

## Constitutional reform: New Labour's Old Hat!

*Premier Tony Blair's plan to overhaul the constitution will fail to modernise Britain unless Parliament confronts the challenge of the nation's exploitative laws on property rights and taxation,*  
warns RONALD BANKS

THE WORD 'democracy' has always been overused by the Labour Party, often giving it the meaning of the rights of the majority, even though transitory, over any kind of minority. It is a word they have shouted, never gently, from the roof tops.

And yet, they never looked closely enough at the values democracy served. "We have a majority," the crowd would say. "We can do anything we like!" With that said, freedom often went out of the window.

'New' Labour does not seem to have learned any lessons from their past. They are putting their trust, again, in democracy, with little attempt to think the whole thing through. A cursory glance at their plans would demonstrate that an Assembly for Wales, a Parliament for Scotland, and a Bill of Rights based on the European Convention on Human Rights will give the people nothing, except what they think they want. Their plans lack real substance!

Under present proposals, the people will receive very little from the additional assembly or parliament, except the burden of yet another tier of government, with little power to effect any real changes for those people. If a parliament is given the power to impose taxation, the people are doubly burdened with the costs of the new parliament and new additional taxes. If an assembly or parliament is not given taxation

powers, then little of substance will have been granted, except that local people would be dealing with their own affairs, just like any local authority in the United Kingdom. Even worse, it would be like a vast county council administering what Westminster lays down. The exercise would be expensive and worthless! Either the people of England will be paying for all this extra administration, which the Government will keep quiet about, or the costs will come out of the sum granted to the assembly or parliament, which means that other services will suffer.

The people would soon become disenchanted and either want to return to the old system or, more likely, demand more control over their own affairs. This latter would soon lead to demands for complete independence. The rationale would be that, within the European Union, independence, even for small countries, is feasible, quoting Luxembourg as an example.

All the above serves just one purpose, the appearance of a people handling their own affairs within the framework of the UK. Unfortunately, that very framework denies those people the right to give their citizens the values that would revolutionise their country. Before embarking on a spurious exercise to extend democracy, 'New' Labour should attend to the factors necessary for a proper Bill of

Rights upon which the new parliament could base its policies for the benefit of citizens, without extra taxation, but with a real hope that things will change for the better.

THE BILL OF RIGHTS is fundamental to nearly every area of policy. But, if Labour's proposed Bill just follows the European Convention in its thinking, or the Universal Declaration by the United Nations, then it will fail to achieve anything new and of substance.

A Bill of Rights will probably necessitate a Court of Human Rights, to which citizens can go when they feel their rights have been violated. A perfectly respectable and necessary institution, it should be able to enforce the provisions contained in the Bill of Rights.

If the American Declaration is used in any way, such as the 'Right to Life, Liberty and the pursuit of Happiness', the British people will be able to go to court to gain enforcement of the right to their happiness. One may wonder who decides what constitutes 'happiness'.

If the Universal Declaration is copied in any way, such as '(All human beings) are endowed with reason and conscience and should act towards one another in a spirit of brotherhood', British citizens will be able to go to court to complain of un-neighbourly behaviour. Except in the case of 'nuisance', which has a legal

definition, one may wonder who will define 'unneighbourly behaviour', and what will the enforcement be, if proved.

Previous attempts to articulate Human Rights, including those of the Universal Declaration and the European Convention, have fallen far short of the mark. The main reason is the total inability of the drafters to define their terms, and their confusing of Rights and Duties or Responsibilities. It would make more sense to call any legislation a 'Bill of Rights and Duties', thus making it plain that rights involve responsibilities. The resulting Bill could then be properly divided between the two sections, which would give clarity to the whole process, instead of a series of Articles where rights and duties sit side by side in a confusing array.

Two words, in particular, have not been defined - 'Rights' and 'Property'. The concept of 'natural rights' is not included at all, 'natural rights' being applicable to all persons at any time or place. This should have been the starting point of any declaration on human rights, with a meticulously identified source of rights. Instead, previous drafters have asserted some elements of what can be called 'natural rights', such as the proclamation that "All human beings are born free and equal in dignity and rights", and that "Everyone has the right to life, liberty and security of person". They then continue, not with the administrative and practical measures that need to be taken to ensure the safeguarding of the two proclamations, but with a whole host of social security 'rights', *which require that others pay for them*. This aspect of social care would sit better in a separate section on duties and responsibilities, adding that the economic state of the country would need to determine the level of social care that was possible, and not that every citizen, anywhere in the world, has the 'right' to a specific level of social care.

**R**IGHTS are not created by government. Human rights, natural rights, predate all government. When the source of rights has been identified, and the rights

themselves acknowledged, it should be incumbent on government to formalise these rights into the constitution, with a Court of Human Rights to which citizens can appeal, without hindrance, to gain redress for any breach of their rights.

In any Bill of Rights, the two proclamations quoted above are a good start: "Everyone has the right to life, liberty and security of person", and "All human beings are born free and equal in dignity and rights". Many practical measures are then required to ensure that these rights are guaranteed to all citizens. Many of these measures are already in place, some pertaining to the development of our common law and custom, and others through legislation. Not all are perfect, but *the basic perception is that we live in a free society, and little needs to be done to maintain that freedom. Nothing, however, is further from the truth!*

Before continuing this line of reasoning, however, there is need to examine another important term which is not defined with any accuracy in the previous attempts to proclaim human rights. In both the Declaration and the Convention, human beings are given the right to 'property', but 'property' is not defined. The key differentiation in defining 'property' is that of a difference in kind between what a man produces and what nature provides. In a speech in the House of Commons in 1909, Winston Churchill eloquently stated an obvious truth in that "land [is] in a wholly different category from other classes of property. The mere obvious physical distinction between land, which is a vital necessity of every human being and which at the same time is strictly limited in extent, and other property is in itself sufficient to justify a clear differentiation in its treatment."

What Winston Churchill calls 'other property' is the basis for real property rights, the product of man, what a person produces or creates, using skill, ingenuity, effort and enterprise. Of course, it takes all those skills to catch, transport and sell slaves, but people are not an appropriate item of property. The same reasoning applies to 'land and natural resources'. They are not an appropriate item of property. They are

what nature provides for man's survival and growth, without access to which man does not survive.

It is the lack of recognition of this fact that makes the Declaration and Convention so inadequate in their proclamations about the freedom and dignity of human beings. Without access to 'land and natural resources', or, at least, with access only on the terms of others who have no natural right to set such terms, a human being is *not* 'free in dignity and rights'.

And yet, both the Declaration and Convention are confronted with poverty, and they attempt to deal with it, not by making a proclamation about remedying the causes and ensuring that every human being has access to 'land and natural resources', but by granting a welter of rights of welfare provision. These range from unemployment benefits, social security payments, free health care to free education. Their treatment of these aspects of human rights is one to which every land monopolist could agree with some relish. Rights of access to 'land and natural resources' have been left alone, forgotten, despite all the evidence that the drafters would have had about the vital importance of land throughout the world at the time and throughout history.

In an ironic twist, the site for the United Nations building was a donation, but the speculators, realising the growing importance of the United Nations and its activities, rushed to buy up the surrounding area at cheap prices and made a killing when values necessarily rose. Those who drafted the Declaration must have known the facts about the importance of 'land and natural resources', but they closed their eyes and set the world on a course towards an ever-expanding welfare state, high government spending and high taxes. They abdicated their responsibilities.

Had they identified this major cause of poverty and set about an examination of a remedy, they would have been confronted with a host of remedial measures. To have proclaimed the rights of human beings to access to 'land and natural resources' would have been an achievement, but to have chosen an

inappropriate remedy, which did not address the problem of the 'monopoly' of land, would have vitiated the purpose of any such proclamation. If one accepts the most fundamental natural right of a human being as that of a 'Right to Life and Liberty', then there must be a corollary that that 'Life' has to have the means of sustaining that 'Life', thus, access to 'land and natural resources'.

**I**N A MODERN economy, there is an elegant solution to this problem of access to land and natural resources.

Land and natural resources have a value or price, some quite low and others reaching what we might term obscene proportions. Sharing the land physically and equally would be quite impossible, but sharing the *value* is a different matter. The value of land and natural resources is a proper target in a modern economy for this basic human right of having access to those resources for the purpose for sustaining life. Without that basic right, a human being can be in slavery, as history demonstrates. With widespread ownership of land in the modern world, the canker of land monopoly is more difficult to identify, but it is still there, and any reform must address this fact so that a meaningful 'Bill of Rights' properly grants all citizens an equal right of access to land and natural resources.

Land value can be expressed in two main ways - a capital value or price, and an annual value or rent. Adequately to fulfil a citizen's access to land and natural resources, it is the annual value or rent which lends itself to the elegant solution.

The market knows precisely the value and price of a location. It recognises Public Value! Public value gives value to locations, and this stems from all the public services provided and those private ones that feed off each other because of the needs of a densely packed population. In the economic sphere, we are all dwarfs on the backs of giants, who turn out to be many, many dwarfs.

Consider an estate agent's 'blurb' as an example of public recognition of public value :

"Ideally located near to major railway station with easy access to London and other major centres of population; adjacent to good schools high in the schools league tables and excellent nursery school facilities; thriving local community with good business services and cultural amenities; two supermarkets and thriving main shopping street with other various local shops; excellent roads and communications; well-kept local parks and sports amenities; bounded on one side by 'green belt'; low council tax from efficient local authority; local theatre funded by local council and local business sponsorship; cinemas, bingo and concert hall; local hospital and excellent general practitioners."

The above illustrates the sources of public value. Not only is it a reflection of the publicly provided services, like roads, schools, public car parks, leisure centres and sports amenities, health services, etc., but the communal and private activities of a whole community! The first source of this public value, which is communal and yet created by numerous individuals, is the size of the population, the people having chosen to live and work in a certain area. Add to this the general improvement in such things as the arts, the sciences, methods of production, etc., and the community thrives, giving even more value to the locations within that community.

Public value arises from individual and communal activity and ingenuity, and publicly provided services. This value, if collected on an annual basis, is the way in which every citizen can have real access to 'land and natural resources'. This access is achieved without a physical share-out of land, and leaving those who own or rent a location with security of tenure, *provided that they pay the annual land rent*. Under this system, if all 'public value' is collected annually and the amount collected is used to reduce general taxation by that amount, then everyone shares in the value of all locations, even the very best and most valuable ones.

In treating land rent as public revenue, not only is the Right of access to land and natural resources

guaranteed, but, with a real reduction of taxation on private value and endeavour, the economy would become more dynamic, economic growth would be enhanced, *and* location values would rise once more, thus giving another opportunity for the collection of more 'land rent' and a concomitant reduction in general taxation. The 'dynamics' of this continuing process should not be lost on the reader.

One further thing also gets accomplished. It is obvious, from what is outlined above, that private ownership of land rent is not compatible with a citizen's right of access to land and natural resources. When the 30 economists, including 4 Nobel prize winners, wrote to the Russian President in 1991, they urged the Russians not to allow the flow of income from the rent of land to be appropriated by the private sector. Instead, they urged that that flow of income be used to fund public expenditure. Where there already exists a system in which that flow of income *is* in private hands, which is the case in most of the western world, it would appear obvious that that system be changed to one where it can fund public expenditure in the way suggested for Russia. If a policy is considered right for a country that is starting a market economy, then there is no reason why an established market economy cannot be changed. *It should be changed, if justice and the Rights of the people are to be guaranteed*. The policy advocated here accomplishes the abolition of the twin evils of land monopoly and the private ownership of land rent.

The one possibility that could present itself in any devolution package, is the freedom of the people of Scotland, Wales and the regions of England to be able to choose, not just to levy additional taxation, but to decide the *way* in which they fund public expenditure. This would provide an interesting experiment in fiscal reform for the United Kingdom. One such devolved assembly or parliament could choose the policy of collecting land rent as the prime source of public revenue. Comparisons could be made with other regions, operating under current policies, from which significant lessons could be learnt.