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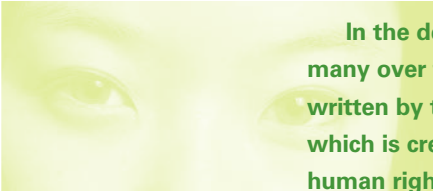
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A NEWSLETTER ABOUT LAW AND DIVERSITY

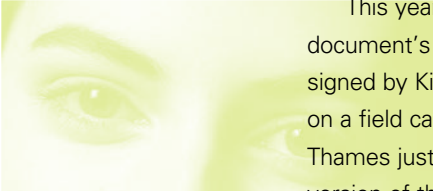


Seeds of Equality Rooted in an 800-Year-Old Document

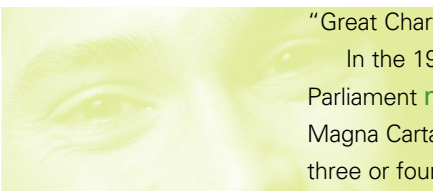
by Jodi L. Miller



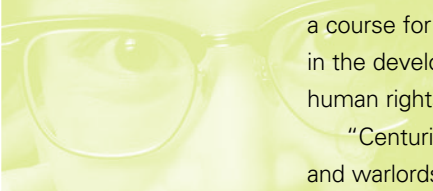
In the desire to seek justice and fair treatment, many over the centuries have looked to a document written by the barons of 13th century England, which is credited by some to be the foundation of human rights in Western jurisprudence. Nelson Mandela appealed to it in his 1964 trial. Frederick Douglass cited it in his quest to end slavery.



This year we celebrate that revered document's 800th anniversary. Originally signed by King John on June 15, 1215, on a field called Runnymede by the River Thames just outside of London, a later version of the document would come to be known as "Magna Carta," Latin for "Great Charter," also sometimes known as the "Great Charter of Liberties."



In the 19th century, the British Parliament **repealed** various chapters of Magna Carta and **codified** others. At best, three or four chapters (sources vary) of the document retain their force of law, mainly relating to notions of due process. Still, history was made on that June day, setting a course for Magna Carta to play a part in the development of individual, civil and human rights throughout the world.

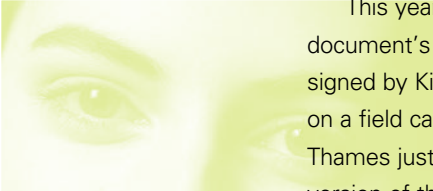


"Centuries ago, when kings, emperors and warlords reigned over much of the world, it was the English who first spelled out the rights and liberties of man in the Magna Carta," President Barack Obama said when addressing Parliament in 2011. "Through the struggles of slaves and immigrants, women and ethnic minorities, former colonies and persecuted religions, we have learned better than most that the longing for freedom and human dignity is

not English or American or Western—it is universal, and it beats in every heart."

Badly drafted, but much interpreted

According to Professor William Jordan, chair of the History Department at Princeton University, whose field of study is Medieval History, *>continued on page 6*



Single-Sex Classrooms: Promoting Stereotypes or a Nurturing Educational Setting?

by Cheryl Baisden

Most classrooms in the United States look a lot like yours—rows of desks and chairs filled with boys and girls studying everything from algebra to social studies. But in about 500 out of the nation's estimated 90,000 schools things are noticeably different; either the entire school or some classrooms are dedicated to educating a single gender.

Supporters of single-sex education believe it allows students to focus and learn better—without the distractions of the opposite sex—by teaching to what they see as the strengths of the gender. Detractors say it fosters false stereotypes, promotes educational inequality, and reduces opportunities for the sexes to learn to work together.

People on both sides of the debate argue denying them their right to the educational approach they prefer would be unconstitutional.

No child left behind

In 1995, there were only two public schools in the U.S. catering to one gender, but by 2006 that number had soared to 241. The main reason behind the increase, notes David Rubin, a Metuchen attorney who practices school law, was the passage of the No Child Left Behind Act. *>continued on page 5*

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Internal Struggle: How the U.S. Military is Battling Sexual Assault Among Its Ranks

by Barbara Sheehan

As our military works to protect U.S. interests around the world, it is battling a different kind of problem within its own ranks. Incidents of sexual assault among both male and female service members remain a serious concern.

According to Pentagon statistics, women account for nearly 15 percent of the United States' active duty military force. A Department of Defense (DoD) report released in December 2014 revealed that reported sexual assaults rose from 3,604 in 2012 to 5,983 in 2014. The number of service member victims choosing to report these crimes increased by more than 50 percent, a statistic that military leaders, who are working to encourage reporting, see as progress. In addition, an independent survey of military service members for fiscal year 2014 found that an estimated 19,000 service members reported experiencing unwanted sexual contact, down from 26,000 in fiscal year 2012.

While this may show that progress has been made in addressing the military's sexual assault problem, there is much more to be done. Creating new laws and policies to deal with these issues is an important step in the process, with much of the focus on creating a culture where victims are supported in speaking out.

Giving victims a voice

One of the most impactful changes within the military has been the introduction of the Special Victims' Counsel (SVC) Program, which was implemented in January 2013 to provide military victims of sexual assault with legal support. Captain Eric Snyder, with the Army National Guard, stationed at Joint Base McGuire-Dix-Lakehurst (JB MDL), serves as Regional Special Victims' Counsel and works directly with sexual assault victims.

"Before the SVC Program, a survivor had to rely largely on the government's attorney for guidance," Captain Snyder explains. "Communications with the government attorney were not privileged and could be subject to discovery."

In other words, this communication was not confidential and could be used as evidence in court.

"Furthermore, there are instances where the victim's interests may not align with the government's goals," Captain Snyder notes. "Sexual assault survivors now have an independent attorney who works for the survivor. Communications are privileged, and the SVC takes direction from the survivor, not the other way around. This is a huge step in helping survivors regain their voice and some sense of control over their lives."

Another change that Captain Snyder says has had "enormous significance" is the codification of the Crime Victims' Rights Act into the Uniform Code of Military Justice (UCMJ). The UCMJ is the foundation of military law in the United States.

Captain Snyder notes that all crime victims under the UCMJ now have several substantial rights, including the right to be reasonably protected from the accused; the right to notice of any hearings or proceedings; the right to be present at such hearings (with limited exceptions); the right to be heard at many proceedings; the right to confer with the government's lawyer; the right to restitution; and the right to be treated with fairness and respect.

"Although sexual assault prevention and response programs have been in place for many years, they have benefited recently from a renewed focus on this issue, new guidance and policies, increased training and funding, and other developments," Captain Snyder says. "Congress has revised the laws relating to sexual assault in the military in each of the last several years, each time strengthening both the laws (and punishments) governing sexual assaults and the protections afforded to victims."

Chain of command

An alarming statistic found in the 2014 DoD report was that 62 percent of the victims who report their assault experience some sort of professional, social, or administrative retaliation or punishment from their commanders and their peers. This figure was the same in 2012.

New York Senator Kirsten Gillibrand expressed particular concern about this statistic. "The one measure about whether commanders take this seriously is whether they're allowing victims

to be retaliated against for reporting,” Senator Gillibrand stated in a Public Radio International interview. “For that number to not budge, for that number to be exactly where it was last year, that shows complete failure.”

Senator Gillibrand proposed legislation, known as the Military Justice Improvement Act, which sought to remove the chain of command from decisions about whether to prosecute alleged sexual assault cases and turn that decision over to independent, trained, professional military prosecutors. In 2014, the bill failed to pass a vote in the Senate, but Senator Gillibrand has vowed to continue this legislative fight. The senator’s bill addressed a longstanding debate about whether commanders should have a role in sexual assault cases, as they do today.

“We need an objective, trained prosecutor making these decisions about whether a case should go forward,” Senator Gillibrand told MSNBC, “not politics, not the discretion of a senior officer or a commander who may like the perpetrator or might like the victim, who may value the perpetrator more than the victim.”

Opinions on whether commanders should be involved in this way are mixed. Pentagon leaders contend that keeping commanders involved is necessary for leaders to control their troops.

“If you disconnect the commanders... then you’re taking away a certain responsibility of that commander on not only knowing what’s going on in his or her command, but actually having some responsibility,” former U.S. Defense Secretary Chuck Hagel told CBS News. “I want more responsibility put on our commanders, not less.”

Others disagree and believe that commanders may, in some cases, have a personal interest in protecting the accused, which can interfere with the balance of justice. Colonel Don Christensen, a former chief prosecutor of the U.S. Air Force, who now serves as president of the not-for-profit human rights organization Protect Our Defenders, said in a press statement announcing his appointment to the organization:

“As a military prosecutor, I have personally seen the abuse and injustice victims of sexual assault face in the military....The military justice system is fundamentally broken. Your rapist’s boss should not decide whether to investigate or prosecute a sexual assault allegation or pick the jury,” Colonel Christensen stated. “The decision to prosecute is a legal decision that must be entrusted to professional, legally trained prosecutors, the jury should be randomly selected, not hand picked by the accused’s commander.”



Some changes have already been implemented that modify the role of high-ranking military leaders and strengthen punishments for offenders. For example, commanders have been limited in the **clemency** they can show to service members convicted of a sexual assault offense, and they do not have the same power to overturn guilty verdicts in these cases, as they once could. Captain Snyder also notes that mandatory minimum punishments for sexual offenses have been increased. Individuals who are convicted of sexual assault may not be retained by the military and are barred from future enlistment, he says.

The ‘good soldier’ defense

Another legislator who is working to address the issue of sexual assault in the military is Missouri Senator Claire McCaskill. Unlike Senator Gillibrand, however, she supports keeping the chain of command intact.

Senator McCaskill, a former prosecutor

of sex crimes, has argued that removing the chain of command could result in fewer prosecutions, not tougher consequences. Prosecutors, she contends, would be more reluctant to take on cases they felt they could not win, ultimately harming victims seeking protection and justice.

Among the proposals Senator McCaskill did support is the elimination of the so-called “good soldier” defense. Traditionally, this defense is used in military courts to persuade courts-martial judges and juries that the accused is too professional to have engaged in criminal behavior based on a stellar service record, ratings and testimony from colleagues and superiors. In February 2015, Congress restricted the use of this defense in cases of sexual offenses, as well as cases of robbery and arson.

“When I was prosecuting sex crimes in Kansas City courtrooms, defendants couldn’t use their good work record as proof they hadn’t committed a rape,” Senator McCaskill told *Stars and Stripes*, the U.S. military’s independent news source, in an email. “In the military, how good an airman, sailor, soldier or Marine you are has absolutely nothing to do with whether a rape has occurred.”

Safe relationship education and you

While what’s happening in the military may seem far from your world as a student, learning more about safe relationships could potentially become part of your school curriculum. In addition to her military legislation, Senator McCaskill, along with fellow legislator Senator Tim Kaine, of Virginia, introduced a bill earlier this year known as the Teach Safe Relationships Act of 2015. This proposed legislation would require all public secondary schools in the country to include teaching “safe relationship behavior” in an effort to help prevent domestic violence and sexual assault.

“One thing we’ve learned in our work to curb sexual violence on campuses and in the military is that many young people learn about sex and relationships before they turn 18 and one of the most effective ways to prevent sexual violence among adults is to educate our kids at a

Roads Still to Be Traveled in Cuba

It has been more than 50 years since an embargo was imposed against Cuba, the island nation located 90 miles off the coast of Florida. In December 2014, President Barack Obama announced that the United States would move toward normalizing relations with the island nation. The announcement sparked debate on both sides of this issue.

Proponents of lifting the embargo argue that it hurts the U.S. and Cuban economies and if the sanctions haven't been successful in 50 years, they probably aren't going to work. Opponents of lifting the embargo argue that Cuba has not earned the easing of sanctions and hasn't met conditions of lifting the embargo, including introducing democracy to the country. They cite Cuba's many human rights violations as proof that the embargo should be kept in place.

Steven M. Richman, incoming president of the New Jersey State Bar Foundation and an international law attorney, recently had an opportunity to travel to Cuba. His first-person account below outlines the complex legal issues opening relations with Cuba presents, as well as his impressions of the country and its people.

I was part of an International Legal Exchange (ILEX) trip to Cuba in February 2015 on behalf of the American Bar Association's Section of International Law. The visit occurred after the December 17, 2014 announcement by the President that the United States would restore diplomatic relations with Cuba.

President Dwight D. Eisenhower broke diplomatic relations with Cuba in 1960, and it was President John F. Kennedy who imposed the embargo in 1962. In 1996, the Helms-Burton Act turned President Kennedy's act into a legislative enactment. Consequently, the actual lifting of the embargo will require legislation from Congress.

The steps announced on December 17 to change the U.S.-Cuban relationship were to (1) commence discussions about restoration of diplomatic relations, (2) reestablish the U.S. embassy in Cuba and conduct talks on migration, and (3) work on areas “of mutual concern,” including drug and human trafficking. Following the announcement, the Treasury and Commerce Departments published new regulations making it easier for U.S. citizens to travel and send money to Cuba, and also made changes to certain licenses to

facilitate telecommunications and financial services (including credit card use in Cuba). The Treasury Department's Office of Foreign Assets Control (OFAC) now permits importation of certain Cuban goods and services as well.

It is important to remember that the dialogue is a two-way street. Just because the United States permits goods to go in and out of Cuba does not mean the Cubans will allow the same goods and services in. While in Cuba, our delegation was told that the Cuban government may well move more slowly than the American government on such matters. In addition, Cuba remains a socialist country and has a growing, but limited private sector that is still developing. Certain other restrictions on foreign investment continue to exist, as well.

The reaction of the Cuban people to the new American-Cuban relationship was received with great happiness; we observed this and heard anecdotally corroborative stories. Certainly, we were made to feel welcome as Americans. Legislation, though, is one thing; changing attitudes are another. We met with several "independent" lawyers, including one who was "disbarred;" he told me he had received an award from the American Bar Association for his human rights work. There remain stark differences in our respective legal communities, but we were also impressed with the apparent abilities of the range of lawyers and former judges with whom we met.

Other issues continue to divide the two countries, including the American demand for the return of certain fugitives who fled to Cuba, and Cuba's demand for the return of someone connected to the bombing of a Cuban airplane. In addition, the United States demands repayments for American businesses nationalized after 1959, and Cuba wants damages resulting from the American embargo.

What struck me most on the trip was the sense of being in a time warp. On my return, I watched the 1959 film *Our Man in Havana*; the Havana of 2015 looks almost identical in many respects, although with significant physical deterioration. The physical appearance of the Old City perhaps symbolizes the distance still to be traveled. ■



Single-Sex Classrooms *continued from page 1*

"No Child Left Behind is a federal **statute**, adopted in 2002, that expanded the role of the federal government in public education...A provision of the law required the development of regulations permitting single-sex education," Rubin said.

As a result of No Child Left Behind, single-sex education was suddenly permitted in public schools if participation is voluntary, if there is a clear educational objective that would resolve a deficiency, and if both sexes are provided with facilities and programs that are "substantially equal."

Defining what is considered a clear objective, a deficiency and substantially equal, however, can be challenging. As a result, in 2012 the American Civil Liberties Union (ACLU) launched an investigation designed to assess the educational trend. The study evaluated programs in 21 school districts in 15 states—most in the South and Midwest—and concluded they did not meet federal requirements. According to the ACLU, the programs were based on the belief that boys and girls should be taught differently, and the programs' teachers held certain gender stereotypes, including that girls are not interested in math and boys prefer reading nonfiction rather than fiction.

Following the 12-month study, the ACLU filed complaints against two school districts, one in West Virginia and the other in Florida. The West Virginia district has since discontinued its single-sex program. Action is still underway in Florida against the Hillsborough School District.

The ACLU's complaint against Hillsborough School District was filed with the U.S.

Department of Education's Office of Civil Rights. It contends the district is violating Title IX of the Education Amendments of 1972 by creating single-sex education programs "based on 'junk science' about how boys' and girls' brains develop and function differently, and require different teaching techniques," says Rubin.

Title IX prohibits gender discrimination in any educational program that receives federal funding, including athletic programming, notes Rubin. When it comes to single-sex education, a school must "show that each single-sex class is based on an important objective either to improve students' educational achievement through diverse educational opportunities, or to meet a particular, identified educational need. The school must implement its objective in an evenhanded manner; ensure that student enrollment in the single-sex class is completely voluntary; provide a substantially equal coeducational class in the same subject; and conduct periodic evaluations to determine whether the class complies with Title IX," he said.

According to Rubin, a compelling reason to establish a single-sex educational program under Title IX might be when third-grade boys in a school routinely score poorly on state reading tests, and a single-sex class setting is developed to attempt to improve learning

for those students. Another might be where there is low enrollment in high school advanced placement classes and students have expressed an interest in taking such classes in a single-sex setting.

The battle in Florida

Since 2009, the Hillsborough School District—one of the 10 largest districts in the country—has operated single-sex classes in at least 16 schools, including a high school and 15 elementary schools. It also runs two single-sex middle schools.

The ACLU complaint notes that public record information shows district teachers were encouraged to "be louder" with and "have high expectations" of boys, and be "calmer" with and "less critical" of girls. In one example cited in the complaint, good behavior earned boys (but not girls) an electronics day, where they could bring in their electronics and play them. In another instance, a teacher rewarded girls who successfully completed certain tasks with a dab of perfume.

"The Hillsborough School District has spent hundreds of thousands of dollars in taxpayer funds to implement a hidden curriculum promoting the theory that boys and girls are so fundamentally different that they need to be taught using radically different teaching methods," Galen Sherwin, senior staff attorney with the ACLU Women's Rights Project, said in a press statement. "The truth is that every student learns differently, and our public schools should not be in the business of making crude judgments about children's educational needs

based solely on whether they are a boy or a girl."

A bill signed by Florida Governor Rick Scott last year requires that teachers in single-sex classrooms attend special educational training. In the Hillsborough School District the professional development sessions Busy Boys, Little Ladies (geared to kindergarten teachers) and Gender Differentiation: Boys and Girls Learning Differently train teachers "that girls are not good at abstract thinking and learn best through building relationships, while boys excel in concrete thinking and learn best through competition," says the ACLU. Boys' teachers can attend a program called Engaging Students with Debate and Discussion to learn how to "engage students in higher level discourse." Girls' teachers can attend a program called Creating Connections with Girls and are instructed that "girls will learn better if they believe a teacher cares about them."

In September 2014, the ACLU also filed complaints (similar to the one in Hillsborough) against schools districts in Florida's Broward, Volusia and Hernando counties.

Research behind the movement

Much of the movement toward single-sex education has been the result of a 2005 book *Why Gender Matters* written by psychologist Leonard Sax, founder and

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Magna Carta *continued from page 1*

Magna Carta “expresses the desires of the upper classes for justice and their own special privileges.” He points out that the document emerged after a relatively brief and bitter fight between the king and the wealthy barons, meaning there was little time for revisions. “This haste gave England and the world a rather badly drafted document,” Professor Jordan says, “but one, as a result, that could be creatively re-interpreted through the ages and used to demand royal adherence to general principles about human liberty, not just liberties limited to the upper classes.”

For example, chapter 39 of the original document, still in existence today, states: “No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send other to do so, except by the lawful judgment of his equals or by the law of the land.” This chapter has been interpreted to mean that all citizens are entitled to **due process** and trial by a jury of their peers.

Professor Jordan points out that the word “freeman” probably meant baron in the time of 1215, but over time it came to have a broader meaning, including all men who were not serfs. Another example of re-interpretation, according to Professor Jordan, is chapter 40, which deals with fairness and a speedy trial. It reads: “To no one will we sell, to no one deny or delay right or justice.”

“The generic use of ‘no one’ allowed the chapter to be applied broadly, literally to everyone,” Professor Jordan says, “even if it originally designated only the upper classes.”

What about the “common woman?”

In the 17th century, Magna Carta would be re-interpreted by Sir Edward Coke, a celebrated jurist of the time, to apply to the “common man.” Through Sir Edward Coke’s efforts, Magna Carta would become the basis of English common law and eventually provide Americans with many of our individual rights. But what about the “common woman?” How did women fare in Magna Carta?

According to Kirsten Scheurer Branigan, an employment law attorney in Nutley and a past president of the New Jersey Women Lawyers Association, “While it seems hard to imagine today, at the time of Magna Carta, girls could be engaged to be married when they were seven years of age and could get married when they turned 12.” The King of England would sell off widows and young female heiresses to men who paid the highest price to marry them.

Two chapters (seven and eight) of Magna Carta specifically concerned women and dealt with the right of widows to remain unmarried if they chose and to not be removed from their deceased husband’s property. Prior to Magna Carta, the king could not only force widows to marry if the alliance benefited the **monarchy**,

but the new stepfather would also take over the estate before the widow’s children became of age to inherit it, says Branigan. Magna Carta provided that a widow could no longer be forced to marry (chapter eight) and that she was entitled to her marriage portion (one-third) of her deceased husband’s estate (chapter seven) which prevented her from being cast out of her home either by the King or her own children once they became of age to inherit.

While these rights applied only to noble women (a small percentage at the time), as with the “common man,” over time, they came to be interpreted to apply to all women.

“These rights may seem insignificant today, but they were the seeds from which women’s rights and liberties began to flourish, including the passage of the 19th Amendment in 1920, which gave

women in America the right to vote,” Branigan says. “While the inclination may be to exclaim, ‘You’ve come a long way baby!’ from the limitations put on King John’s female subjects, it also reminds us how far the divide still remains toward equality between men and women in the job force after 800 years.”

Branigan concedes that the road to equality for women has improved significantly in the last 800 years. However, the progress started by Magna Carta, she says, could have continued with the enactment of the Equal Rights Amendment to the U.S. Constitution in 1972.

“From narrow rights for noble women with regards to marriage and property to an expanse of protections for all women in the workplace, there is obvious and expected growth that has occurred since 1215. As the ‘Great Charter of Liberties,’ Magna Carta was designed to promise protections,” Branigan says. “New Jersey has followed in these historical footsteps and has changed the face of women’s rights in the workplace. As with all stages of progress, however, there is significant room for improvement to ensure that women receive true equality. Perhaps it is only with the enactment of a constitutional guarantee of equal rights that women will finally be paid in accordance with their worth and contributions rather than their gender.”

Magna Carta and slavery

In an essay for *The History Teacher*, David W. Saxe, associate professor of education at Penn State University, wrote, “Over time, regardless of the license taken with the actual Magna Carta and a track of history that had grown irrelevant, the function of Magna Carta as a basic principle was to remind governors and would-be governors (kings, rulers, parliaments, committees) that human rights are sacred and cannot be overturned by governments of men. This essential fact stems from the declaration that all power rests with the people and that the people willingly surrender some rights (by consent) for the good of the order. Yet this surrender of rights is not



to a government of men, but to a government of laws in which all citizens possess equal rights.”

But did those rights extend to slaves? In the 19th century, the **abolitionist** movement invoked Magna Carta to further its cause, with little success.

Starting in 1846, Dred Scott, an enslaved African American man, attempted to sue his owners for his freedom. In 1857, the U.S. Supreme Court decided 7 to 2 in *Dred Scott v. Sanford* that whether enslaved or free, African Americans were not citizens of the United States and therefore could not sue in federal court.

In his **dissent** from the majority opinion in *Dred Scott*, Justice Benjamin Robbins Curtis invoked the Fifth Amendment’s right to due process. Justice Curtis wrote, “It must be remembered that this restriction on the legislative power [in the Fifth Amendment] is not peculiar to the Constitution of the United States; it was borrowed from Magna Charta, was brought to America by our ancestors, as part of their inherited liberties, and has existed in all the states, usually in the very words of that great charter.”

Frederick Douglass, an escaped slave and a leader in the abolitionist movement, said in a lecture titled “Unconstitutionality of Slavery” delivered on March 26, 1860, in Glasgow, Scotland, “If I were a judge and a slave was brought before me...and a master should insist upon my sending him back to slavery, I should inquire how the slave was bound to serve and labour for him. I would point him to this same constitution, and tell him that I read in that constitution the great words of your Magna Charta: ‘No person shall be deprived of life, liberty, or property without the process of law,’ and I ought to know by what contract, how this man contracted an obligation, or took upon himself to serve and labour for you. And if he could not show that, I should dismiss the case and restore the man to his liberty. And I would do quite right, according to the constitution.”

In an article for *Insights: On Law and Society*, Ralph Turner, an emeritus history professor at the University of Florida, wrote, “The Court ruled [in *Dred Scott*] that African Americans, ‘whose ancestors were imported into this country and sold as slaves,’ were not American citizens and enjoyed none of the rights of citizens. Only after the Civil War would Magna Carta’s principle of equality under the law be extended to former slaves.”

After the Civil War up until 1900, more than 30 U.S. Supreme Court cases would cite Magna Carta. These cases were usually interpretations of the U.S. Constitution’s 13th, 14th or 15th Amendments, which extended rights to newly freed slaves.

“Despite these post-Civil War constitutional amendments, the United States failed to live up to its promises of equality under the law for its black citizens,” Professor Turner wrote. “This failure marks perhaps the greatest stain on Americans’ fidelity to Magna Carta’s principles. By 1876, northerners had lost interest in the former slaves’ plight; and they no longer had the will to confront the

South’s fierce resistance to full citizenship for the freedmen.”

Relevance in the modern world

In a symposium titled *Slavery and the Magna Carta in the Development of Anglo-American Constitutionalism*, Justin Buckley Dyer, an associate professor at the University of Missouri, said, “In our own day, the task of re-interpreting the meaning and legacy of the Magna Carta continues as we balance the demands of national security with the claims of individual liberty, combat modern slavery and international sex trafficking within the confines of a fragile international order, and re-examine the extension and growth of the principles of freedom implicit in our constitutional tradition.”

Within New Jersey, the 1676 “Charter of Fundamental Laws of West Jersey” included provisions for due process, speedy trials, confrontation of witnesses, common law and jury trials, and local or impartial juries for crimes. In 1912, Edward Quinton Keasbey, a former editor of *The New Jersey Law Journal*, wrote, “the declaration of civil liberty and the right of trial by jury” in the Fundamental Laws “was expressed in the words of Magna Carta so changed as to indicate the sense in which they were understood at the end of the seventeenth century.”

Steven M. Richman, incoming president of the New Jersey State Bar Foundation and an international law attorney, notes, “This makes Magna Carta a living document.” Richman, who serves as special editor of a *New Jersey Lawyer Magazine* issue on Magna Carta to be published in June 2015, says, “While some may argue that Magna Carta has become what people today want it to be, there is no denying that the threads of our most accepted principles of due process and justice do trace back to this remarkable document.”

There may be no better example of Magna Carta’s continued relevance than an anecdote relayed by Professor Jordan. In 1989, after the Tiananmen Square Massacre in Beijing, where protesters demanded government accountability, freedom of the press and freedom of speech from Chinese leaders, many Chinese professors, who had participated in the protests, had to escape the country. The Chinese government used force to stop the demonstrations and conducted widespread arrests of protestors and supporters. Some of those demonstrators found refuge at Princeton University, Professor Jordan revealed.

“When they arrived, one of the first things they asked was whether a professor on campus would talk to them about Magna Carta, which had been one of the inspirations for their movement,” Professor Jordan says. “I had the great honor of being that professor, and as a result, as a then young scholar, I saw clearly how a document as old as the Great Charter of Liberties still spoke to the hearts of men and women seeking freedom in the present.” ■

Single-Sex Classrooms *continued from page 5<*

executive director of the National Association for Single Sex Public Education, who also develops single-sex educational training programs. According to the ACLU, Dr. Sax contends that boys and girls learn differently; that girls do badly under stress, so they should not have time limits on tests, and that boys who prefer reading to contact sports and don't have many close male friends should be disciplined and made to participate in sports.

Many scientists have publicly disputed Dr. Sax's research. In fact, an American Psychological Association study found the benefits of single-sex education were exaggerated. After analyzing 55 years of data involving 1.6 million students in 21 countries, as well as a separate analysis of the United States, the association found learning differences between the sexes were due to society and the gender biases of teachers.

The research behind the advantages or disadvantages of single-gender classes, however, is anything but settled. The Higher Education Research Institute reports on a UCLA study which showed, "Female graduates of single-sex high schools demonstrate stronger academic orientations than their coeducational counterparts across a number of different categories, including higher levels of academic engagement, SAT scores, and confidence in mathematical ability and computer skills."

Rebecca Bigler, a psychology professor at the University of Texas, analyzed the test scores of a successful all-girls school in the state for a 2011 study "The Efficacy of Single-Sex Education: Testing for Selection and Peer Quality Effects." Professor Bigler told Buzz Feed the study concluded "it is overall peer quality, rather than the gender composition of the schools, that explains single-sex school students' outperformance of coeducational school students." In other words, these students would have performed well no matter the learning environment.

"Increasing stereotyping is not going to increase

academic performance. When you have a problem with sexism you don't remove the sex. You remove the 'ism,'" Professor Bigler told Buzz Feed. "It takes an effort to change a culture and make respectful, supportive relationships, but women have to learn to talk in front of men and men have to learn to support their colleagues."

Belinda Parmar, founder of Little Miss Geek, a campaign based in England that promotes young female tech pioneers, is a supporter of single-sex classrooms. In an opinion piece for *The Guardian*, Parmar wrote, "The last thing a self-conscious 13-year-old girl needs is a biased view of the world... The girls-school students are simply better off...they are free to choose to study what they want without anybody compelling them to conform to traditional roles."

Parmar does, however, refer to the segregation of the sexes as a "quick fix" and says more effort needs to be made to eliminate gender bias in co-educational schools. "Girls will only be able to get a fair chance in life when the boys they study alongside see them as equals, and we're not there yet."

Probably not coming to a classroom near you

Regardless of the differing findings, at this point, it seems unlikely New Jersey schools will move toward single-sex education. Although the New Jersey Department of Education (DOE) has considered drafting policy changes that would allow single-sex programs, in August 2013 the ACLU of New Jersey submitted a letter of protest to the DOE. So far, no action has been taken to follow through on the proposal.

Presently, New Jersey's regulations "prohibit school districts from offering any classes separately based on a list of categories, including gender," says Rubin. "From what I can gather from discussions with my school district clients, there also does not appear to be much interest in moving in that direction." ■

Glossary

abolitionist — someone who believes in abolishing slavery. **clemency** — leniency or mercy. **codify** — organize as laws. **discovery** — a legal term meaning the acquisition of knowledge in a case. **dissent** — to disagree with the majority. **due process** — legal safeguards that a citizen may claim if a state or court makes a decision that could affect any right of that citizen. **embargo** — the stoppage of commerce by a government. **jurisprudence** — the philosophy of law. **monarchy** — a government ruled by a monarch (king or queen). **repealed** — revoked. A law that is repealed has been withdrawn or canceled and is no longer a law. **statute** — legislation that has been signed into law.

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younger age," Senator McCaskill said in a press statement.

"Many students are leaving high school without learning about these crimes that disproportionately impact young people," Senator Kaine added. "With the alarming statistics on the prevalence of sexual assault on college campuses and in communities across the country, secondary schools should play a role in promoting safe relationship behavior and teaching students about sexual assault and dating violence," the senator said.

At press time, the legislation had been assigned to a congressional committee for review. ■

