



**UNIVERSITY OF LJUBLJANA
FACULTY OF LAW**

**Poljanski nasip 2, Ljubljana
Blue Room**



Magna Carta 1215: Parallels and Influences

**Limiting the Arbitrary Power of Government and
Instituting the Liberties of Man as a Process**

800th Anniversary of Magna Carta

**Thursday
22 October 2015**

Organisation committee:

Primož Gorkič
Aleš Novak
Katja Škrubej
Saša Zagorc

PROGRAMME

9.00 **Registration** (in the lobby of the Blue Room)

10.00 **Opening Addresses**

Mr Miha Juhart, Dean of the Law Faculty

Ms Katja Škrubej, Head of the Organisation Committee

Mr Goran Klemenčič, Minister of Justice

Ms Sophie Honey, HM Ambassador to Slovenia

10.30 **Keynote Speech**

Mr John Hudson (St. Andrews/Ann Arbor)

Magna Carta in a European Context

Discussion

11.30 **Coffee break**

11.45 **First session: Magna Carta 1215 and its Historic Parallels**

Moderator Ms Katja Škrubej

11.45 Mr Gernot Kocher (Graz)

St. Georgenberg 1186 als Beginn der innerösterreichischen *leges fundamentales*

12.10 Mr Andrej Nared (Ljubljana)

Carniolan Charter(s) of Liberties

12.35 Discussion

12.50 **Lunch break**

13.30 **Second session: Magna Carta - Beyond a Myth**

Moderator Mr Aleš Novak

13.30 Mr Milos Vec (Vienna)

Mythical Constitutionalism: Magna Carta's Anniversary and the Historical Argument

14.00 Ms Veronika Fikfak (Cambridge, UK)

Magna Carta in English Law Today

14.30 Discussion

15.00 Third session: Magna Carta for the 21st century?

Moderators Mr Saša Zagorc and Mr Primož Gorkič

15.00 Mr Bojan Bugarič (Ljubljana)

Human Rights and Development: A Critical Appraisal of New Human Rights "Revisionism"

15.30 Mr Samo Bardutzky (Kent)

Today's Europe and its *Magnae Cartae*

16.00 Ms Mojca Mihelj Plesničar (Ljubljana)

800 years later: the dawn of *magna data*?

16.30 Discussion

John Hudson, Professor of History at the University of St. Andrews (UK) and Professor of Law at the University of Michigan Law School (Ann Arbor); author of *The Oxford History of the Laws of England, Vol II., 871-1216*, (2012); co-author of the introduction to the third, revised edition of James C. Holt's classic study, *Magna Carta* (Cambridge UP, 2015).

Gernot Kocher, Em. Univ. Professor dr.dr.h.c. at the University of Graz Faculty of Law; legal historian, author of *Zeichen und Symbole des Rechts* (Munich, 1992), co-author of many editions of *Österreichische Rechtsgeschichte: Von den Anfängen bis zur Gegenwart*;

dr. Andrej Nared, historian, Deputy Director of the Slovene National Archives, author of *Carniolan Provincial Privileges (1338-1736)* (2008) and of a history of the Carniolian Estates and its Assembly *Dežela – knez – stanovi: oblikovanje kranjskih deželnih stanov in zborov do leta 1518* (2009).

Milos Vec, Professor of European Legal and Constitutional History at the University of Vienna Faculty of Law; co-author of *Paradoxes of Peace in the 19th Century Europe* (Oxford UP 2015); previously a researcher of long standing at the Max Planck Institute for European Legal History in Frankfurt, since 2012 he has led a LOEWE project with a research focus on »Extrajudicial and Judicial Conflict Resolution«.

Veronika Fikfak, (PhD, Oxon), Fellow and Lecturer in Law at Homerton College, Cambridge and an Affiliated Lecturer in Law at the Faculty of Law; author of »English Courts and the 'Internalisation' of the European Convention of Human Rights? – Between Theory and Practice,« in *5 UK Supreme Court Annual Review*, 188-222 [2015]

Bojan Bugarič, Professor of Public Law at the Ljubljana Faculty of Law, returning visiting scholar at the de Gunzburg Center for European Studies at Harvard in 2014/15; author of »Law and development in Central and Eastern Europe: neoliberal development and its problems,« in *Law and development of middle-income countries* (Cambridge UP, 2014).

dr. Samo Bardutzky, Research Associate at the Kent Law School, where he is participating in an ERC funded project, »The Role and Future of National Constitutions in European and Global Governance«; a graduate from Ljubljana Faculty of Law, where he completed his doctoral thesis, he pursued post-doctoral studies in Ann Arbor.

Mojca Mihelj Plesničar (MSc, Oxon) Assistant Professor and Researcher at the Institute of Criminology at the Ljubljana Faculty of Law; she is a contributing author in a collective project on questions related to neuroscience and its implications for criminal law *Možgani na zatožni klopi: nevroznanost, kazensko pravo in kriminologija* (IKPF, Ljubljana 2015); she has written extensively on crime policy, crime control and crime prevention.

In the political and legal history of ideas, the Charter of liberties of King John from 1215 enjoys worldwide iconic status, notwithstanding the fact that it did not enter into force that year and that some of its provisions were in later versions of 1216 and 1217 abandoned. In 1215, no one called it 'Great'. To a certain extent, its content was not new, since it was formulated directly on the basis of an older charter of rights granted by King Henry II to his nobles as well as another granted previously to the City of London. Furthermore, it is less known that on the European Continent several comparable charters came into existence at around the same time; for example, the Styrian Georgenberg Pact of 1186 and the Hungarian Golden Bull of 1222. The development of a kind of 'myth of continuity' around Magna Carta 1215 (in James C. Holt's phrase), in addition to the myth of its unprecedented origin, was largely due to the fact that much later, at the dawn of the bourgeois revolutions, it was the English political system, with parliament as a supreme lawmaker at its core, which became the model for the nascent political systems of France and the rest of Europe, and, crucially, of the United States of America. Therefore, the name Magna Carta might not have been given to the Charter in 1215, but it was certainly well earned later on.

Yet, in one important aspect the English system has remained essentially unlike its European and American counterparts. On the Continent and in the USA, the basic principles of their respective systems, together with the fundamental statements on human rights were enshrined in written constitutions. These were conceived as single written documents which basically followed the tenets of rationalistic natural law theory. On the other hand, the English system has persistently evaded such exhaustive codification. At the same time, and at least since the decisive victory of parliament over the monarch in the 17th century, English jurists have repeatedly hailed Magna Carta 1215 as the oldest English constitutional document. Such plaudits in truth applied only to those »clauses« (organisation into clauses being Blackstone's contribution) that have remained on the statutes - as confirmed in the 1297 version of the charter - to this date. Paradoxically, this resistance may be seen as one of the most telling examples of a way of regarding the law that instead of giving foundational authority to a single early, all-encompassing text carrying autonomous and immutable legal force, with its principles formulated in abstract and general terms, prefers to view the law as an interpretative process, and assigns the key role in that process to the courts.