



FACT SHEET 4:

The emergence of rights in law

ENGLAND

In Europe, assertions of individual rights evolved with the emergence of Nation-States. The Magna Carta, first issued in 1215, was an early legal document that granted certain rights to the English nobility by the King. The Magna Carta was reissued in different forms and reinterpreted in England over several centuries. Many of its rules were about the operation of feudal English society, though it influenced the development of rights in the common law. One of its most important innovations was the right of free men not to be imprisoned or punished except in accordance with the law.

In 1628, the English Parliament issued the Petition of Right, asserting further limitations on the King's power, including prohibiting arbitrary arrest or imprisonment and interference with property rights.

Later, the parliament passed the English Bill of Rights (1689). The Bill of Rights was mostly concerned with powers that could be exercised only by the parliament, not the King, but included some individual rights, such as a prohibition on cruel and unusual punishment.

EUROPE

Many early treaties mentioning individual rights concerned ethnic, religious or linguistic minorities. In 1648 the Peace of Westphalia ended many years of war in Europe and divided the continent into Nation-States, many of which are familiar today. The peace treaties allowed the prince of each State to choose whether its national religion would be Catholicism, Lutheranism or Calvinism, but provided for a limited right of freedom of religion for other Christians living in that State.

At the Congress of Vienna in 1815, Austria, Prussia and Russia signed a declaration stating that they would respect the nationality of their Polish subjects. This was one of the first recorded formal recognitions in modern Europe of the right to an identity.

In the Treaty of Berlin (1878), the Balkan States that emerged after the disintegration of the Ottoman Empire promised to respect the lives, property and religious liberties of their citizens.

The peace treaties concluded at the end of the First World War included clauses guaranteeing the protection of minorities. As national boundaries were redrawn, some groups' right to self-determination were recognised via a form of voting that allowed them to elect which country they were to become parts of.

Protection of minorities became a condition of membership of the League of Nations, and minority rights were thus guaranteed by the treaties which saw the establishment of 'trust territories' (administered by members of the League). These commitments proved difficult to enforce.

Human Rights Explained

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THE FRENCH AND AMERICAN REVOLUTIONS

In the 18th Century, declarations and bills of rights were an important feature of the French Revolution and the American Revolution.

The American Declaration of Independence (1776) famously declared that men are created equal and have certain unalienable rights. The United States (US) Constitution, as concluded in 1789, recognised a right to *habeas corpus* (a petition to declare innocence) and a right to trial by jury.

In the same year, the French Declaration on the Rights of Man and Citizen declared that 'Men are born and remain free and equal in rights... these rights being liberty, property, security, and resistance to oppression'. The French Declaration, striking in its resemblance to a modern bill of rights, contains many rights which are now a part of international human rights law, including freedom of expression and the presumption of innocence.

Two years later, in 1791, the US Constitution was amended to insert the US Bill of Rights. This remains in force today and includes rights to freedom of religion, expression and due process of law.