

CRITICAL AND ANALYTICAL EVALUATION OF MAGNA CARTA, THE FIRST DOCUMENT OF THE HUMAN RIGHTS IN THE WEST.

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ABSTRACT

In present period the discussion about human rights is listened intensively and imagined to be very effective, such momentous discussion turns our attention towards the west struggle for the betterment of human rights, because it is a general concept that west's struggle has given an idea of human rights to the human beings. It is assumed that this is the west that introduced the world and the humanity with human rights through "Magna Carta" which is known as the first foremost and constitutently chart of these rights. In this research article the historical back ground of Magna Carta along with its human rights is critically and analytically viewed.

INTRODUCTION

Magna Carta is considered to be important basic and historical document in the history of England. Now-a-days it is assumed as a starting point in the discussion of human rights. It consists of sixty three articles or chapters. It is an order less document that was published in June 1215 by King John (1119-1216), the son of Henry II and the brother of Richard Sherdil. In it, there were many more things other than the relationship of citizens with the state. For example, in its eight chapters was said that the son of Prince of Wales, who was suffering in the prison of King John, should be freed on priority basis. Similarly many articles were about the Church rights. The article thirty ninth (39th) is the

most famous one in which equal justice for all citizens was assured.

Magna Carta published again after the death of King John, in the reign of his successor, in 1216, and become part of British Law. Thus, in the future, Magna Carta becomes a symbol of struggle against tyranny, powers of the kingdom and freedom of an individual (Henry, 1971; Jackeb, 2000).

HISTORICAL BACKGROUND

At the beginning of 13th Century, when the king of England, Richard Sherdil (1186-1191), went on Crusade War to Turkey, King John (1199-1226) became the King of England. He was a cruel and incompetent person. He was neither a courageous nor a good administrator; rather he was a careless

and unjust ruler. Every one was insecure at that time. In these circumstances, the barons compelled him to do justice or wash hands of the throne. It was for the first time that the whole English nation rose against the King, and their struggle compelled him to come to terms and conditions. The King promised to be a fountain of justice, and signed an agreement on 15th June 1215. This agreement is known as “Magna Carta” (Henry, 1971; Salam, 1984).

The Archbishop played the first fiddle in this agreement. The Pope Innocent III (1204-1215) appointed him as a religious guide of Canterbury. When he came to England, he made up his mind to protect the Ancient English customs and laws, and to put an end to the tyranny of King John. He had already compelled King John to swear about following the King Edward’s law who was a pious and just ruler (Hussain, 1919). When the barons refused to go to Poitou with King John, he intended to use power against them. But Archbishop pressurized him against using power. His main target was to re-establish old freedom of the country on the basis of law (Hussain, 1919).

Historical fact reveals that King John was not ready at all for this agreement.

He wanted to get rid of it by power but all his plans failed because of the baron’s pressure.

Tilmaz Hussain writes that the barons secretly met Saint Ad unbury and took an oath to get freedom according to the royal order of Henry I (1100-1135).

They decided to take arms against the king for this purpose, if needed.

Therefore, in January 1215, the armed barons again raised an alarm. John knew that the repugnance was useless because both, the Church and the barons, had hanged together now. Thus he opted to dialogue and sent a delegation to the barons. But it was not more than to plough in the sand.

On Easter, the armed barons gathered in Brickley and repeated their demand.

John burst out saying. “Why don’t they ask for my Kingdom”. On his denial, the whole nation rose up against the King. He requested the Pope to help but he had lost the time. All his efforts ended in smoke. As a result Runnymede Island was set for dialogue with the barons. The dialogue was nothing more than a formality because Magna Carta was discussed, agreed upon and signed in a single day (Hussain, 1919).

IMPORTANT ARTICLES OF MAGNA CARTA ABOUT HUMAN RIGHTS

Magna Carta is a long document, which consists of the following:

1. The Church will be free and sovereign.
2. Farmer's lands shall be protected.
3. The towns and their residents will be safe.
4. Rights of the professional people will be protected.
5. The trade shall be protected.
6. The interpretation of the law will be according to human rights.
7. Justice will be given on equal basis.
8. The royal officials will not be protected for their misconduct.
9. Forestry will be under the custody of royal family members, but the Public shall also have the same right.
10. No one shall be punished without judicial trial.
11. Individual liberties of the public shall remain the same.
12. The heirs will have right over the deceased's property, and king or his men shall have no right to seize it.
13. The immovable property of the citizens shall not be seized for

- refunding of the loans in case they possess enough moveable property.
14. The king will have to counsel with Archbishop, Bishop Earl, and the barons for taking out required amount of money from government treasury.
 15. Common and insignificant cases shall not have hearing in Royal Court, but shall be solved on the spot.
 16. A man shall be amerced for a crime according to its nature.
 17. The land lord shall not be amerced without the permission of barons.
 18. Royal official and Judges shall be appointed on merit.
 19. Religious freedom shall be granted to every one.
 20. The traders shall not be imposed on unnecessary tax (Peak, 1992; Ghori, 2005)

ANALYSES OF MAGNA CARTA AS A CHARTER OF HUMAN RIGHT

No doubt that the Magna Carta was a successful attempt against the tyranny of King John. It is considered to be the most important and historical document of human rights in the history of England. It played a vital

role in the evolution of law in England. It protected rights of the people of different classes, helped in mobilizing public opinions for their rights and evoked the spirit of democracy. The people also used it as a tool for their fundamental rights. But it is also an established fact that the charter was realized as a charter of human rights much later than it was originally produced. At the time of its publication, it was not more than an agreement between the King and the barons, in which the duties of King and barons and the public were determined. That was, in fact, because of the barons pressure. After a long time, the people comprehended it as a charter of human rights. They assumed such meaning and interpretations that were not even in the minds of its writers. According to Maulana Moudoodi, the agreement was because of the baron's pressure. It was not more than a contract between the King and the barons, and was mostly compiled in favor of the barons. The discussion of human rights was out of question. (Moudoodi, 2004; Ghori, 2005; Shafiq, 1983).

Very little was written in Magna Carta about peasants and farmers who were one fourth of the population. Magna Carta was considered important document in the 17th century, when

slavery of the peasants ended, and rights of a freeman were to be implemented equally.

This Carta was important because it, not only decreased powers of the king, but also made the people realize that they can get back their rights even from the king (Asgar, 1997).

Actually Magna Carta was based on the order of Henry-I (1100-1135) which was expanded by the judicial and administrative amendments executed by Henry-II (1135-1189) and adopted then (Hussain, 1919). Anyhow, Magna Carta played important role in restricting the limitless powers of the King, and paving the way to democracy, freedom, and human Rights. (Hussain, 1919; Shafiq, 1983).

CONCLUSION

It is evident from the above discussion that King John had signed this document under Pressure to calm down the rebels and the barons and to get time to bribe the bishops and religious leaders, and re-strengthen his authority. To achieve such negative objectives, he had to declare some freedom and rights for his subject. It was just a political bribery or blackmailing or it was just a show to declare "restoration of glory of the Holy Church, just because of the

religious leaders and the obedient subject (barons)” (Henry, 1971).

This freedom and high regard was given to put to an end to the dispute that took place between the king and the barons. In this Connection this Constitution was product of selfishness of the barons in which, instead of the national interest, their self- interest is evident. It was based on restricting the powers of King and to transfer them towards the barons. The historical background also reveals that the document was based on temporary solution of the problem by declaring duties of the King and the barons. According to this historical background, it was a regional declaration and was not providing any solid foundation for human rights on global level. However, this document has is importance because the ancient ordinances based on customs, in which human rights were abridged, accepted, changed into clear principles. The rights of British’s were clear, and they were given the right of security of their lives and wealth. In brief, despite the Universality, rationality and nationality resembles in this document.

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