

FIRST
FUNDAMENTAL RIGHTS
DOCUMENTS
IN EUROPE

Commemorating 800 Years of Magna Carta

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First Fundamental Rights Documents in Europe
Markku Suksi, Kalliope Agapiou-Josephides, Jean-Paul Lehnens and Manfred
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PREFACE

In 2015, we are celebrating the 800th anniversary of Magna Carta, adopted on 15 June 1215, and the 15th anniversary of the Charter of Fundamental Rights of the European Union, adopted on 7 December 2000. Between 1215 and 2000, and perhaps also before and after that period, various jurisdictions in Europe have adopted documents that are of significance for the protection of fundamental rights and, ultimately, after 1945, of internationally recognised human rights. Historians and others like to commemorate ‘round’ birthdays: 25 years, 100 years, 800, etc. An event is not important *per se* because of a specific birthday, but it may be worthwhile to take the opportunity to contextualise fundamental rights by studying history and thus at the same time recognise the value of Magna Carta and other fundamental rights documents.

With this book we wish to celebrate 800 years of Magna Carta. At the same time, we congratulate the European Union on the first 15 years of its first fundamental rights document. This volume can be seen as a birthday present to the teenager from the rest of the family, all of whom are older, some very old or even ancient.

But why the *first* fundamental rights document? Do we want to show that some states, regions or cities have been more progressive than others or to imply that there has been no development in some states? Certainly not; this is not a beauty contest. Whenever the first fundamental rights document has been adopted or issued in a jurisdiction, it is likely to have had similar relevance for the individuals living at the material time as a document adopted in some other place at some other point of time, be it earlier or later. Therefore, the topic is fitting for a joint study as part of the cooperation between the universities in the European Master’s Programme in Human Rights and Democratisation. Even Magna Carta itself, adopted 800 years ago, is not important *per se*, but it is significant because of the use that has been made of it during the centuries, alongside its strong symbolic value; the same observation is probably true concerning the other fundamental rights documents reviewed here, albeit in most cases to a somewhat lesser extent.

This book takes the reader on a journey across Europe in different times and places within a broad common frame, that of the first signs of emergence of fundamental rights documents. In the beginning of this enterprise, we thought that it would be an excellent result of our project if we could find historical documents to show that the fundamental rights dimension is not limited to England in the thirteenth and France in the eighteenth century but that other peoples in Europe have also managed to secure such rights. We feel that we have achieved this objective and that we have uncovered ‘artefacts’ that may have

previously been known only to a very limited group of people. In doing so, we have mapped out waters previously uncharted and revealed a landscape in the deeper layers of our collective history which has not been generally visible at a European level. We also wanted to make the first fundamental rights documents available to a wider audience by complementing this book with internet access to the documents, provided by the E.MA and EIUC structures in Venice. A selection of the documents is thus available for further study at <http://www.eiuc.org/first-fundamental-right-documents>.

The idea of compiling this volume was hatched during a relaxed dinner in Venice in September 2014 at which the E.MA professors gathered after a long day of sessions of exam commissions. During the day, E.MA students had defended their Master's Theses on human rights issues of all sorts, so the brains of the professors had been exposed to many interesting and original topics and approaches. As with the previous book produced jointly by the E.MA community, published in 2009 on the reception of the Universal Declaration of Human Rights in Europe,¹ it was again proven that academics can be productive even when not doing anything particular: an innocent question about whether we could carry out a similar joint project immediately received an affirmative reply. Having become aware of the celebrations planned for Magna Carta in 2015, the question was posed whether there were other historical documents of the same kind in other countries. Nobody could give any definite answer, not even necessarily about their own country, but the question sparked the idea that perhaps this uncertainty could be used as a pretext for carrying out a joint inquiry into the roots of rights-thinking in Europe.

The idea was prepared for the meeting of the E.MA Council in December 2014, and the meeting adopted the project plan entitled 'The First Fundamental Rights Document'. The idea was met with enthusiasm by the participants in the E.MA Council, and the participating universities were quick to commit themselves to contributing to this book. It is our belief that the idea has resulted in a truly unique project in which contributors from almost all EU member states have reviewed the historical precursors to their current fundamental rights documents. Every country, old and young, tells a different story about the emergence of fundamental rights in their area. At the same time, they often indicate certain historical links to each other.

The production of this book was only possible on the basis of commitments by the contributing authors who agreed to participate in this endeavour and to submit themselves to a tight production timetable. Therefore, we wish to thank the authors featuring in this volume for their contributions. In addition, we wish to thank the European Inter-University Centre for Human Rights and

¹ V. JAICHAND and M. SUKSI, *60 Years of the Universal Declaration of Human Rights in Europe*, Intersentia, Antwerp – Oxford – Portland 2009.

Democratisation (EIUC), its Board and its Secretary-General, Professor Florence Benoit-Rohmer for financial support for the editing process. We also wish to thank Ms. Raija Hanski of the Institute for Human Rights at Åbo Akademi University for the technical editing of the entire text and Ms. Anna Barlow of the Department of Law at Åbo Akademi University for correcting the English language of the contributions, most of which are not written by native speakers. Markku Suksi thanks separately Åbo Akademi University and the Pool of Professors for the one-year-long research grant that facilitated research for this volume in August and September 2015. Finally, we wish to thank Intersentia for accepting the book for publication and Mr. Nicola Tonon at EIUC for making the first fundamental rights documents available on the internet.

Nicosia, Luxembourg, Vienna, and Åbo on 15 June 2015

Kalliope Agapiou-Josephides, Jean-Paul Lehnert, Manfred Nowak,
and Markku Suksi

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