

How the Declaration of Independence Differs From the Magna Carta

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 COMMENTARY BY

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This month we celebrate the 800th anniversary of the signing of the Magna Carta, which secured rights for free Englishmen, and, more importantly, established what would later become the principle of the rule of law.

In a Wall Street Journal piece to commemorate the anniversary, Daniel Hannan, a member of the European Parliament, argued the Magna Carta provided the core argument for the American Revolution. In turning against their colonial overlords, Hannan writes, “The American Revolutionaries weren’t rejecting their identity as Englishmen; they were asserting it.”

Americans at the time of the Revolution surely held much esteem and respect for the Magna Carta and the traditions it established, but they justified their actions against the Crown by making a new argument for liberty. That argument is found in the Declaration of Independence.

The declaration teaches that all men have natural rights prior to the formation of government; in fact, they were given those rights by their creator. Just government is instituted with the consent of the governed for the purpose of protecting these inalienable natural rights.

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In the Magna Carta, by contrast, the rights the people possess are granted by the sovereign. In Article 1, using the royal “we,” the Magna Carta asserts that the royal sovereign has seen fit to “grant and give to all the freemen of our realm for ourselves and our heirs in perpetuity the liberties written below.”

In this conception of political rule, rights are merely exceptions from the general grant of power held by the king. And though the language of the Magna Carta stresses the liberties it lays out are to be secured in “perpetuity,” shortly after it was signed, Pope Innocent III annulled it at King John’s request.

When rights are anchored in human will rather than universal principles and secured through political institutions based on the people’s consent, they can be given and taken away at a moment’s notice.

Abraham Lincoln encountered an argument similar to Hannan’s during the 1858 election for the open U.S. Senate seat from Illinois. Stephen Douglas, his political rival in that contest, argued that in signing the Declaration of Independence, the fathers of the revolution claimed only “that it was the birthright of all Englishmen—inalienable when formed into a political community—to exercise and enjoy all the rights, privileges and immunities of self-government in respect to all matters and things.”

Lincoln denied Douglas’ recasting of the meaning of the declaration and instead held that the colonists’ ultimate argument—not just their pre-revolution arguments—was based on principles that were “applicable to all men and all times.” According to Lincoln, the declaration not only vindicated our separation from Great Britain, but its principles could be applied to any nation or peoples who have toiled under the yoke of oppression.

Though the Magna Carta certainly opened the way for the declaration, the declaration went far beyond the Magna Carta in basing its arguments on universal principles rather than on a certain group of people pleading to a sovereign for more rights. The Magna Carta and the declaration share important similarities such as a common language and a commitment to freedom, but in some important ways, the declaration was a decisive break from the Magna Carta.

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