and what the law is, towards teaching the core values and concepts that underlie our justice system.

The materials have also been designed to develop students' functional skills and personal learning and thinking skills in line with the broader national curriculum for Key Stage 3 and Key Stage 4. The lessons provoke thought, generate discussion, develop critical thinking skills, and invite students to form opinions and communicate their points of view to others. They encourage independent enquiry, team-work, effective participation, creative thinking and reflective learning.

Aware that many teachers teaching Citizenship do not have a legal background, we aim to provide comprehensive guidance and support to teachers in order that they feel comfortable with delivering the materials and feel able to lead discussions confidently. To that end, all activities come with structured guidance for teachers on how to introduce legal concepts, detailed background information for teachers written by rule of law experts to enhance both teacher and student understanding, and supplementary audio-visual materials that bring legal expertise directly into the classroom.

Drawing on the legal expertise of the Bingham Centre for Rule of Law, our materials deliver rule of law principles through accessible and interesting examples and activities. They encourage students to critique and apply these principles to everyday life and to issues that are relevant to them.

For more information on using the Bingham Centre's free resources on the justice system, please contact schools@binghamcentre.biicl.org or visit our website at <http://binghamcentre.biicl.org/schools>.

3. Finding your way around the resource pack

3.1 The resource pack provides all the information needed for teachers to deliver a lesson on Magna Carta and the Rule of Law. It is available, free of charge:

- as a printed booklet with an accompanying CD-ROM.
- as a download on the Bingham Centre's website at www.binghamcentre.biicl.org/schools/magnacarta

3.2 The resource pack contains:

3.2.1 A map of the lesson

This is an overview of the materials for easy reference and contains information at a glance on the concepts, skills and activities that are taught.

3.2.2 Teachers' materials

These contain information on how to teach a lesson on Magna Carta and the rule of law.

The materials contain:

- **Guidance on how each lesson contributes to the developing students' functional skills and Personal Learning and Thinking Skills (PLTS)** as outlined in the wider national curriculum
- **Suggested starter and plenary activities**
- **Copies of the student printouts and activities** which can be photocopied for students
- **Instructions and guidance on how to use each activity**
- **Background information for the teacher on each teaching point, topic and activity** which is aimed at teachers without a legal background to develop their understanding and confidence in legal concepts
- **Guidance on timing** of the lesson
- **Glossary** which contains definitions on key legal terms and concepts used in the materials. It is intended to be used as an easy reference tool for teachers and students when required

3.2.3 Student materials

The student worksheets and hand-outs are clearly marked within the teaching materials. Worksheets and hand-outs may be printed out by the teacher as relevant to each lesson.

The teachers' materials contain instructions on how to use each set of student materials, background information for the teacher on the student activities and topics covered, and guidance about which activities are optional.

3.2.4 PowerPoint presentation

A PowerPoint presentation is available on the CD-ROM and is for optional use in class. It has been designed specifically to be used with the resource pack. It is intended to be used as a visual aid to accompany the lesson to complement and enhance lesson delivery, but is not integral to the lessons. It can be adapted by teachers to suit the needs of their students. Wherever a PowerPoint slide is available to accompany a teaching point or activity in the lesson, the relevant section of the teachers' materials will be marked with a red 'P'.

3.2.5 Audio slideshow for use in the lesson

An audio slideshow has been created for Activity 7.2.1 to enhance student engagement and can be found on the accompanying CD-ROM. Facilities across classrooms vary, as do the teaching styles, learning styles and the skills of students. The slideshow can therefore be used on an optional basis by teachers and the text of the slideshow has been produced on student worksheets as an alternative to the slideshow.

4. Using the resource pack

4.1 Identifying different types of activities

For ease of identification, all components in the materials have been marked with a different identifying icon as in the key below:



Student materials



Teachers' instructions



Teachers' background



Teacher-led introduction/
discussion



Multimedia activity

4.2 Instructions for teachers

In the teachers' materials, beneath the student activities, there are sections labelled "Instructions for teachers". These sections contain suggestions on how to present and organise activities to students and guidance on the aim of the activity.

4.3 Background for teachers

In the teachers' materials, beneath the student activities, there are sections labelled "Background for teachers".

The information contained in these background sections is intended to provide information for teachers without a legal background on key concepts to ensure they feel familiar, comfortable and confident with presenting the student materials and answering questions students may have.

Reading these sections will enhance the teacher's understanding of the key concepts and it is recommended that they are read before presenting the lessons. However, it is not essential that teachers read all the background information. These sections are intended to provide reference and background. It is not intended that teachers present all this information to the class.

The footnotes contain references to legal sources and materials. They are included for the teacher's reference and for completeness, but it is not necessary to read all the footnotes in order to understand the principles.

4.4 Estimated times for teaching points and activities

Next to the "Instructions for teachers" for each teaching point or activity, there is an estimated time. These times will vary considerably depending on the interests, knowledge and skills of the students as well as how the teaching points and activities are presented and used. Teachers may wish to take estimated times into consideration when planning their lessons.

4.5 Teacher-led introductions to topics

A script has been provided at the beginning of the lesson in 7.1 for teachers to use to present the key concepts and principles contained in the lesson. This script can either be read, paraphrased or adapted depending on the chosen teaching style and background knowledge of the teachers.

4.6 Student activities

The student activities and printouts are contained within the hard copy of teachers' materials to be photocopied, and are available within the teachers' materials as a PDF file on the CD-ROM. They are also available to download from the Bingham Centre's website as a separate booklet.

Instructions on how to use the activities and background information can be found after the student materials in each set of teaching materials. Where the materials lead into whole-class discussions or whole-class feedback sessions, they have been included in the PowerPoint presentations as a visual aid.

4.7 Plenary and evaluation

The lesson has a plenary activity at the end. It is intended to allow the teacher to assess if the students have grasped the key concepts and how much they have learnt in each lesson.

The plenary section is intended to:

- a) be a tool to assist teachers and classes in evaluating the success of the materials in the classroom,
- b) contribute towards the monitoring and evaluation of the Bingham Centre's resources, so that we can be responsive and adapt our approach accordingly.

It is not intended to assess student or teacher ability.

For enquiries and to access further free resources contact:

Xiao Hui Eng, Bingham Centre for the Rule of Law www.binghamcentre.biicl.org/schools,
x.eng@binghamcentre.biicl.org or schools@binghamcentre.biicl.org.

Lesson	Objectives	PLTS	Functional Skills	Activities	Type of activity
7. Magna Carta and the Rule of Law	<p>Students will understand the principles of the Magna Carta that our modern day justice system still upholds today.</p> <p>Students will learn to apply Magna Carta principles to relevant situations.</p> <p>Students will consider and discuss what their own priorities are for society and will consider the points of view of other students.</p>	<p>Independent enquirers</p> <p>Creative thinkers</p>	<p>Introduction to working with legal documents</p> <p>Using acquired knowledge to think independently</p> <p>Expressing ideas accurately orally and in writing</p> <p>Evaluating priorities</p> <p>Speed reading and skim-reading</p>	<p>7.1.1 Starter activity: Video on the Magna Carta</p> <p>7.2.1 Activity 1: Magna Carta and Modern Day Justice Principles</p> <p>7.3.1 Activity 2: Your Magna Carta</p>	<p>Audio-visual</p> <p>Applying legal principles to a scenario, collaborative group activity and discussion</p> <p>Group brainstorming and drafting</p>

Magna Carta and a Historical Context for the Rule of Law

Lesson Plan

PLTS:

Independent enquirers, creative thinkers

FUNCTIONAL SKILLS:

Introduction to working with legal documents, using acquired knowledge to think independently, expressing ideas accurately orally and in writing, evaluating priorities, speed reading and skim reading

OBJECTIVES:

- Students will understand the principles of the Magna Carta that our modern day justice system still upholds today.
- Students will learn to apply Magna Carta principles to relevant situations.
- Students will consider and discuss what their own priorities are for society and will consider the points of view of other students.

OUTCOMES:

- Students will be able to identify the fundamental principles established by the Magna Carta and be able to describe their place in our justice system today.
- Students will be able to express their own views on what they consider to be fundamental values of our society and justice system today.

KEYWORDS:

Magna Carta, equality, liberty, fairness, justice, human rights



Optional homework activity to be completed before the lesson – Instructions for Teachers

To prepare for an exploration of the Magna Carta, where historical roots of some of the principles embodied in our justice system can be found, you may wish to ask students to do some research on the Magna Carta and its importance for modern-day justice principles. Students should be prepared to give a very short presentation at the beginning of the lesson on their findings as a starter activity.

7.1 Introduction: Magna Carta and a Historical Context for the Rule of Law

Either:

Student presentations in groups on their homework assignment to find out about the Magna Carta and its relevance today;

Or:

Read or paraphrase the following:

- P** The Magna Carta is recognised as containing some of the most important foundations of some of the principles upheld by our justice system today, such as limits on the exercise of power, due process (that is, having the right to have justice done according to law, including the right to have a fair trial,) and the protection of personal rights and liberties of individuals.

It is a foundation for some of the most fundamental principles of the rule of law: that nobody is above the law and that everyone is accountable to it, even the monarch.¹



7.1.1 STARTER ACTIVITY: Video on how the Magna Carta came about (5 minutes)

Play the video 'Introduction to the Magna Carta' on the CD-ROM'.

In this video, the historical context leading up to the Magna Carta is explained, as well as how different versions of Magna Carta came about. The video briefly explores the key ideas in Magna Carta and what survives today in our modern justice system.

MAIN ACTIVITIES

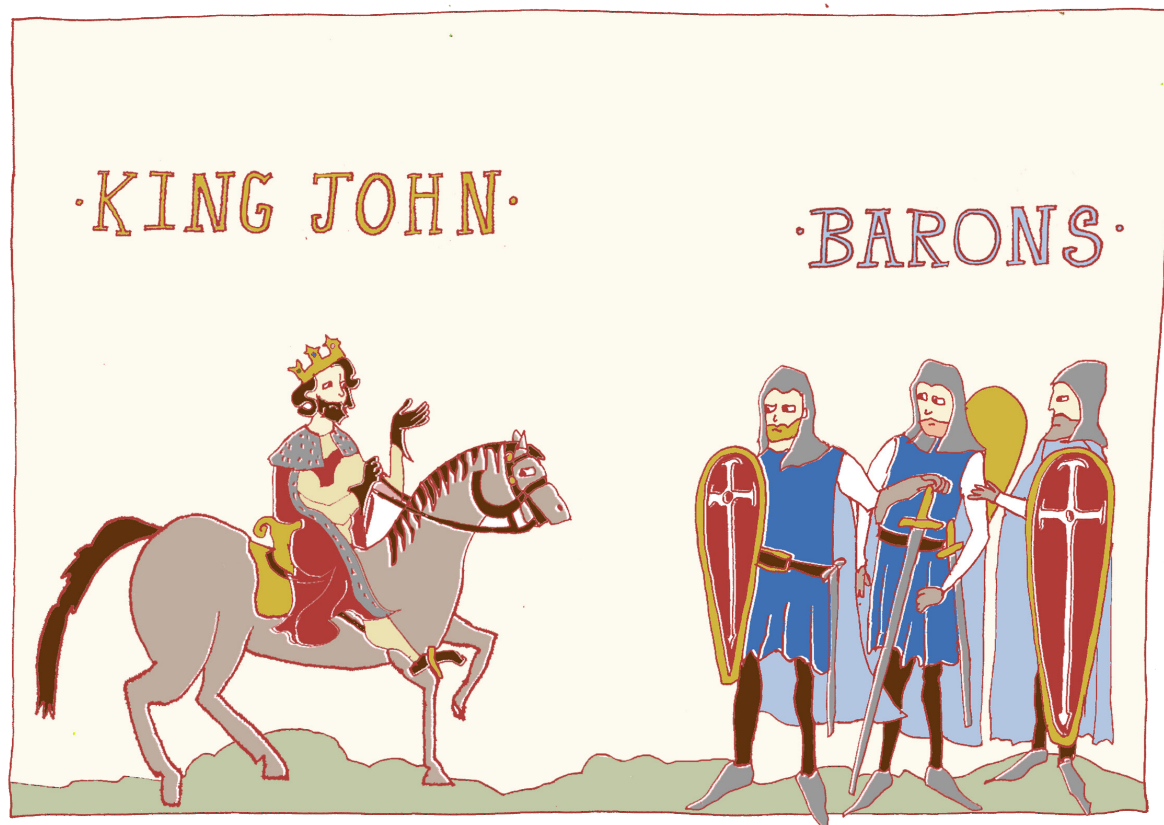


7.2.1 Activity 1: Magna Carta and Modern Day Justice Principles – Printouts for Students

Below you will see several clauses from the 1215 (first) version of the Magna Carta. Think about what the clauses mean. Ask your teacher if there is anything that you don't understand.

Next, watch the audio slideshow which follows Bardolph, a medieval peasant, and his encounter with the justice system and rights under the Magna Carta.

Using the principles that you have just looked at in the clauses of the Magna Carta, discuss in groups, which rights Bardolph has been denied. You will then have an opportunity to share your answers as a class and your teacher will lead a discussion on the clauses as a foundation for some of the principles in our modern day justice system.



P (20) For a trivial offence, a free man shall be fined only in proportion to the degree of his offence, and for a serious offence correspondingly, but not so heavily as to deprive him of his livelihood. In the same way, a merchant shall be spared his merchandise, and a villein [a peasant] the implements of his husbandry [cultivation of crops and animals], if they fall upon the mercy of a royal court. None of these fines shall be imposed except by the assessment on oath of reputable men of the neighbourhood.

(21) Earls and barons shall be fined only by their equals, and in proportion to the gravity of their offence.

(22) A fine imposed upon the lay property of a clerk in holy orders shall be assessed upon the same principles, without reference to the value of his ecclesiastical benefice [revenue attached to the ecclesiastical office.]

(38) In future no official shall place a man on trial upon his own unsupported statement, without producing credible witnesses to the truth of it.

(39) No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land. *(Still in effect today)*

(40) To no one will we sell, to no one deny or delay right or justice. *(Still in effect today.)*

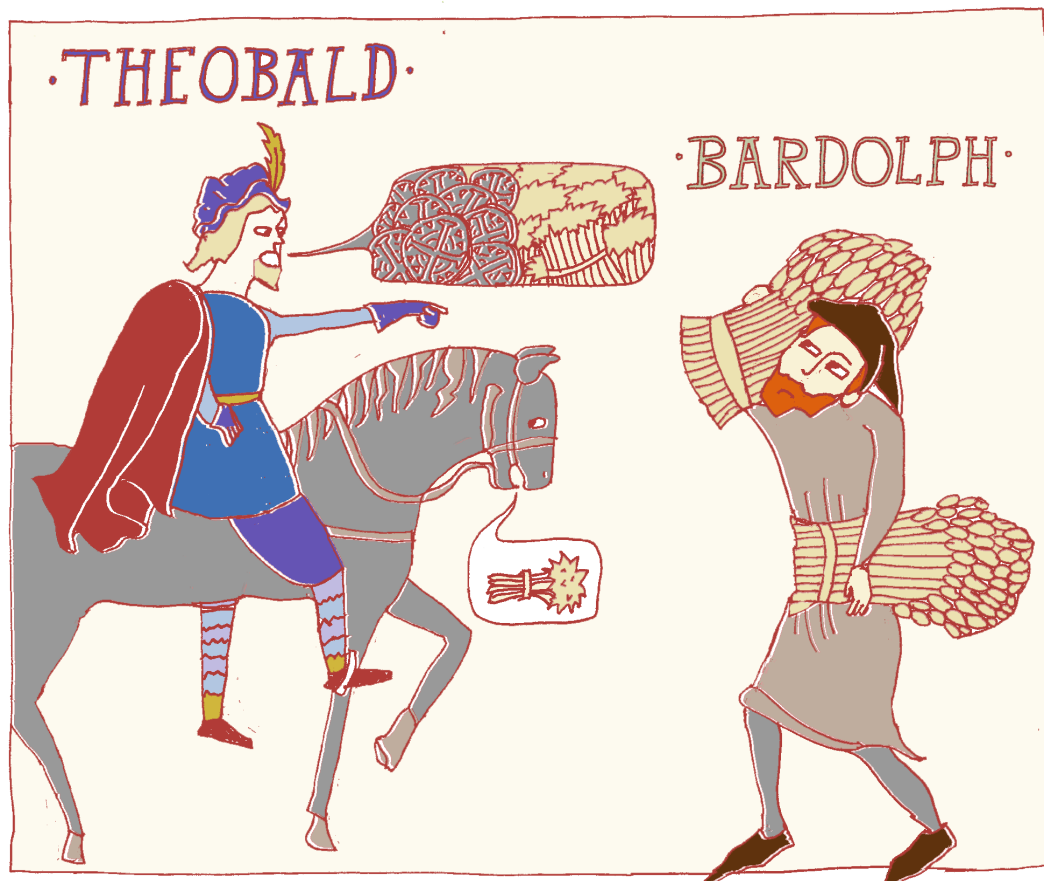
(45) We will appoint as justices, constables, sheriffs, or other officials, only men that know the law of the realm and are minded to keep it well.



7.2.1 Activity 1: Magna Carta and Modern Day Justice Principles – Printouts for Students



Bardolph is a medieval peasant who rears animals and works on the land owned by his feudal lord Theobald. Theobald gives Bardolph the right to use the land and take the harvest from it, and in return, Bardolph is obliged to pay Theobald a fixed sum of money every six months. With this arrangement, Bardolph is able to support his family.



In the past two years, Theobald has been raising the fees that he collects from Bardolph every six months. Theobald has also started to impose fines on Bardolph, accusing him of petty offences such as leaving building doors unlocked on his land, and saying that things had gone missing as result. Last year, Theobald said that some tools had gone missing and imposed a fine on Bardolph as well as making Bardolph give him all the hay he had made that summer, which meant that Bardolph had nothing to feed his animals.

Bardolph is very unhappy with all this but has so far complied with Theobald's demands. However, this year, after a particularly bad harvest, made worse by the fact that he had to sell most of his animals because he had nothing to feed them, he tells Theobald that he can't afford to pay the hugely inflated fees.



Theobald says nothing, but the next day, Bardolph is arrested by the local constables.



He is brought before the county Justice (judge) and accused of poaching rabbits from Theobald's forests the previous day. This is a serious offence for which he could receive very harsh punishments and possibly even be hanged. Bardolph protests his innocence before the county Justice saying that apart from the conversation he had with Theobald, he had spent the whole day in the fields and that those in neighbouring fields had seen him there until he went home to his family when the sun set.

At first, the Justice refuses to allow the peasants working in the neighbouring fields to testify that they had seen Bardolph working in the fields all day and that he'd gone home directly when the sun went down. Then, he changes his mind, and tells Bardolph that he will allow the testimonies if Bardolph pays an 'administration fee.' Bardolph is both unwilling and unable to pay the fee.

What rights does Bardolph have under the 1215 version of the Magna Carta?



7.2.2 Activity 1: Magna Carta and Fundamental Concepts – Instructions for Teachers (20 minutes)



Remind students briefly of the background given in the video that there were several versions of the Magna Carta. The clauses shown above are extracts from the earliest 1215 version. There were several later versions, and some of these earliest clauses were reproduced in later versions, while others were not.

Ask students to have an initial look at the clauses of the 1215 version of the Magna Carta reproduced above and to consider what they mean before taking the class through the language of the text (which is explained below in the “Background for Teachers”).

Once the students have grasped the meaning of the clauses, play the audio slideshow on the Magna Carta, following which you can lead a discussion on the clauses and their relevance to aspects of the modern-day justice system. Students can share their ideas in groups.



7.2.3 Activity 1: Magna Carta and Fundamental Concepts – Background for Teachers

The point of the exercise is to introduce to students some of the foundations of our modern-day justice system and the principles that are key to a good justice system. Some of the more advanced students, particularly those who have used previous lesson material, may volunteer the links between the Magna Carta provisions and modern-day principles of equality, fairness, liberty and justice as reflected in aspects of our justice system.

Throughout this background for teachers, you will see references to the previous lessons on the justice system for the ease of those who have used the previous course. However, if you have not used the previous course, you will not be at a disadvantage because the issues are explained here.

The principles found in the Magna Carta and which still exist today in our justice system are in **bold**.

The implications for Bardolph, the character suffering injustices in our exercise, is outlined at the end of each section.

(20) For a trivial offence, a free man shall be fined only in proportion to the degree of his offence, and for a serious offence correspondingly, but not so heavily as to deprive him of his livelihood. In the same way, a merchant shall be spared his merchandise, and a villein [a peasant] the implements of his husbandry [cultivation of crops and animals], if they fall upon the mercy of a royal court. None of these fines shall be imposed except by the assessment on oath of reputable men of the neighbourhood.

(21) Earls and barons shall be fined only by their equals, and in proportion to the gravity of their offence.

(22) A fine imposed upon the lay property of a clerk in holy orders shall be assessed upon the same principles, without reference to the value of his ecclesiastical benefice [revenue attached to the ecclesiastical office.]

P Clauses 20 to 22 establish two principles. The first principle set out in the first part of clause 20 and in clauses 21 and 22 is that:

A penalty for restricting a particular act should be proportionate to the harm caused by the offence committed. Put a different way, people should not receive punishments that are disproportionate to their wrongdoing.

These clauses permit fines to be imposed on individuals as penalties for offences only in proportion to the severity of the offence committed by that individual (whatever occupation he has), and not to the extent that he will be deprived of his livelihood.

Law exists in order to maintain order in a society, to protect those within that society and to resolve disputes (as discussed in lesson 1). Most would agree that a penalty for breaking the law is necessary to deter future bad behaviour. However this penalty must be proportionate, otherwise there is an undue restriction of personal liberty. Most would consider, for example, a penalty of life imprisonment for stealing an apple to be disproportionate. This idea of proportionality still exists. In our modern justice system, sentencing guidelines exist to support this principle so that offences carry different ranges of penalties depending on their severity.

The clauses specifically protect people from being deprived of their livelihoods, which would be a disproportionately harsh sentence even for a 'serious offence'.

The second principle set out in the second part of clause 20 is that:

A penalty cannot be imposed on someone without a fair assessment of the situation by fair and independent adjudicators.²

The clause does not permit fines to be imposed except by the assessment on oath of reputable men of the neighbourhood, introducing the rudiments of one of the elements of fair trial. The idea here is that it would be unfair, for example, if people could be punished without having the real story of what happened uncovered or

having the full picture taken into account. You may wish to point out to students that clause 21 which specifies that 'earls and barons shall be fined only by their equals' does not support the concept of fair trial. It is likely to be the case that people being assessed solely by others of their own socio-economic status are more likely to gain favour with them. This is not a value that our justice system seeks to reflect today.

What about Bardolph?

Clause 20 should protect Bardolph from being fined where there has been no assessment by reputable men of the neighbourhood. Without such an assessment, it is not clear that Bardolph is guilty of what he has been accused. Even supposing that Bardolph has committed the offences he has been accused of, Clause 20 specifically protects villeins (bonded peasants) like Bardolph from being deprived of his livelihood which is too harsh a sentence. Bardolph has been denied his right to a fair trial and proportionate sentence.

(38) In future no official shall place a man on trial upon his own unsupported statement, without producing credible witnesses to the truth of it.

P Clause 38 establishes the principle that:

People cannot be brought to trial on the whim of an official. It protects individuals from being accused of an offence without evidence.

This principle is reflected in our justice system today. In the UK, a person will not be brought to trial unless the Crown Prosecution Service is satisfied that there is enough evidence to provide a realistic prospect of conviction of a suspect.³ **A person charged with a criminal offence is innocent until proven guilty⁴ and cannot be convicted if there is insufficient evidence** (including witness accounts as well as other evidence.)

What about Bardolph?

Bardolph has been brought before the county Justice to be tried without any supporting evidence for the offences he is supposed to have committed. His rights under clause 38 therefore appear to have been infringed.

(39) No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land. (Still in effect today)

P Clause 39 establishes the principle that:

Individuals may only be deprived of their liberty in certain circumstances prescribed by law and in a manner provided by law.

It protects 'free men' from having some of their most important rights and liberties from being arbitrarily removed, including their physical liberty. (In medieval England, the feudal system distinguished between 'free men' who were free to move around and take up different jobs as they pleased, and 'serfs' who were bonded to their feudal lords and owed them a duty of allegiance.)

The principle above applies in its most literal sense to the deprivation of physical liberty⁵ (i.e. being detained.) **If an individual is detained wrongfully, he/she may challenge that detention before a judge who will make a decision on the legality of that detention.** This principle of 'habeas corpus' (meaning in Latin 'you may have the body') in the Magna Carta enshrined pre-existing common law. Habeas corpus has been applied for in many different circumstances where detention of an individual was alleged to be illegal. Examples where this has been invoked successfully in UK courts to secure the release of an individual in UK courts include cases of delay in extradition,⁶ and has even been invoked in UK courts where an individual was being detained by the government of another country (the US) where it could be shown that the UK had some control over the individual's release.⁷ Habeas corpus has also been invoked in a number of cases involving terror suspects being held at Guantanamo Bay.⁸

However, reading further into the definition of personal liberty, the restriction on deprivation of liberty also applies to the liberty that individuals are deprived of in a more general sense when any sort of penalty is imposed.⁹ The effect of the restriction is that **unless an individual has committed an offence specified by law, he may not be punished for it.** Another way of putting this is that individuals have an absolute right not to be punished without the offence and the penalty being specified in law.¹⁰ (This is further developed by other important principles that were explored in lesson 3. We established in lesson 3 that in order for you to know how to behave in order not to break the law, there must be certainty and clarity in the law. It must be clear what you are and are not allowed to do.)

The phrase by 'lawful judgment of his equals' describes the system of trial by jury that existed in medieval times, and which still exists in modern form today for serious crimes. What is required in order for someone to receive a 'lawful judgement' has been developed to a great degree. Today, this is addressed by fair trial principles that

are internationally recognised. **Without having a fair trial, individuals may not be found guilty of an offence.** In a criminal trial, fair trial requirements include, **the defendant knowing what he is being accused of, having sufficient time to prepare his defence, being able to understand the proceedings and the case being made against him, the case and judgement being open to the scrutiny of the public, the judge being impartial and deciding the case based on the law, and the defendant being innocent until proven guilty.**

The essence of clause 39 of the 1215 version of the Magna Carta survived the later iterations of the document, and is one of the few provisions still remaining in force today.¹¹

What about Bardolph?

You may wish to point out that the term 'free men' would seem to exclude peasants like Bardolph who are in bonded labour, but that the essence of this right has been reproduced in later laws to include all people.¹² In modern British society the feudal concept of bonded labour no longer exists of course, and all people are 'free' in that sense and entitled to this right.

(40) To no one will we sell, to no one deny or delay right or justice. (Still in effect today.)

P Clause 40 establishes a number of principles.

The first principle is that:

Justice is not a commodity that may be sold.

This relates to an important principle (covered in lesson 4) - that access to the justice system must be available to everyone and not merely those who can pay for it. Otherwise, this would lead to one system and outcome for the rich, and another for the poor. This clause also provides the foundation for a related principle **that everyone, regardless of socio-economic status, has a right to justice, whether in a civil or a criminal dispute.** In the UK, there exists a system of 'legal aid' which is the provision of financial aid by the government to fund legal advice and representation in court for those who cannot pay for it. This allows those who don't have the means to pay for advice and representation to be able to access the justice system and to obtain a just outcome.

The second principle in Clause 40 is that:

Justice must be dispensed swiftly.¹³

The essence of clause 40 of the 1215 version of the Magna Carta survived the later iterations of the document, and is one of the few provisions still remaining in force today. ¹⁴

What about Bardolph?

The fact that Bardolph has been asked to pay an 'administrative fee' in order to bring vital evidence to his criminal case is contrary to the idea that justice is something that everyone is entitled to and is not to be sold. Bardolph should have the right to justice whether or not he can pay the fee.

(45) We will appoint as justices, constables, sheriffs, or other officials, only men that know the law of the realm and are minded to keep it well.

P **Clause 45** establishes the principle that:

Judges must not only have the relevant knowledge of the law, but he/she should base his/her decisions on the relevant law in order for a just outcome to be achieved.

This principle provides the foundation for one of the elements of fair trial (explored in lesson 4.) We examined the role of judges as decision-makers in the outcome of trials (or the person advising those who will make the decision) and the characteristics that judges need in order to perform their role in such a way that made people confident that justice was being done.

You may wish to point out to students that this clause was not reproduced in later versions of the Magna Carta, but that the principle is certainly one that still stands today and is, for example, fundamental to the appointments processes for judicial officers.

What about Bardolph?

Unfortunately for Bardolph, it would appear from the circumstances outlined that the Justice is either unaware of the law or is not minded to keep to it!



7.3.1 Activity 2: Your Magna Carta – Printouts for Students

Using the original Magna Carta as a starting point, try to draw up your own Magna Carta, or document that lays out in five points what you consider to be the fundamental principles of our society. Think about what you would include as the most important elements for having a society where people have their liberties safeguarded equally and fairly, and are confident of having justice done where there are disputes.

P You can use some of the key words and terms below as a starting point for developing your ideas, or come up with your own.

Equality and equal rights

Equal opportunities

Being able to benefit equally from the law

Equality before the law

Justice

Access to the justice system

No 'special treatment' for some people without good reason

Resolving disputes fairly

Representation in court

Fair trial

Legally qualified judges

Independent judges

Fairness, objectiveness and impartiality in the justice system

Human rights

Fundamental rights

Liberty

Freedom of expression

Freedom of information

Freedom of thought

Right to life

Prohibition of torture

Prohibition of slavery

Freedom of religion

Right to food and water

Right to housing

Magna Carta





7.3.2 Activity 2: Your Magna Carta – Instructions for teachers (20 minutes)

Split students up into groups of four or five and ask them to come up with five provisions that they would include in their version of a contemporary Magna Carta. Let students know that they should be prepared to discuss why they would include certain elements in their versions of the Magna Carta.

Encourage students to consider what sort of society they would like to live in, and you may wish to prompt students by explaining that in order to have an equal and fair society, where people have their liberties safeguarded and where justice is done, they need to consider both the content of the law that guarantees people's rights, and the system that needs to be in place in order to make sure that the law is enforced.

The box with word prompts may give students some ideas on where to start and recalls concepts that were explored in previous lessons. They are just a starting point and do not by any means represent everything that could be in students' drafts.

If your class has not used the previous materials on the justice system, depending on student ability, you may wish to give them extra help by elaborating on concepts as provided in the teacher background below before they draft their own versions of the Magna Carta.



7.3.3 Activity 2: Your Magna Carta – Background for teachers

The point of the exercise is to encourage students to think about what a good justice system looks like - a system that guarantees individual rights and liberties in a fair and equal way and makes justice accessible to all.

Equality, equal opportunities, equal benefit of the law, equality before the law, no 'special treatment' for some without good reason – this was addressed in lesson 2.

The general principle is that we would expect to be treated equally when it comes to basic rights that we are entitled to in law (for example education, healthcare, or being able to have justice done in a dispute.) It also means being equally accountable before the law – i.e. having the same responsibilities before the law and being subject to the same penalties. In summary, this means that we should not be treated differently whether in terms of benefiting from the law, or being accountable under the law on the basis of different characteristics that we may have, such as being rich or poor, our ethnicity, our beliefs and so on.

However, in order to achieve equality, people may need to be treated differently. People in a weaker position may need extra help in order to be able to have an equal opportunity to benefit or to be subject to a level of responsibility under the law that is appropriate for them. For example, due to their lower capacity to understand than adults, children may need more help than adults to understand legal proceedings. Due to having less maturity and judgment than an adult, a child has a lower level of responsibility under the law and in most circumstances will receive a more lenient sentence.

To summarise, when we speak of equality, we do not necessarily mean that everyone should have exactly the same outcome, but rather that people should have starting points that are as similar as possible. For example, we cannot guarantee that all children will do equally well at school, but by giving extra help to those who need it, we give children who have additional needs the opportunity to benefit from education on a more similar footing to other children.

Justice, Access to the justice system, Representation in court, Fair trial, Resolving disputes fairly, Independent judges, Fairness, objectiveness and impartiality in the justice system – this was addressed in lesson 4.

For our rights to exist in a real and enforceable way, a system must be in place to dispense justice in the event of a dispute, whether civil or criminal. If you have been wrongly deprived of any of your rights, or have been wrongly accused of breaking the law, there must be some way of challenging this. There must be some way of having the right that you are entitled to put in place and some way of ensuring that evidence which may establish your innocence is brought out and considered by those who are deciding whether you are guilty or innocent. The way in which this happens in this country is usually through the trial system in courts and tribunals. Therefore, in order for individuals to be able to make sure that they get their rights, they have to be able to access the court system and more widely the justice system when they feel that their rights have been infringed.

In order to have access to the justice system, individuals need a fair trial and independent judges to hear their cases. They also need legal advice and representation in court.

Human rights, Fundamental rights, Liberty, Freedom of expression, Freedom of information, Freedom of thought, Right to life, Prohibition of torture, Freedom of religion, Right to food and water, Right to housing – this was addressed in lesson 5.

Human rights are rights that everybody possesses by virtue of being human and which every person needs in order to live happily, healthily and with dignity. Some examples of rights have been listed in the key words prompt box, but there are many more that are enshrined in domestic human rights law (the UK Human Rights Act¹⁵) and in international law (particularly the UN human rights treaties¹⁶, and regional human rights conventions.¹⁷)

Below is a student version of the Universal Declaration of Human Rights which covers the rights that are generally accepted by most countries in the world. You may wish to use it as a guide to tease different rights out of students beyond the sample that have been included in the key words box as prompts.

Article 1—Everyone is free and equal in dignity and rights.

Article 2—Everyone is equal despite differences in skin colour; sex, religion, or language for example.

Article 3—Everyone has the right to life and to live in freedom and safety.

Article 4—Nobody has the right to treat you as a slave and nor should you make anyone your slave.

Article 5—Nobody has the right to hurt you or to torture you.

Article 6—Everyone has the right to be treated equally by the law.

Article 7—The law is the same for everyone and it should be applied in the same way to all.

Article 8—Everyone has the right to ask for legal help when their rights are not respected.

Article 9— Nobody has the right to imprison you unjustly or expel you from your own country.

Article 10—Everyone has the right to a fair and public trial.

Article 11—Everyone should be considered innocent until guilt is proved.

Article 12—Nobody may interfere with your private and family life without a good reason.

Article 13—Everyone has the right to travel as they wish.

Article 14—Everyone has the right to go to another country and ask for protection if they are being persecuted or are in danger of being persecuted.

Article 15—Everyone has the right to belong to a country. No one has the right to prevent you from belonging to another country if you wish to.

Article 16—Everyone has the right to marry and have a family.

Article 17—Everyone has the right to own property and possessions.

Article 18—Everyone has the right to practise and observe all aspects of their own religion and change their religion if they want to.

Article 19—Everyone has the right to say what they think and to give and receive information.

Article 20—Everyone has the right to take part in meetings and to join associations in a peaceful way.

Article 21—Everyone has the right to help choose and take part in the government of their country.

Article 22—Everyone has the right to social security and to opportunities to develop their skills.

Article 23—Everyone has the right to work for a fair wage in a safe environment and to join a trade union.

Article 24—Everyone has the right to rest and leisure.

Article 25—Everyone has the right to an adequate standard of living and medical help if they are ill.

Article 26—Everyone has the right to go to school.

Article 27—Everyone has the right to share in their community's cultural life.

Article 28—Everyone must respect the social order that is necessary for all these rights to be available.

Article 29—Everyone must respect the rights of others, the community and public property.

Article 30—Nobody may take any of the rights in this declaration away from you.

Students may have different opinions on whether some rights are more important than others, and some may choose to include some rights and not others into their versions of the Magna Carta. This is fine and allows an opportunity for students to explain how they have prioritised and why they feel some rights are more important than others. There are no right or wrong answers, and rights are often inter-connected. For example, the right to education will affect a person's ability later on to exercise his or her right to work.



7.4.1 Plenary

P Ask the students the following questions:

What was the point of Magna Carta?

What are some of the concepts in Magna Carta that still survive in today's justice system?



7.2.3 Plenary – Background for Teachers

Magna Carta contains several of the fundamental concepts that underlie our justice system today. At the root of all these principles within the justice system lie the values of equality, fairness, liberty and justice. Examples of these values being reflected in aspects of the justice system include some of the principles discussed above in Activity 1, Magna Carta and Modern Day Justice Principles, such as fair trial, no punishment except according to the law, and being innocent until proven guilty. The reflection of these values in the law itself and in the machinery that dispenses justice makes a good and fair justice system.

Taken altogether, these principles making up a good justice system are a reflection of a concept that we call the rule of law. The rule of law at its simplest means that it is the law (rather than arbitrariness or individual whim of those in power) that regulates our behaviour in society and governs our rights and responsibilities, and that everyone must obey the law, whatever their status or position.

Magna Carta was an early documentation of some of the principles underlying our justice system today. Although the law and the justice system have evolved since medieval times to serve the needs of modern society, Magna Carta still holds an important place in the foundations of our modern justice system.

Footnotes:

¹ In modern times, it is the government that carries out the functions of the state on the Crown's behalf, rather than the monarch himself/herself. Although in the UK the monarch cannot personally be prosecuted for civil or criminal offences, under the Crown Proceedings Act (1947) legal action can be commenced by an individual or company against the government where it has acted unlawfully in carrying out state functions.

² Art 6(1) of the Human Rights Act In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

³ Under the Code for Crown Prosecutors

⁴As provided for by Art 6(2) of Schedule 1 of the Human Rights Act

⁵ Art 5(1) of the Human Rights Act provides the only circumstances under which a person may be arrested or detained, for example, for example after conviction, or in order to bring him before court where there is a reasonable suspicion that he has committed an offence. It also states that any deprivation of liberty must be in accordance with a procedure prescribed by law.

⁶ *Neteczca v Governor of Holloway Prison* [2014] EWHC 2098

⁷ *Rahmatullah v Secretary of State for Foreign and Commonwealth Affairs and another* (2012) 33 BHRC 679

⁸ For example, in the case of *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006), a writ of habeas corpus was successfully filed to challenge the detention of Hamdan by the US government at Guantanamo Bay pending trial at a military commission on the basis that the Commission was illegal under both US Uniform Code of Military Justice and the Geneva Convention.

⁹ Art 7(1) of the Human Rights Act provides that no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed.

¹⁰ Art 7(1) of the Human Rights Act provides that no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

¹¹ Clause XXIX of the Magna Carta 1297 which is still in force says, 'No Freeman shall be taken or imprisoned, or be disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any other wise destroyed; nor will We not pass upon him, nor [X]I condemn him,] but by lawful judgment of his Peers, or by the Law of the Land. We will sell to no man, we will not deny or defer to any man either Justice or Right.'

¹² For example, in the Six Statutes passed by Parliament in the reign of Edward III developing the original Magna Carta provisions, the reference in 1354 is to 'no man of whatever estate or condition he be...'

¹³ Art 6(1) of the Human Rights Act provides that, 'In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.'

¹⁴ See footnote 11

¹⁵ <http://www.legislation.gov.uk/ukpga/1998/42/schedule/1>

¹⁶ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>

¹⁷ <http://www.ohchr.org/EN/Issues/ESCR/Pages/RegionalHRTreaties.aspx>

Magna Carta and the Rule of Law - Glossary

Civil dispute - a dispute involving the legal rights and obligations between individuals, companies, governments, organisations, and other non-state parties. In civil disputes one party takes legal action against (or sues) another party. Breach of contract or injury caused by negligence are examples of civil legal matters.

Criminal law - the law governing wrongs that are punishable as crimes. In criminal matters the state prosecutes individuals in courts. Theft and murder are examples of crimes.

Conviction - being found guilty of a crime

Crown Prosecution Service – the authority that represents the state in prosecuting crimes

Fair trial - fair proceedings in a civil or criminal trial

Habeas Corpus - legal principle that allows those who are detained to challenge the legality of their detention

Human rights - rights that everybody possesses by virtue of being human and which every person needs in order to live happily, healthily and with dignity

Human Rights Act - the main piece of UK law on human rights protection. It was enacted in 1998 and gives effect in the UK to the European Convention on Human Rights.

Jury - a group of impartial members of the public who are called on to decide in court whether or not a person accused of a crime is guilty. The process involves the jury hearing evidence and being directed by the judge on what the law is.

Justice system - the institution and processes through which criminal and civil cases are decided, where penalties are imposed on wrongdoers and injured parties may be compensated

Legal aid - legal advice and representation in court paid for by the state where a person cannot afford to pay for a lawyer

Offence - a wrongdoing in law

Sentence - A penalty imposed by the court on the wrongdoer

Proportionate sentence – A sentence that is in proportion to the seriousness of the crime or civil wrong committed

Trial - proceedings in court to decide the outcome of a civil or criminal case

Universal Declaration of Human Rights - a declaration made by the countries of the world through the framework of the United Nations after the Second World War proclaiming a common standard of rights that all human beings in the world are entitled to by virtue of being human

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