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Editors' Page

The Generations of Human Rights— from Magna Carta to Laudato 'si

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This year marks the 800th anniversary of the Magna Carta the seminal document presented by an angry group of English barons confronting their dishonest king. And it's being widely hailed as a landmark in the evolution of human rights. In a sense, that's so; but in the larger view it's important to understand that the rights in question on the plain at Runnymede in those turbulent times were the rights of some forty wealthy men. The lords of England were confronting King John to demand what they felt was theirs, as intended by God.

Oddly enough, *Magna Carta* is more revered in the United States than in Britain. American constitutional "originalists" hold it particularly dear. But most historians understand that the document is more important for its accrued symbolic significance than for setting actual historical precedents. Still, it does nod in the direction of what will one day be understood as due process and seems to suggest that (at least some) rights inhere in the human condition rather than in the promises of the king. In that respect, it is indeed an important and appropriately cherished precursor to what we now think of as the "three generations of human rights." But the *generations* are today much more worthy of our thoughtful attention than the venerable old royal-baronial "agreement." (Which, in any case, the King promptly and successfully asked the pope to nullify.)

To speak of three generations of human rights is to attend to the long and complex evolution of the modern notion of "universal human rights", which can perhaps best be encapsulated in the familiar dictum that "there are certain things that must never be done to any human being," and "certain things that must be done for all human beings." As it's usually understood, the "first generation" in the progress toward our understanding of universal rights addressed the urgent matter of civil and political rights. Interestingly enough, these are often described (not pejoratively) as "negative rights." That is, they enjoin power structures (governments, in particular) from interfering with certain basic ("inborn" or "endowed") guarantees of human liberty. The argument is, of course, that in these areas (religion, press, assembly, property, political activity, etc.) the dominant powers have no legitimate sway. In a real sense, we can recognize the Magna Carta event as a critical precursor. By severely limiting royal prerogatives, the

declaration set the stage for the emergence of the notion of negative human civil and political rights.

It was, to say the least, a controversial step. Soon, and particularly in the U.S. and Europe, the evolution of second and third generations of the rights discussion took us still deeper into a controversy that has yet to be resolved. Both make the step from “negative” to “positive” rights, or, we might say, from protections to entitlements, from what “must never be done” to what “must be done for all.” Second-generation rights relate to equality. After World War II, governments slowly began to recognize that all members of the social community should be treated equally, insofar as possible, in the economic, social, and cultural dimensions of life. First- and second-generation rights were enshrined in the United Nations’ Universal Declaration of Human Rights.

Third-generation rights, however, take us well beyond the civil, political, economic, social, and cultural aspects of protection and entitlement. Now we begin to engage with global issues and to take up a broad range of widely shared concerns about group or “collective” rights. Just as the Magna Carta gave expression to the problems that the class of barons confronted, so too, third-generation (or “solidarity”) rights address the deep needs of larger classes of human beings, including (among others) the poor, those without adequate access to food, water, or health care, those threatened by environmental degradation, climate change, or declining resources, and those whose cultural heritage is threatened.

In June 2015, Pope Francis gave the world his first papal encyclical letter, *Laudato ‘si* or “Praise be to you (Oh, Lord).” The title, from the encyclical’s first two words, is borrowed from the refrain of *The Canticle of the Sun*, by St. Francis Assisi, a song of praise and gratitude to God for all of creation, especially through Brother Sun, Sister Moon, and Brothers and Sisters Wind, Air, Water, Fire, and Earth.

As Pope Francis writes,

The poorest areas and countries are less capable of adopting new models for reducing environmental impact because they lack the wherewithal to develop the necessary processes and to cover their costs. We must continue to be aware that, regarding climate change, there are differentiated responsibilities.... The countries, which have benefited from a high degree of industrialization, at the cost of enormous emissions of greenhouse gases, have a greater responsibility for providing a solution to the problems they have caused.

In touching on “differentiated responsibilities” and on the responsibilities of the richer countries to the severely affected poorer ones, the Pope gives clear expression to the emerging idea of solidarity rights. And he represents not just a group of barons crying out for their basic human rights, but the much larger earth community offering up a much louder, and more poignant, cry.