

Towards the Moral State

Constitutional reform & the wrongs of 'human rights'

Ron Banks

GOVERNMENTS, by their choice of tax tools, are now the prime agents of abuse of people's natural rights, claims Ronald Banks, and new attempts to enshrine human rights in law do not enhance our liberties.

On October 2, 2000, Britain's New Labour Government enacted into law a Bill of Rights. It also incorporated into UK law the European Convention on Human Rights, which was drafted by the Home Office after the Second World War and adopted by the Council of Europe in 1950. It is, therefore, not part of a dark European plot to foist alien ideas onto Britain.

But this Bill and the Convention suffer from the weakness of previous attempts at articulating human rights - including that by the United Nations - which confuse rights and duties. Natural rights, which apply to all people at any time and place, are mentioned hardly at all.

The constitutional documents, by their omissions, grant supreme power to the state. In the absence of provisions that would secure the freedom of people to protect their liberties by meeting their material needs independently of the goodwill of governments, the all-powerful state acquires the authority to keep people alive, and therefore dependent on them.

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THE UN Universal Declaration of Human Rights is meant to be universal in its application, but it misses the mark. The errors are legion. It is well meaning but misguided, and, as *The Church Times* stated at the time of its adoption: "It makes claims and enunciates dogmas which are by no means self-evident to the human mind or human conscience. What is the intellectual basis for its assertions?"¹

The paradox of the United Nations' rights is that many of them infringe people's freedom.

Welfare provisions, ranging from unemployment through health, education, social security and fair pay, might be part of a government's policy, a part of one's civic duty to fellow citizens, but they are not universal rights. They are not applicable to every society throughout time and space. They involve compulsion and, therefore, contravene the valid universal rights mentioned in the Declaration, notably those concerning freedom and equality, security of person, privacy and ownership of property without fear of confiscation.

The thinking of the drafters of the Declaration would have been clearer if they had defined rights and property and had meticulously identified the source of rights.

They started well, declaring in Article 1: "*All human beings are born free and equal in dignity and rights*".

This is followed by a duty, not a right: "*They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood*". A valid right, perhaps, could have been worded: "*All human beings have a right to expect that they be treated in a spirit of brotherhood*".

Article 3 proclaims that "*Everyone has the right to life, liberty and security of person*". Later Articles deal with slavery, torture, recognition before the law, arbitrary arrest, presumption of innocence, arbitrary interference with privacy, freedom of movement, nationality, marriage, ownership of property, freedom of thought and religion, freedom of opinion and expression, and the right to work. All of the foregoing is dealt with in a way consistent with the opening Articles 1 and 3, that deal with freedom, the right to life and security of the person. It is a platform on which a cogent and consistent Declaration of Human Rights could have been built.

Instead, by a process of osmosis, freedom becomes "freedoms", and rights are transformed into the duty of others to provide a wide range of social security provisions. By ignoring the element of compulsion in a government's tax policies, these rights bewilder with a mass of confusions and inconsistencies.

For all practical purposes, the drafters of the UN Declaration might just as well have settled for one article, stating: "Everyone has the right to

expect that everyone else shall pay for his and her access to public and social services”.

But rights cannot be created by government; human rights predate all forms of government. These are the primary rights, which needed to be identified and acknowledged, making it transparent that all governments ought to enshrine these “natural” rights in their laws and constitutions. As a reminder of the supremacy of natural law over man-made law, it is worth recalling that King Canute, in demonstrating to his subjects his complete inability to turn back the tide, sought to show that, as monarch, his task was to identify and comply with natural law.

Poverty remains an abiding problem DESPITE the talk of freedom, dignity and security of person, the Declaration’s emphasis on social security and welfare is an explicit recognition that, even if people had rights to freedom, *poverty was regarded as an endemic problem.*

The Articles on welfare are attempts to redress injustices. The first step would have been to identify and analyse those injustices. This would have provided the Declaration with its cutting edge. In principle, identifying the primary injustice would not have been an impractical task. The conceptual tools were provided by philosophers during the Age of Enlightenment, when it was argued that Nature gives life, so the right to life is natural. Man must work for personal survival, so he has a right to work and a right to his personal powers and production; and nature provides for this right in the natural resources on which mankind relies.

One of the earliest philosophers to set down such a marker was John Locke. In his *Second Treatise of Government*, he put the case thus cogently: “Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this, nobody has any right to but himself. The labour of his body and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property”.² Locke’s famous phrase – “Life, Liberty and Estate” – was meant to establish the core of a Constitution in which a person’s right to life, freedom and access to natural resources was to be enshrined. The early Americans, in drafting *their* Constitution, signally avoided the right of a person to access land and natural resources. Did they think that “pursuit of happiness” was more important?

The Declaration acknowledges that human beings have the right to property, but it fails to define this concept. And yet, the primary distinction between what we produce and what is provided by nature is of fundamental importance. The implications for this for modern society have been within the grasp of democratic politicians. A crystal clear

statement was articulated by Winston S. Churchill in the House of Commons in May 1909:

The immemorial custom of nearly every modern State, the mature conclusions of many of the greatest thinkers, have placed the tenure, transfer, and obligations of land 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, and in the view taken by the State of the conditions which should govern the tenure of land from that which should regulate traffic in other forms of property.³

English law recognises this differentiation in the terms “freehold” and “real (royal) estate.” There are no landowners in the United Kingdom, only landholders. The monarch, in medieval times, charged rent to his Lords for the privilege of holding land, and defrayed the expenses of the state out of this rent. “Bad” King John relied on this rent and other, some quite peculiar, taxes and fines on the better off for public revenue. He only instituted a general taxation on his poorer people on four occasions during his reign,⁴ despite the contrary perceptions so romantically idealised in such tales as the adventures of Robin Hood.

No one would argue that anyone has the right to charge another for enjoyment of oxygen in the air, and yet in most societies other natural resources, such as land, are only available on payment of a rent, or its capitalised price, to others. A price may be charged for a product or service rendered which is the result of someone's enterprise. But what service does landownership render that it deserves to be rewarded with a price?

Winston Churchill, in a speech delivered in Edinburgh later in that same May, 1909, noted the anomaly:

The greater the population around the land, the greater the injury which they have sustained by its protracted denial; the more inconvenience which has been caused to everybody, the more serious the loss in economic strength and activity, the larger will be the profit of the landlord when the sale is finally accomplished ... The unearned increment in land is reaped by the land monopolist in exact proportion, not to the service, but to the disservice done.⁵

Churchill also stated a truth, the obvious nature of which had escaped the architects of the Declaration of Human Rights: “It is quite true that land monopoly is not the only monopoly which exists, but it is by far the greatest of monopolies – it is a perpetual monopoly, and it is the mother of all other forms of monopoly. It is quite true that unearned increments in land are not the only form of unearned or undeserved profit which individuals are able to secure; but it is the principal form of unearned increment which is derived from processes which are not merely *not* beneficial, but which are positively detrimental to the general public”.⁵

Human beings have the right to life, which includes the right to work, and these rights can only be satisfied by having access to natural resources – the land. Without that access, life is not possible unless access is granted by a system that monopolises the land and offers access under the harshest of terms. When slaves in America were freed in the 1860s, the framers of the Declaration of Human Rights would have cheered their freedom, but the slaves discovered that there was no equal access to land for them. They were relegated to working for their old masters under similar or even worse terms; or they were obliged to move to the industrialised areas of the North, where their numbers swelled an already large labour force and wages were forced down to subsistence levels. Just as British industrialists benefited from the labour force that was dispossessed of its traditional access to land, and forced to migrate to the towns, so did the American industrialists benefit from the act of reform that they forced on the Southern States.

**The labour
market &
land rights**

THE right of access to land, the most basic of rights, is absent from the Declaration. It was a Declaration of Human Rights that any land monopolist could endorse. It is as if the draftsmen were afraid of stepping on important toes. They should have been aware of a host of situations throughout history in which, deprived of access to land, people were deprived of their right to live. The evidence was popularly available. A few random examples will emphasise the point.

- About 98% of the cultivable land in Costa Rica was owned by the United Fruit Company of America.
- The British parliament received a report, the Delamere Report, 1912, and later passed an Act, whereby the Kikuyu tribe in Kenya, being able to support themselves comfortably using barter, were dispossessed of 25% of their land *and* made to pay a poll tax in cash. This forced members of the tribe to migrate and work for labour-short white farmers.
- An official memorandum was handed to the British Government by Gibbon Wakefield, which revealed that the indentured labourers who went to Swan River (now Perth, Western Australia) in the 1830s fled their master (Sir Thomas Peel) to squat on unclaimed land. Gibbon, knowing that any new labour would also flee and find free land, petitioned the British Government to send convicts as labour, as they could be chained.
- A well-known Danish explorer, Carl Esklund, recalled that British and American Quakers had gone to Pifa, a village in India, just after the second world war to bring medicine, education and new methods of production to the poverty-stricken villagers. Within a short time, the villagers returned to the old ways because the landlords just kept

putting up their rents as production increased. The villagers may have been ignorant but they were not stupid.

This anecdotal evidence was systematised by economists and social reformers during the 19th century, from the American journalist Henry George – on the right of the political spectrum – to Karl Marx, the German materialist on the extreme left of the ideological divide. The objective facts were a matter of public record: human rights were being systematically abused, and attempts to reassert those natural rights could not succeed without first laying down the rules for restitution of everyone's equal right of access to the resources of nature.

SOME nations have attempted to grant access by distributing land to some citizens. The parcels were often too small to allow for a peasant's independence; many of them quickly sold their acres to someone who would amalgamate small properties and become the local landowner. The peasants, with their proceeds soon spent, had to work for the local landlord again at subsistence wages.

Tenure as a tool of exploitation

Other nations have attempted to resolve the social contradictions that are generated by the modern form of land tenure by methods that ranged from shooting the landlords, government purchase and redistribution, the freezing of land prices, and various fiscal devices. Not one of these "solutions" has provided a sustainable model of social and economic development.

This has been fatal for the progress of humanity, for most of the world's population is dependent on agriculture. The draftsmen of the UN and European declarations must surely have been aware of the struggle for control of land in agrarian societies? The inequalities in the distribution of land was a much publicised source of violence. The UN's concerns included equality; freedom; dignity; and then, in other sections of the Declaration, poverty, malnutrition and employment. And yet, *none of these objectives could be achieved without redefining people's relationship with the land, a relationship that mediates the nature of the associations between people.* As Erik Eckholm stated so clearly:⁶

Throughout history, patterns of land ownership have shaped patterns of human relations in nearly all societies...And invariably, changing the relationship of people to the land has meant changing the relationship of people to one another – the stuff of political struggles and sometimes of wars or revolutions.⁵

Eckholm further notes that "Certain tenancy practices not only suppress humans but also suppress technical innovation". This is the point made above concerning the Indian town of Pifa, where American and British Quakers made enormous efforts to improve the condition of the inhabitants by introducing new methods of agricultural production. It was

all to little avail, because the landlords took all the increased production (the net income, or rent) for themselves. Dispirited, the tenants abandoned the new technology. Other examples are cited by Eckholm from Asia. In Bangladesh, the tenancy practices include the payment to the landlord of at least 50% of the produce, sometimes with an additional cash payment. In Bihar, India, in a study by local authorities in 1969, he cites the following checklist of "socially and economically harmful tenancy practices".

The landowners do not allow the sharecroppers to cultivate the same land from year to year for fear that they may lay claim over the land ... Though according to the law the landowner is entitled to one-fourth of the produce only, in actual practice, the produce is divided half and half between the landowner and the sharecropper ... All the sharecroppers who have been examined have invariably stated that the insecurity of their tenure is the biggest handicap debarring them from adopting the new technology ... The study reveals that barely 5% of the sharecroppers have used high yielding varieties of seeds, fertilisers, and insecticides ... As the sharecroppers are not recorded and their legal rights over the land cultivated by them are not recognised by the landowners they do not get inputs or loans.

At the very least, the UN Declaration should have recognised that secure tenancy conditions were a vital element in any attempt to eradicate world poverty – not just for fairness and equity but because a secure tenancy allows the tenant to invest in more advanced technology so that production can be increased in a way that might benefit himself and society in general.

A project in need of a champion IN MOST of the world, but especially in the poorer countries, farmland is just "land", with hardly any improvements on it. And yet landowners are able to claim possession of it and take a large proportion of the produce earned by the tenant farmers. So unsure of their land rights were these owners that, in Bihar as elsewhere, they would not allow the sharecroppers to farm the same plot of land from year to year for fear that the sharecroppers would seek to establish claims to the land. The loss of productivity that these tenurial practices induced was, and is, a major cause of poverty. Yet this aspect of land tenure could not be solved by the provisions in the Universal Declaration.

There is an *implied* right to own land under Article 17, where it is stated that "Everyone has the right to own property ... " But this does not guarantee everyone's equal right of access to land. Consequently, the UN Declaration, by its ambiguities and omissions, consolidates the institutions, laws and attitudes that undermine people's natural rights.

The need to restore people's rights to land is therefore a project waiting for a champion. Promoting this cause will not be easy, for it entails change

at some fundamental levels, both psychological and intellectual. The basic assumptions of everyday practices need to be challenged. For example, the proclivity to purchase land is pernicious. It implies the right to charge a price for access to land. It also limits the intended purchaser by making him use the capital he has accumulated, or can borrow, to acquire land. This restricts the farmer's capacity to use his capital for productive purposes. It was the recognition of this that led to a new approach to tenure when the City of Canberra, the capital of Australia, was built.⁷

There is no point in personalising landowners as bad. Their behaviour conforms to the "rules of the game". The equations are clear enough for everyone to see. In the labour market, for example: too much labour + not enough land = low wages. The problem lies not with the landowners but with the system of tenure, and, as I shall explain below, with the system of taxation. It is this system that makes the majority of the population landless and which is the fundamental cause of poverty.

So, the New Labour government's Bill of Human Rights, incorporating the European Convention on Human Rights, is doomed to failure. It does not confront the real causes of the perceived defects in our freedom, in our rights, in our ability to make our own way in life.

DOES the European Convention on Human Rights give us more hope? It is a strange document, cobbled together over the years 1950 to 1994. As stated in its preamble, it sets out "to take the first steps for the collective enforcement of *certain of the rights stated in the Universal Declaration*." No change!

**A clause
for hope in
Europe**

The same criticisms apply to this Convention as to the Universal Declaration. The bulk of the document is concerned with establishing a European Commission of Human Rights and a European Court of Human Rights, together with the operational rules and regulations.

But there is one possible route to a solution. The Convention acknowledges that the State has the right to "enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties." (First Protocol, Article 1, Paris, 20.iii.1952). Article 1 of the First Protocol gives every European nation the right to use fiscal policy to enable every citizen to have the equivalent of access to land and natural resources, without recourse to redistribution or the other ineffectual methods of what have been called "land reform".

Before exploring this elegant solution to the land problem, it is necessary to understand the nature of property rights, so that a correct system of public finance can be developed.

The various declarations on human rights affirm the right of a citizen to own property and to be free from arbitrary dispossession of that

property. The various articles on property could be agreed to by any "slave" owning society. If slaves were already part of a society's property laws, the Declaration would support the citizens' rights not to have their property appropriated. Contradictorily, however, the Universal Declaration asserts that "all human beings are born free and equal in dignity and rights", thus recognising that human beings are not an appropriate item of property.

Failure to identify the differences WHY, THEN, did the framers not make the obvious distinction between what is provided by Nature – land and natural resources – and what is crafted by the efforts, ingenuity and enterprise of people? Human effort is the key to the definition of property! Of course, human effort is needed to catch and transport slaves or acquire land, but, just as slaves are human beings and *not*, therefore, appropriate as an item of property, land and natural resources are the common inheritance of all and, therefore, are *not* appropriate as an item of property to be monopolised by the few.

The earth's natural advantages exist independently of mankind, but mankind's survival depends on access to those advantages. Any Bill of Human Rights that avoids recognising this fact, and fails to address the consequences of its opposite – private, monopolistic possession of both land and its rent – is not entitled to be called a Bill of Human Rights.

Improvements to land are a different matter. They stem from human effort, ranging from drainage systems to high-rise buildings, and are correctly described as property.

The same applies to intellectual effort, which results in the many forms of copyright. The case of patents is a possible problem. Whereas copyright stems from human effort and is unique (or ought to be), an inventor often registers a patent following processes that are also being employed by others. It is, perhaps, surprising how often several inventors are working on the same problem and reach a conclusion much about the same time. The "lucky" one just happens to get to the patent office first. The colour around this area is grey and we would admit to some doubts about the patent procedure. It is, however, a small part of property in the world and may need to be studied on an international basis to come to a conclusion that is fair to all.

From the above discussion, we can arrive at a coherent understanding of property: the right of a person to himself, to the use of his own powers, to the enjoyment of the fruits of his own labour, whether physical or intellectual, which he can destroy, use, exchange or give away.

Land and natural resources are excluded from this definition. The distinction is precise, in that land is an absolute necessity for life, is fixed

in supply and is something provided by nature for the use of *all* human beings, not to be monopolised by the few.

But how can land and natural resources be made available to all without draconian measures of appropriation and redistribution?

The proposal, in brief, is for the reduction and eventual abolition of taxation and the treatment of the rent of land as Public Revenue. At its heart is a set of principles that integrates efficiency with justice.

The Labour Party once supported these proposals, which were forcefully championed by the Liberals. The Liberals first adopted this policy during their National Conference at Manchester in 1889, after which it was placed in their famous Newcastle programme of 1891. The Labour Representation Committee co-operated with the Liberals on local councils, and by 1905 over 500 councils had pressed the Government for permission to levy their rates on land only, leaving all improvements free of taxation. At that time, the bulk of public expenditure was locally raised and administered.

Labour again supported the Liberal government in its attempts to introduce this land reform in 1907 and 1908, as well as during its inclusion in the 1909 Budget. These attempts were obstructed by the House of Lords, at that time a bastion of landlordism! A final attempt by the Liberal government, again with Labour support, very nearly succeeded in 1914, when all stages of Parliamentary procedure had been completed, the Royal signature, alone, being needed. The onset of the First World War meant that, during this state of emergency, reform bills were "put on the shelf".

Although the Liberals never again had the chance to introduce a valuation of land and "taxation" of land values, the Labour Party continued to try to implement this policy right up to the outbreak of the second World War. The first attempt was during their brief period of government in 1924. The second attempt was in the 1931 Budget. Both attempts were blocked by electoral defeat or arrangement. The Zinoviev Letter led to defeat in October 1924, and the financial crisis in 1931 leading to a coalition government dominated by the Conservatives, whose leader had sworn to eradicate this measure from the Statute Books.

Labour's final attempt was by Herbert Morrison in 1939 when, as Leader of the London County Council, he attempted to introduce a Bill into Parliament granting that Council the right to levy its rates on the value of land only. But it was considered to be a Money Bill, which only the government was allowed to bring forward, and the Bill was disallowed.

One would have thought that, after the war, Labour's huge majority would have given it the opportunity to introduce an appropriate land Bill into Parliament. But the war had brought many changes, not least inside the party. With no general election for ten years, the Party had changed from a partly Marxist base, with old Liberal elements, to one of a mainly

Marxist mentality and a belief in the power of government intervention to bring about beneficial changes for the people.

Their attempts at land policy betrayed the new thinking. Since the Second World War, Labour made three major efforts to bring about land reform, from the Town and Country Planning Act, 1947, with its disastrous Development Charges, to the efforts under Harold Wilson, including the Land Commission, 1967, with a Betterment Levy similar to the earlier Development Charges, both of which awaited action by the developer before any Levy or Charge was made. Two linked measures in 1975 and 1976, the Community Land Act and the Development Land Tax, had similar aims to the ones in 1947 and 1967.

None of the Acts had any of the consequences so much relished by Labour. They did not release more land for development, in fact it dried up, and little land value was returned to the people.⁸ All Acts were abject failures. The Labour Party had lost its understanding of economic fundamentals, especially with regard to land.

Taxation as a prime cause of inflation THE PRINCIPLES for a correct formulation of property and public finance laws and practices were adequately described in the economic literature of the great classical economists in the 18th, 19th and 20th centuries and endorsed by 30 economists, including four Nobel Prize winners, in a letter to the Russian president in 1991.⁹

The empirical evidence confirms what people know from common sense: great harm is inflicted by heavy taxation of the economy. One economist concluded that when taxation exceeded 25% of the nation's product, inflation necessarily followed, increasing sharply as the percentage rose well above 25%. This economist, Colin Clark, received confirmation of this from John Maynard Keynes, then (1944) Editor of the *Economic Journal*, during pre-publication correspondence.¹⁰

In addition to being one of the prime causes of inflation, taxation impedes production, increases poverty and depresses land values. The taxation of profits, incomes and spending depresses economic activity, penalises private enterprise and impoverishes the population. The poverty then requires greater public expenditure and, therefore, higher taxes, which result in more poverty.

Payroll taxes and other taxes on incomes directly increase unemployment.

Investment in capital is adversely affected by profits taxes while consumption, and therefore production, is harmed by spending taxes, such as VAT.

Taxation on property causes the rents, on those properties that are

taxed, to fall to a figure where the combined "rent plus taxation" figure equals the previous rent.

Taxation in general is a factor that depresses land values as a whole. The study by Drs. Nicolaus Tideman and Florenz Plassmann on "Excess Burden" outlines the theory behind this statement and offers estimates of the degree of "deadweight losses" inflicted on the G7 countries.¹¹

Taxation is harmful, but public revenue is necessary to pay for the infrastructure within the economy and for the protection and public requirements of the population. This is why we need to invoke the source that could provide public revenue without distortions to the economy.

This factor is variously described as land, location or site. Its importance for our purposes derives from its value or rent. In a market-based economy, rent represents the payment people are prepared to make to enjoy the benefits of occupying, exclusively and securely, a particular location, the benefits of which would include public services, trading position and population.

One Nobel prize-winning economist, Professor Milton Friedman, states: "In my opinion, the least bad tax is the property tax on the unimproved value of land, the Henry George argument of many, many years ago".¹²

A long time ago, the 18th Century classical economist, Adam Smith, said it very clearly, "Land is peculiarly suitable for taxation, since such a tax falls on an economic surplus and cannot be passed on to consumers in the price of goods."¹³

Cambridge economist, Alfred Marshall, the most important formulator of the neo-classical school of economics, also supported the land tax proposals in the 1909 Budget in a letter to *The Times* (November 16, 1909). "In my view it was reasonable to levy poor rates, etc, on the public value of land; that is, on 'its value as it stands after deducting for any buildings on it and any distinct improvements made during, say, the last twenty years'"¹⁴

WESTERN governments use a tax system that is based on taxing private endeavour. Whether income tax, sales taxes, social security taxes, profits or payroll taxes – they all fall on private enterprise. In addition, *the taxes paid bear no relationship to the benefits received*. They are an indiscriminate charge on private endeavour.

**When a
'tax' is not
a tax**

The payment of Rent, on the other hand, is a payment that reflects, precisely, the benefits received. It is a contradiction to speak of rent and taxation in the same terms. In the quotations above, it is important to keep in mind their approval of rent as the source of public revenue but dismiss from the mind their use of the term "tax". As the then Lord Wedgwood said, "Taxation is the wrong word for the right thing."¹⁵

Rent arises from public value, which itself arises from the growth of population and communities; their congregation around chosen locations; improvements in the arts, sciences, technology, and methods of production; economic growth and the provision of public services including roads, lighting, parks, bridges, water provision and sewerage, law and order, health and social services.

Location values are public values. Not everyone can occupy the best locations, but everyone *can* benefit equally from this public value. Rental payments should provide the revenue required for public expenditure and, in this way, every citizen shares in the value of all locations, including the very best ones, and every citizen who pays rent receives a benefit equal to his payment.

Certain taxes should be retained, for reasons of health and ecology. These taxes would include those on tobacco, alcohol and fuel.

This common right to rent satisfies the proposition that "all should have access to land and natural resources".

Western governments leave land Rent largely in private hands, enabling a relatively few people to benefit from increases in public value or rent. The gains for these few are so vast that the land market, and the financial mechanisms which complement it, is now one of the largest sectors of the economy. This fosters land speculation *and* a wide-ranging banking structure to support and finance the speculation. One outcome is the creation of boom and slump on a regular basis. Countries such as the United Kingdom, the U.S.A. and Japan, where land speculation is most intense, experience the worst of these booms and slumps.

The Organisation for Economic Co-operation and Development (OECD) studied the impact of the land market and listed the problems:

Excessively high and rising land prices are a significant concern for most of the OECD countries. They often occur in markets which have overheated concomitantly with economic success. Some of the criticisms levelled against very high land prices are the following: they impede the purchase of land for needed public purposes, especially infrastructure; they encourage urban sprawl in peripheral land where prices are lower; they lead to overly intensive use of land, resulting in negative environmental impacts; they induce mono-structures of high-rise central office buildings which crowd out residential and other land uses more sensitive to high prices; they have negative distributional effects by increasing the price of housing; and finally, they contribute to speculation and hoarding and de-stabilise land markets.¹⁶

The "cure" for these boom conditions favoured by Western governments is extremely painful for the majority of people. During the height of the boom, inflation gets out of hand and high interest rates are imposed to "squeeze" the inflation out, which reduces economic activity and produces higher unemployment. During the ensuing recession, tax

revenue is lower, which necessitates an increase in tax rates or cuts in public services (or a combination of both). This causes a deterioration in the capacity of society to meet the needs of its most vulnerable citizens.

We therefore have a clear choice. Land can be either a de-stabilising influence on the economy (if rent is retained in the private sector), producing riches for the few, poverty for many. Or, land rent can provide the opportunity for sustainable growth.

THE European Union at its Nice Summit in December 2000 had the opportunity to once again lay out the principles of human rights to encompass those which had previously been omitted. The aim was to codify the main ingredients of a Charter of Fundamental Rights. With that one word, *fundamental*, it might be expected that, at last, some recognition would be granted to every person's birthright of access to land and natural resources.

**Europe
flunks the
test**

The need for a root-and-branch review of constitutional rights stems from the determination of some European leaders, such as Belgium Prime Minister Guy Verhofstadt, to introduce a single system of taxation across the Union. The Federalists in Europe argue that a Euro-tax policy would realistically reflect the integrationist approach, which is certain to influence preparations for the next EU treaty review in 2004. So the Charter adopted in Nice needs to be read in terms of the implications in the light of the possible loss of national sovereignty in the near future.

The Preamble stated that "... it is necessary to strengthen the protection of fundamental rights in the light of changes in society, social progress and scientific and technological developments by making those rights more visible in a Charter". Although there are restatements of previous attempts in simple terms, such as the right to life, etc, the main focus was on recent scientific developments that include "cloning" and "eugenics", i.e. test-tube strategies for the selection of offspring. Absent was the specification of natural rights of newborn babies, whose existence will remain artificially constricted by the absence of a direct and principled access to the resources of nature.

The Charter fails to draw the principled distinction between land and capital; fails to protect people's inalienable rights to the property they create; fails to enshrine in law the community property in the resources of nature; article 17, on the "right to property", fails to define "the public interest" which enables the state to deprive people of their possessions. This makes a mockery of the right to property, for the tax system is an unchecked medium through which governments may appropriate as much of people's income and wealth as they deem to be "in the public interest".

The only way to read the Charter is as a prospectus of "rights" for people who have been denied their fundamental birthright to an equal

share of the resources of nature, without which all the other so-called rights are largely empty notions. The Charter, as with all the modern constitutions, is just a shopping list of the needs of vulnerable people who have not yet succeeded in retrieving their fundamental human right of life through what ought to be the non-negotiable right of access to the land without which there can be no life.

References

- 1 Cited by Frank Dupuis, *Human Rights*. Paper presented at the Twelfth International Conference on Land-Value Taxation and Free Trade, Caswell Bay, Wales, Sept. 1968.
- 2 C.B. Macpherson (ed.), Indianapolis, Cambridge: Hackett, 1980.
- 3 *On Human Rights* (The Robert Schalkenbach Foundation, New York), n.d.
- 4 King Richard I reigned from 1189 to 1199 but was in England for very few months during that time. King John was *de facto* King during Richard's reign, and then reigned in his own right from 1199 until 1216. This means that there were only four general tax collections in 27 years, although the urban commercial classes were targeted, including moneylenders. It is arguable that a fifth taxation, on rents and chattels in 1207, was more a tax on the better off than on the poorer sections of the population. See A.L. Poole, *Domesday Book to Magna Carta*, Oxford: Clarendon Press, (2nd edn.), 1955.
- 5 *On Human Rights*, *op.cit.*
- 6 Erik Eckholm, *The Dispossessed of the Earth: Land Reform and Sustainable Development*, Washington, D.C.: Worldwatch Institute, 1979.
- 7 Everyone was a tenant of the State. No land purchase was required, so that a tenant's capital, or his creditworthiness, could be devoted to productive enterprise. The State made a major mistake in having rent reviews at 20 years. As Canberra grew in size and prosperity, the leases gained in value, so that tenants were able to sub-let at a profit or sell for a capital gain. When the first review took place, the rent rises were so huge that people rebelled, there was a scandal and the rent rises were moderated to less than their market values.
- 8 V.H. Blundell, "Flawed Land Acts 1947-1976", in Nicolaus Tideman (ed.), *Land and Taxation*, London: Shephard-Walwyn, 1994.
- 9 Richard Noyes, *Now the Synthesis*, London: Shephard-Walwyn, 1991. They warned: "In particular, there is a danger that you may follow us in allowing most of the rent of land to be collected privately."
- 10 Colin Clark, *The Cost of Living*, London: Hollis & Carter, 1957, pp.2ff.
- 11 Fred Harrison (ed.), *The Losses of Nations*, London: Othila, 1998.
- 12 Professor Martin Feldstein, a chief economic adviser to President Reagan, also agrees: "One of the reasons that economists have long been interested in the tax on the pure rental income is that it is a tax without excess burden. Because the owners of land cannot alter the supply of land, the tax induces no distortions and therefore no welfare loss."
- 13 For a fuller treatment of these ideas, see Ronald Burgess, *Public Revenue without Taxation*, London: Shephard-Walwyn, 1993.
- 14 See George Miller, *On Fairness and Efficiency*, Bristol: Policy Press, 2001.
- 15 *Essays and Adventures of a Labour M.P.*, 1924.
- 16 OECD, *Urban Land Markets: Policies for the 1990s*, Paris, 1992, p.15.