

**THE MAGNA CARTA AND THE CONSTITUTION OF
THE IROQUOIS CONFEDERACY:
FOUNDATIONS OF THE U.S. CONSTITUTION**

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ABSTRACT

The Magna Carta, negotiated in Europe in 1215, and the Constitution of the Iroquois Confederacy, negotiated in North America at about the same time, are both foundation documents for the United States Constitution. Each influenced the American Revolutionary period and provided the Constitutional framers with important concepts and some practical strategies for governance.

The contributions of the Iroquois Constitution and the Magna Carta to the process that led to the creation of the U.S. Constitution have been discussed in the past. Their relative importance has been the subject of some controversy. However, the specific contributions each document made – contributions that made the Constitution a uniquely Euro-American document – are worthy of identification and analysis.

This paper identifies the legal, structural, and symbolic contributions each document made to the U.S. Constitution's drafting process and the government framework it created. It then compares these contributions, discussing the ways in which the Constitution of the Iroquois Confederacy and the Magna Carta are both similar and different.

THE MAGNA CARTA AND THE CONSTITUTION OF THE IROQUOIS CONFEDERACY: FOUNDATIONS OF THE U.S. CONSTITUTION

The Magna Carta (“Great Charter”), negotiated in Europe in 1215, and the Constitution of the Iroquois (Haudenosaunee) Confederacy, negotiated in North America at about the same time, were both foundation documents for the United States Constitution. At the end of the Eighteenth Century, each provided the Constitution’s framers with important concepts and some practical strategies for governance.

The relative importance of the contributions made by the Iroquois Constitution and the Magna Carta to the process that led to the creation of the U.S. Constitution have been the subject of some controversy. However, the specific contributions each document made – contributions that made the Constitution a uniquely Euro-American document – are also worthy of identification and analysis.

The purpose of this paper, then, is not to rehash arguments about the relative impacts of the Constitution of the League of the Iroquois and of the Magna Carta. The impact of both has been adequately shown from the historical record. Rather, the purpose of this paper is to discuss the historical background of each document and identify the legal, structural, and symbolic contributions each made to the U.S. Constitution’s drafting process and to the government framework it created. It then compares the two documents’ contributions.

For purposes of this analysis, it must be remembered that both documents have been transmitted in a culturally distinct form. The Constitution of the League of the Iroquois is an oral document normally transmitted in the Iroquois language. When it is transmitted within the Confederacy, it is done so orally using mnemonic devices. The Magna Carta is the product of the Norman-English culture of nearly a thousand years ago and was originally written in Latin.

Accordingly, several written, English-language versions of each document were studied for the purposes of this paper, with an emphasis on versions that are as close to the original as possible, given limitations of language, era, and culture. To understand how the two documents compare and how they contributed to the U.S. Constitution, we will look briefly at the history of each. The contributions of each will then be considered separately. Last, the two documents' contributions will be compared.

Background of the Constitution of the Iroquois Confederacy

The Constitution of the Iroquois Confederacy, also called the League of the Iroquois (Haudenosaunee), arose during a period of prolonged civil war among indigenous nations that stretched “from north of Lake Ontario and all through the Finger Lakes and the Mohawk River to the Niagara River” (Wallace 1986, 9). During blood feuds, innocent people were ambushed, women and children were abused, assassinations were common, and some leaders practiced cannibalism (Wallace 1986; Akwesasne Notes 1985; Barriero 1992).

This situation was addressed by The Peacemaker, a Huron, who espoused Gayaneshakgowa, the Great Law of Peace. Aided by an able Onondaga orator, Hayanwatah, The Peacemaker set out to convince the lawless nations that they should end their lawlessness. Eventually, the Mohawk, Oneida, Onondaga, Cayuga, and Seneca accepted The Peacemaker's plan. The Onondaga, led by the feared Tadodaho, was the last of the Five Nations to adopt The Great Law (Lyons and Mohawk 1992; Barreiro 1992; Wallace 1986; Akwesasne Notes 1995).

The Peacemaker's argument was that humans who think about it will realize that peace is better than war, and will want the absence of violence. Beyond that, as John Mohawk put it, “peace is not only the absence of violence....peace is arrived at through the conscious and energetic struggle by human being to use their intelligence to negotiate a place in which all

injustice has been spoken to, and all persons feel that they have been treated fairly” (Barriero 1992, 23). In modern parlance, “If you want peace, work for justice.” The Great Law included both a political organization that opposed violence and the belief that this vision should be extended to all people (Lyons and Mohawk 1992).

The Great Law of Peace is substantially longer than the Magna Carta. Its origin is estimated as being between 1300 and 1450 A.D. After invoking the Creator, its clauses include both practical “how to” provisions and detailed rules. These include:

- Participation in government by all members of the Confederacy, with the individual being paramount and leaders taking a servant role;
- Unification of the Five Nations under one government, common territory, and a common defense;
- Religious freedom for members and for any conquered nations, which retain their own territories;
- A Grand Council of 50 chiefs based at the Longhouse in Onondaga, the central nation of the Confederacy;
- Organization based on matriarchal clans, with the clan mothers selecting two leaders to represent each clan, who are then sent to the Grand Council for approval;
- Organization of the Grand Council into two bodies, the “Younger Brothers” consisting of the Mohawk and Seneca and the “Elder Brothers” consisting of the Cayuga, Oneida, and Onondaga;
- A decision-making system based on unanimity, with the Younger Brothers discussing an issue until they reach agreement, followed the Elder Brothers discussing the until they reach agreement; and

- Clan mothers' ability to remove errant chiefs.

(Akwesasne Notes 1996; Barreiro 1991; Murphy 2009).

To help the people understand the impact of unification, The Peacemaker held up one arrow, which he easily broke. Then he held up a bundle of five arrows, one for each nation, and demonstrated that, together, they were too strong to break. To symbolize the Great Law, The Peacemaker planted a white pine, known as the Tree of the Great Peace. Under it were buried all weapons. Its branches symbolized shelter and safety. On its top sat the Eagle That Sees Afar, who was to watch and to warn the Confederacy of approaching danger. Four white roots stretched from the tree in the four directions, symbolizing the extension of Law of Peace to all people (Wallace 1986; Lyons and Mohawk 1992).

This system has lasted until the present day, although the Grand Council did not meet for a few years around the time of the American Revolution (Lyons and Mohawk 1992). The most important ideas that the Constitution of the Iroquois Confederacy contributed to Euro-American government were probably the decision-making system and the concept of federalism, which allowed multiple, layered sovereign entities to govern over an extended territory and differing peoples.

Background of the Magna Carta

The Norman conquest of England in 1066 led to complete domination of the Anglo-Saxon population which had, in turn, conquered the indigenous Celts. The populations blended culturally and linguistically, while the Normans ousted English religious leaders, centralized governance, and enforced strict feudal relationships between individuals and the land. The resulting rigid hierarchical system was dominated by the king, with the barons in the second layer of society (Smith 1966; Hollister 1996).

When King John came to power in 1199, this system was entrenched. King John was not remembered as a merciful king. Rather, he was a “repellant, unlovable man” who raised taxes, “killed hostages, starved prisoners, and broke his word with exuberant abandon” (Hollister 1996, 174). After 1209, an underground movement began against him. In early 1215, this became an open insurrection (Hollister 1996; Smith 1966).

The Magna Carta, an agreement between the king and his barons, arose as an effort to bring peace to the kingdom. It was signed on June 15, 1215, on the banks of the Thames River at Runnymede. In the document, the barons asserted themselves, and it was considered “the first major attempt...to keep the king within the limits of the feudal law.” The Magna Carta was designed to be a practical document that redressed the wrongs committed by the king, rather than a declaration of abstract principles (Hollister 1996; Smith 1966).

Specifically, the Magna Carta began with a recitation of the extent of King John’s domain and the invocation of God’s grace. Among other things, in 62 clauses, King John then agreed to:

- Grant the church freedom from royal domination;
- Grant freemen and their heirs a series of liberties and protections, including:
 - Redress for damages to land and property when an heir was under age
 - Specific provisions for the transfer of an estate to a widow and the affirmation of her right not to remarry
 - Protection from seizure of land in payment of debts
 - “General consent” before taxes were levied by the king
 - Fines that were in proportion to the wrong committed, with their amount to be set by persons of similar rank

- Protection from the taking of property by the king's men without consent
- Freedom from trial based only upon an unsupported statement, and punishment only after a lawful judgment of one's equals
- Restoration of property, rights, and fines taken without a judgment of one's equals
- Provide the City of London with limited self-government; and
- Fix the locations and times of court proceedings, which had previously followed the king from place to place.

The document ended with the creation of a council of 25 barons who would be elected by their peers. The council would handle disputes that arose between the barons and King John, and the king would be given 40 days to redress any wrongs. Decisions would be made by majority rule, and any openings that developed would be filled by a baron chosen by his peers. If the matter was not settled to the satisfaction of the barons, they reserved the right to revolt (Blakely and Collins 1993, 64-67; Smith 1966; Hollister 1996; Murphy 2009a).

The agreement did not last long, with civil war breaking out in October of that year. As Sir James Holt put it, "Magna Carta was a failure. It was intended as a peace and it provoked war. It pretended to state customary law and it promoted disagreement and contention. It was legally valid for no more than three months, and even within that period its terms were never properly executed" (Hollister 1996, 182). The primary contributions of the Magna Carta to English – and eventually Euro-American – thought were the ideas that the king was not above the law and of limited central government (Smith 1966; Hollister 1996).

The Magna Carta was reissued several times during the 1200s, then sank into obscurity. It was revived in the 1500s, when it was seen as a guarantee of liberties. To people from that time through the 1700s, it was seen as a statement that people could resort to arms if their lord

violated the “feudal contract.” Significantly, the document was mass printed in 1759 for the first time (Blakely and Collins 1993).

Contributions of the Constitution of the Iroquois Confederacy

Symbolic

Some of the symbolic contributions of The Great Law to the United States are obvious. The eagle, the bundled arrows, and the “watchful eye” atop a pyramid can all be seen on the dollar bill.

Others are less obvious. These include the symbolic importance of the pine tree during the Revolutionary period. For example, the Sons of Liberty used a pine post dubbed the “Tree of Liberty” as the central point of their meetings. The Pine Tree was also used on an early U.S. flag.

More important, the Iroquois Confederacy provided a model for the peaceful succession of leadership and for the concepts of individual dignity and rights. Peaceful succession of leadership was virtually unknown in England for centuries. And in the feudal system, the individual lived in a tightly structured hierarchy, subject to the whims of a monarch who carried the power of life and death.

Legal

The Constitution of the Iroquois included important legal concepts that are also present in the United States’ legal system. Probably the most important one is that individuals have rights. These include freedom of speech, thought, and religion – as well as general independence of action. These rights are present regardless of social station or political power.

Second, The Great Law is a fixed body of law that anyone can access. It is designed to last through time and encourages people to think well into the future in making decisions.

Third, there is the concept of the election of leaders, with direct democracy being used to choose chiefs. While the U.S. Constitution, especially as originally written, did not provide for direct democracy, the concept has always been important in United States governance. And while chiefs generally hold their positions for life, there is a mechanism to remove them if they behave badly or do not appear to be fulfilling the responsibilities of their position.

Structural

The structural contributions of the Constitution of the Iroquois Confederacy are probably the most important to the U.S. Constitution. Most important, these include:

- a multiple-stage decision making process that includes two “houses” that must reach agreement on Confederacy decisions;
- a two-tiered approval of leaders, with each clan making a selection that must then be approved by the General Council -- which is similar both to the U.S. system of Presidential appointment followed by Senate approval, and to the system of states’ election of their federal representatives, followed by each body’s acceptance of its members;
- separation of power between the two houses, clan mothers, and all clan members;
- federalism, or a form of government that rules across a large, diverse territory through the use of two levels of authority; and
- representative democracy, with local leaders selected by the general population to represent their interests to a federal council.

Contributions of the Magna Carta

Symbolic

While the structural contributions of the League of the Iroquois were probably their most important contributions to the U.S. Constitution, it could be argued that the symbolic aspects of the Magna Carta were most important. Three of these stand out.

The first is the symbolic importance of the concept that, as Englishmen, the colonists had certain rights. It is important to remember that the new Americans considered themselves Englishmen, and the third of the population that remained loyal to Britain during the Revolution continued to think of themselves that way.

Second, the Magna Carta was a contract between ruler and ruled, long before the concept of the “social contract” gained prominence. While only a few of those under King John’s rule were involved in the agreement, this concept was important during the period leading up to the American Revolution.

The third symbolic contribution that clearly carries over into the U.S. Constitution is the concept that there is a need to protect the people from their government. This was clearly a primary purpose of the Magna Carta, as King John ran amuck across his realm. Under the feudal system, however, there was generally no way to protect people from a particularly odious tyrant except to kill him. The Magna Carta represents another approach.

Legal

The legal contributions of the Magna Carta to the U.S. Constitution arise primarily from the symbolic concept of “the rights of Englishmen,” discussed above. Rights that were guaranteed by the Magna Carta that later found expression in the Constitution – including the Bill of Rights – included:

- Due process of law;
- A person who does not consent before their property is taken by the government deserves just compensation;
- Trial by peers and by a jury;
- A person's right to confront witnesses against them; and
- Separation of church and state.

Another important provision of the Magna Carta that carried over to the Constitution was the idea that there should be “general consent” before taxes were levied. The Magna Carta extended this idea only to the barons. In the U.S. Constitution, it was extended to the House of Representatives, the most democratic branch of government and, at the time, the only one that was directly elected by voters.

Courts were also bound to a place, rather than a person, in the Magna Carta. While the text of the U.S. Constitution did not bind the Supreme Court to a place or a specific time, this has been the practice. Lower courts, as they were formed, also covered specified areas and met at regularly-scheduled times.

Last, and most important, the Magna Carta provided an important contribution to the thinking of the new Americans, who came from feudal societies. This was the idea that no one is above the law – even the king and, by extension, other royalty. While the concept has often been absent in practice, the Constitution's wording suggests that justice and law should be applied equally to everyone. Even the President and other high officials can be removed from leadership positions.

Structural

The structural contributions of the Magna Carta are less important. These include the beginnings of self-government for the City of London in an era when there were no “local governments” in a form that we would recognize. Rather, communities were a form of economic organization designed to further feudalism.

The Magna Carta also set up a machinery for enforcement, the council of barons. The council, a body elected only by the elite and that replaced its own members, has more in common with the British House of Lords than with the U.S. Congress. However, the existence of an elite elected council can also be seen as a predecessor of that body.

Similarities Between the Documents

Most obviously, both the Magna Carta and the Constitution of the Iroquois Confederacy were practical reactions to current events that attempted to bring law to a lawless situation. Both were designed to keep the peace and provided a machinery for self-enforcement.

Both documents had a spiritual basis and included provisions related to religious freedom – although the Magna Carta limited this concept to the freedom of the English Catholic Church from King John’s control. Both passed the concepts of personal rights down through the centuries. They asserted that no one was above the law, not a king, not a chief, not any individual. And they asserted different roles for women and for men.

As far as structure was concerned, the documents were similar in that they set up a Council to resolve problems among those involved in governance. This included a law-based manner of removing and replacing Council members, rather than a reliance on assassination, natural death, or banishment.

All of these concepts were, in some form, echoed in the American Revolutionary period and in the drafting of the United States Constitution. While some were more obvious than others, they provided some of the basis for the creation of a uniquely American-European form of governance.

Differences Between the Documents

The differences between the Constitution of the Iroquois Confederacy and the Magna Carta are probably greater than the similarities. The clearest difference is between the parties to each agreement. The Great Law was a nation-to-nation agreement or, as its name implies, a document that formed a representative confederacy. The Magna Carta, on the other hand, was an agreement only among the society's top leaders – the king and “his” barons. The implications for the rest of the population are barely considered. While the organization of the Magna Carta is hierarchical, like the society from which it sprang, the Constitution of the Iroquois is organized laterally among a number of co-equal entities. Power is substantially more diffused.

The other critical difference between these two documents involves their focuses. The Magna Carta focuses on control of land and resources. It is an agreement about property rights. The Great Law focuses on unity and is an agreement about individual rights. This difference provides a clear example of the differences between European and indigenous North American cultures.

There is also a different orientation toward time. The Iroquois Constitution looks to the future and attempts to set up a form of governance that will provide for the needs of the confederacy's people over time. It provides a fixed, detailed body of law. The Magna Carta is a rebellion against oligarchy and an attempt to reassert the former feudal system. It provides for the needs of the barons in a nation that still does not have a fixed, written Constitution.

There are other legal and structural differences that are obvious. For example, there are differences in the roles of women, the way councils are formed, and procedure for decision-making. While both provide plans for ruling a large territory, the Magna Carta is distinctly unitary.

Finally, the Magna Carta was in force for three months. The Constitution of the Iroquois Confederacy has lasted for at least 500 years. This says a lot about the two systems the documents formed and their ability to bring law to a lawless situation.

Summary

The Magna Carta and the Constitution of the Iroquois Confederacy are both foundation documents for the United States Constitution. Each influenced the American Revolutionary period and provided the Constitutional framers with both important concepts and practical strategies for governance.

The specific contributions of the Iroquois Constitution and the Magna Carta to the process that led to the creation of the U.S. Constitution made that Constitution a uniquely Euro-American document. While the differences between the documents are more salient than the commonalities, each contributed to the symbolic, structural, and legal characteristics of the United States' foundational document – and to its form of governance in the modern era.

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