

## **Verba volant, scripta manent**

**Words may be forgotten, but that which is written down becomes a document that everybody can read and refer to when needed. In the lengthy process of the definition of norms that man has set down for himself in the course of history, written paper goes well beyond the memory of all individuals and has helped to diffuse and perfect the fundamental laws of civil coexistence.**

Nico Zardo

Agreement on important decisions that interest several individual persons, groups of people or nations is sanctioned with a handshake, a vote or the signature of an “official” document written on a piece of paper. To that piece of paper is entrusted the task of bearing witness to the behavioral intentions of two persons or of millions of people. History teaches us that that “document” is often the final result of a long journey during which differences in opinions or mutual understandings, harsh events such as armed conflicts, commercial interests, issues of geographical borders – but very often also issues regarding thought – have been analyzed and debated.

Healthy confrontation between the parties that have to come to an agreement is never easy; it requires a willingness to understand others, the availability to sacrifice something that belongs to us for the common good. The indispensable basis for a negotiation is the recognition of equal dignity between the parts, the correct analysis of the facts and reasons for the contention, the consideration of previous conventions that often constitute the basis on which to build a mutually agreed future.

**EVERY DOCUMENT OF AGREEMENT IS BASED ON THE PREVIOUS ONE**, from which it draws logical strength and historical substance. The written word in this case summarizes and represents the rules for civil coexistence, the obligations – in short, the rights and responsibilities to which people must adhere. Constitutional acts of western democracies originate from common documents, the most important being: the Magna Charta Libertatum (1215), the Constitution of the United States (1787), the Declaration of the Rights of Man and of the Citizen (1789) elaborated in the course of the French Revolution, and the Universal Declaration of Human Rights (1948).

The Magna Charta is a document written in Latin containing the concessions that King John “Lackland” of England was forced to make on June 15, 1215 to the feudatories of his kingdom. The dispute was born because the English monarch, wanting to purchase the territories that belonged to his family – the Plantagenets – that were located in French territory, declared war on Philip II, King of France. To finance the operation, he imposed high taxes on his barons, who publicly denounced the arbitrariness of the operation. Following the negative outcome of the battle of Bouvines, King John lost the war, the barons rebelled against him and subordinated the renewal of obedience to their sovereign to a series of concessions, which make up the contents of the Magna Charta.

In the document, a copy of which can be found in the cathedral of Salisbury, are reported some concessions (libertates) that limit the sovereign’s absolute power. Among the most important: the prohibition to impose new taxes to the vassals without the approval of the commune consilium regni council, an organ made up of representatives of counts, barons and the ecclesiastical hierarchy; guarantees that free men could not be imprisoned without a regular trial, in which the punishment had to be proportional to the crime; the abolition of the king’s absolute dominion on forests and of the relative fines for transgressors; the concession of free circulation to merchants coming from countries not at war with the king; the standardization of the measures used in commerce for the sale of wine, beer and wheat; the institution of a committee of barons whose task was to ensure the respect of the commitments undertaken by signing the Charta.

The Magna Charta was promulgated in its definitive form in 1216 by Henry III (who succeeded John Lackland) and was modified repeatedly in the subsequent years.

The principles of personal freedom remained inapplicable until approval by Charles I Stuart of the Petition of Right in 1628. Following this document, the principle of “Habeas Corpus” was developed, that sanctions the illegitimacy of all types of detention that are not consequent to a judgment or to a motivated accusation (Habeas Corpus Act, 1679).

**THE WIND OF HISTORY WILL HAVE TO BLOW UNTIL THE WAR FOR INDEPENDENCE OF THE AMERICAN COLONIES FROM THE ENGLISH CROWN**, to find new important recognitions of freedom of the individual, embodied in the Declaration of Independence of the United States of America, ratified in Philadelphia on July 4th, 1776 and then in their Constitution

of 1787. Since the ties that bound the thirteen colonies to the English crown no longer existed, a void in the reference authorities was created. This void was filled with the principles of the Enlightenment that were gaining ground in those years. With the constitution, which came into effect in 1789, the United States establish that political authority and government authority belong to "We the people", who exercise this right through representatives.

The structure of the government establishes three branches of power: executive, legislative and judiciary. Through reciprocal control, they guarantee a balance in the management of all that is of public interest.

It is true that "scripta manent", but even the best of laws can stand improvement. For this reason, in 1791, amendments were added to the American Constitution on seventeen occasions: the first ten constitute the Human Rights Bill and establish the fundamental guarantees of each citizen.

**ON JULY 14TH**, 1789, in the same year that the United States was adopting their constitution, in France, following the Revolution, the National Constituent Assembly empowered a committee to draw up the Declaration of the Rights of Man and of the Citizen. The document, based on a text by the Marquis de La Fayette, was discussed during an Assembly at the end of August, underwritten by King Louis XVI on October 5th and added as preamble in the Constitution Act of 1791. The principles of the Declaration are destined to deeply influence the course of history of the West. It is stated that all men are created equal and that democratic sovereignty resides in the nation (differently from before, when it was stated that sovereigns reign through ... divine right), that no one can be tortured or induced to slavery, that the law must be the same for all, that no one can be arbitrarily arrested, detained or exiled, and it establishes the presumption of innocence of the accused; it establishes freedom of opinion, of expression and of religion; it states that everyone is obliged to contribute to public expenses according to the contribution capacity of the individual (even the clergy, which was previously exempt).

**TODAY, IT MAY WELL BE CONSIDERED SOMETHING INCONCEIVABLE**, but in the American Constitution as well as in the French Constitution, when speaking about equality among all "men", women were not included. The right to vote – as recognition of equal civil dignity of women – will be acknowledged to women in England in 1918, in the United States in 1920 (XIX amendment), in France and Italy in 1945, after strenuous feminist battles.

But despite the flaunted principles of equality, slavery still continued to constitute an undisturbed pillar of the economy of western nations. The United States formally abolished slavery in 1865 with the XIII amendment; the League of Nations, born after the First World War to favor world peace, fought energetically and definitively outlawed slavery through a special deliberation in 1926. Today, the United Nations estimate that 2.7 million people are still victims of slave trade in the world, of which 80% is comprised of women and children.

**AND IT IS ONLY FITTING THAT, ON DECEMBER 10TH, 1948, THE UN PROMOTES THE UNIVERSAL DECLARATION OF HUMAN RIGHTS.** The document, born in the wake of the strong emotions aroused following the atrocities committed during WWII, collects together the fundamental principles of equality among all human beings expressed in the Declaration of Independence of the United States, in the Declaration of the Rights of Man and of the Citizen drawn up during the French Revolution and in the subsequent enrichments useful for defining a common base for peaceful coexistence mutually shared by all Member States. In Paris, during her presentation of the First Article of the Declaration of Human Rights, Eleanor Roosevelt, president of the committee that prepared the document, reads: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." The Declaration has become the basis of the constitutional acts of many nations and an important reference in the definition of the Charter of Fundamental Rights of the European Union which, in 2004, was merged into the European Constitution.

Theory teaches us that it is not sufficient to write a good law in order to guarantee once and for all respectful behavior concerning other people's rights, but without an initial written accord that everyone can read, discuss, modify if necessary, it would not be possible to state or improve the values of civil coexistence. •