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Edited by Robin Griffith-Jones and Mark Hill QC

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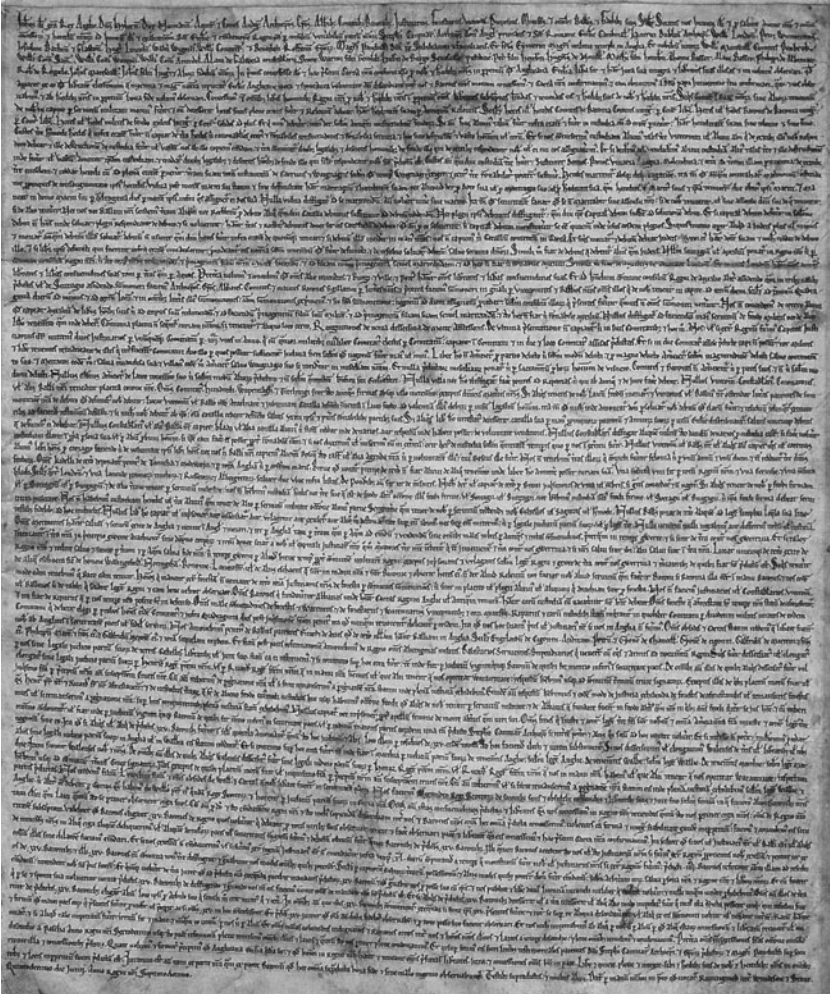
MAGNA CARTA, RELIGION AND THE RULE OF LAW

Archbishop Stephen Langton hoped with Magna Carta to realise an Old Testament, covenantal kingship in England. At the Charter's 800th anniversary, distinguished jurists, theologians and historians from five faith-traditions and three continents ask how Magna Carta's biblical foundations have mattered and still matter now. A Lord Chief Justice, a Chief Rabbi, a Grand Mufti of Egypt, specialists in eight centuries of law, scholars and advocates committed to the rule of law and to the place of religion in public life all come together in this testimony to Magna Carta's iconic power. We follow the Charter's story in the religious life of the UK, America and now Continental Europe, and reflections on religio-legal traditions far from the common law enrich the story. *Magna Carta, Religion and the Rule of Law* invites all religions to ask what contribution they themselves should make to the rule of law in today's secular, democratic polities.

ROBIN GRIFFITH-JONES is the Reverend and Valiant Master of the Temple Church at the Temple, London, and Senior Lecturer in Theology at King's College London.

MARK HILL QC is a leading practitioner in the field of law and religion. He also teaches at Cardiff University's Centre for Law and Religion, as an Extraordinary Professor at the University of Pretoria, South Africa, and as a Visiting Professor at the Dickson Poon School of Law, King's College London.

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Frontmatter
[More information](#)



Magna Carta, 1215. This is one of the four exemplifications from 1215 known to survive. Of the others, two are in the British Library, one is in Lincoln Cathedral. Reproduced courtesy of Salisbury Cathedral.

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Frontmatter

[More information](#)

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 Frontmatter
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CONTENTS

List of contributors page viii
Preface and acknowledgments xv

I Introduction

- 1 The relevance and resonance of the Great Charter of 1215 for religions today 3
 ROBIN GRIFFITH-JONES AND MARK HILL QC

- 2 Magna Carta 19
 LORD JUDGE

II The birth of Magna Carta and the spread of its principles

- 3 Due process in Magna Carta: its sources in English law, canon law and Stephen Langton 31
 JOHN W BALDWIN

- 4 From Charter to common law: the rights and liberties of the pre-Reformation Church 53
 MARGARET MCGLYNN

- 5 Magna Carta and the law of nations 70
 R H HELMHOLZ

- 6 Magna Carta and personal liberty 81
 SIR JOHN BAKER QC

- 7 Towards a new Magna Carta for early modern England 109
 JOHN WITTE, JR

- 8 Differences over the foundation of law in seventeenth- and eighteenth-century America 136
 DAVID LITTLE
- III Comparative religious approaches to Magna Carta's rule of law**
- 9 Quranic Magna Carta: on the origins of the rule of law in Islam 157
 WAEL B HALLAQ
- 10 Justice in Islamic legislation 177
 ALI GOMAA
- 11 Shari'a and the rule of law: preserving the realm 196
 ANVER M EMON
- 12 Democracy and the power of religion: some lessons from India 215
 SUDIPTA KAVIRAJ
- 13 The still small voice of Magna Carta in Christian law today 229
 NORMAN DOE
- 14 Magna Carta, rule of law and religious diversity 248
 MALEIHA MALIK
- IV The contemporary inheritance of Magna Carta**
- 15 The development of human rights thought from Magna Carta to the Universal Declaration of Human Rights 267
 SIR RABINDER SINGH
- 16 Strasbourg's approach to religion in the pluralist democracies of Europe 281
 JAVIER MARTÍNEZ-TORRÓN
- 17 The Great Covenant of Liberties: biblical principles and Magna Carta 301
 LORD SACKS

Cambridge University Press
978-1-107-10019-0 - Magna Carta, Religion and the Rule Of Law
Edited by Robin Griffith-Jones and Mark Hill Qc
Frontmatter
[More information](#)

CONTENTS

vii

- 18 The cardinal rule of religion and the rule of law: a musing on
Magna Carta 314
SIMON LEE
- 19 Strengthened by the rule of law: the message of Magna Carta
for religions today 334
LORD DYSON
- Appendix: The Charters in translation* 338
Bibliography 372
Index 389

Cambridge University Press

978-1-107-10019-0 - Magna Carta, Religion and the Rule Of Law

Edited by Robin Griffith-Jones and Mark Hill QC

Frontmatter

[More information](#)

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Cambridge University Press

978-1-107-10019-0 - Magna Carta, Religion and the Rule Of Law

Edited by Robin Griffith-Jones and Mark Hill Qc

Frontmatter

[More information](#)

LIST OF CONTRIBUTORS

ix

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Cambridge University Press

978-1-107-10019-0 - Magna Carta, Religion and the Rule Of Law

Edited by Robin Griffith-Jones and Mark Hill Qc

Frontmatter

[More information](#)

x

LIST OF CONTRIBUTORS

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Cambridge University Press

978-1-107-10019-0 - Magna Carta, Religion and the Rule Of Law

Edited by Robin Griffith-Jones and Mark Hill QC

Frontmatter

[More information](#)

LIST OF CONTRIBUTORS

xi

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978-1-107-10019-0 - Magna Carta, Religion and the Rule Of Law

Edited by Robin Griffith-Jones and Mark Hill QC

Frontmatter

[More information](#)

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Cambridge University Press

978-1-107-10019-0 - Magna Carta, Religion and the Rule Of Law

Edited by Robin Griffith-Jones and Mark Hill Qc

Frontmatter

[More information](#)

LIST OF CONTRIBUTORS

xiii

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Frontmatter

[More information](#)

Cambridge University Press

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Frontmatter

[More information](#)

PREFACE AND ACKNOWLEDGMENTS

On a glorious sunny Saturday in June 2014, we had the pleasure of convening a conference in the Temple, the beating heart of legal London, under the title ‘Magna Carta, Religion and the Rule of Law’, focusing on the powerful narratives – then and now – of faith and governance. We had in mind a modest gathering, and thus we were delighted that in excess of 200 people chose to attend. In his keynote address (which is reproduced herein as Chapter 2) Lord Judge, not one for overstatement, remarked:

Today’s conference, *Magna Carta, Religion and the Rule of Law*, has brought together an extraordinary array of talent and expertise. I doubt whether any of the myriads of occasions from now on for the next two years, where Magna Carta will be discussed and dissected and analysed, will be equalled by a group of scholars of the international reputation and distinction which has been assembled here today.

The speakers did not disappoint. And thanks to Cambridge University Press their scholarship, insight and analysis will now reach a larger global audience. Their papers are supplemented in this volume by complementary chapters which we commissioned from others who were unable to be present at the conference but whose scholarship was of equal calibre to the speakers’. We are indebted to all the contributors for complying with an unusually strict and robustly enforced timetable, mindful of the looming deadline in the form of the 800th anniversary of the sealing of Magna Carta.

In addition, we must record our thanks to those who shared with us the responsibility for moderating the sessions: Stephen Hockman QC and Sir Konrad Schiemann; and to two discussants who led an informal workshop on the morning after the conference: Sir John Laws and Professor David Kirkham. Fittingly, the conference concluded with Choral Mattins in the Temple Church at which the preacher was Canon Professor Nicholas Sagovsky. Inspired by the spirit of Pentecost, his sermon explored the

Cambridge University Press

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Frontmatter

[More information](#)

covenantal nature of Magna Carta, and we have drawn on his reflections in our jointly authored opening chapter.

The conference would not have been possible without the considerable support of many people and institutions, including King's College London, a near neighbour, and its Institute of Contemporary British History, the Dickson Poon School of Law and the Department of Theology and Religious Studies in particular. Inner Temple and Middle Temple each gave every encouragement to the event, led by their respective Treasurers, Lord Justice Tomlinson and Lord Judge, in concert with the irrepressibly helpful staff of both Inns. Funding for the conference was provided by the Temple Church from its Aymeric Fund, aptly named after the Master of the Temple in 1215.

We have good reason in the Temple to study and celebrate Magna Carta: and have had, since 1214. It was one of King John's safe havens in the crisis of 1214–15. On 21 November 1214 he issued from the Temple the charter that granted the freedom of cathedral and conventual elections; it was reissued, again from the Temple, on 15 January 1215. This developed into Magna Carta's opening clause, on the freedom of the English Church. On that visit early in 1215 the King was confronted by a delegation of barons who demanded for the first time that the King declare his own fealty to a charter. The King was to be subject to a written law, in the terms of his own prior oaths but imposed and sustained by his own subjects. This demand took shape as Magna Carta's Security Clause (clause 61). In May 1215 he was back, and issued from the Temple the charter granting free mayoral elections to the City of London. Hero of the hour at Runnymede itself was William Marshal, Earl of Pembroke, who had mediated between the King and the barons. As Regent to the young Henry III, the Earl reissued the Charter in 1216 and 1217 under his own seal and so ensured its survival. William had arranged to be buried in front of the rood screen in the Temple Church; he was laid to rest beside his friend Aymeric de St Maur, Master of the Temple, who had also advised King John at Runnymede. It is a measure of William's achievement that his cortège was led to the Temple Church by former rebels, now pacified. Archbishop Langton described him as 'the greatest knight that ever lived'.

William's effigy still lies in the Temple Church. William's heir, William Marshal, 2nd Earl of Pembroke, was one of the twenty-five Surety Barons commissioned by the Security Clause at Runnymede to ensure the King's conformity to the Charter. In 1225 Henry III issued the Charter again, in the form in which it was eventually enrolled in England's statutes. The younger William Marshal married the sister of Henry III and was buried

Cambridge University Press

978-1-107-10019-0 - Magna Carta, Religion and the Rule Of Law

Edited by Robin Griffith-Jones and Mark Hill QC

Frontmatter

[More information](#)

PREFACE AND ACKNOWLEDGMENTS

xvii

in the Temple Church in 1231; his effigy lies beside his father's. Ten years later the Templars rebuilt their Chancel, east of the Round, to be the funerary chapel of Henry III and his Queen. A church built as a shrine to Jerusalem and the Crusades had within eighty tumultuous years become a shrine to the heroes of England's fragile constitutional settlement. It remains a powerfully symbolic building, where history, topography and the ongoing life of the common-law world converge. It is aptly famous as the mother church of the common law.

As to this publication, as editors we are indebted to all the contributors whose gracious and speedy preparation of the manuscript turned a chore into a pleasure, creating and deepening many friendships. To complete the volume, we have added a conflated bibliography which provides a comprehensive overview of the accumulated literature on the subject and, by way of appendix, a translation of the text of Magna Carta in its 1215 and 1225 versions. Individual authors, however, have used a variety of sources and translations as appears from the text and footnotes, and variously prefer to refer to the Charter's chapters or clauses. We are grateful to Dr Hester Highton for bringing order and consistency to the stylistic potpourri of a multi-authored text, to Diane Ilott for her meticulous copy-editing, to Deepti Thakoor LLB for her work on the bibliography and to Carol Rowe for assisting with Arabic transliteration.

Finally, we must thank Cambridge University Press for sharing our vision for a lasting contribution to the octocentenary of Magna Carta and, especially, to Finola O'Sullivan, our commissioning editor, together with her colleagues at the Press, for working towards the realisation of that vision with fortitude and good humour.

Mindful of the conventional practice in legal textbooks, in this instance we take peculiar delight in declaring that the law is stated as at 15 June 1215, although eight centuries of further developments have, of course, been incorporated in the pages which follow.

The Revd Robin Griffith-Jones,
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