

# Privatization and Poverty

Ramsey Clark

RAMSEY CLARK was the Assistant Attorney General of the United States in charge of the Lands Division from 1961 to 1965.

His responsibilities included all litigation throughout the U.S. involving federal lands and related resources, including water and air; land-based federal programs such as irrigation, hydro-electric power, highway systems, public housing; wilderness areas, National Parks and Forests; military bases and land holdings; federal acquisition of private lands and improvements; Indian lands and reservations and the scope and authority of Indian law and Indian land claims and environmental protection.

He was appointed US Attorney General under President Lyndon Johnson, an office he held until 1969. This essay is based on a paper presented to the Moscow Congress on Land Policy organised by the State Duma of the Russian Federation and the Land Policy Council, London, on May 21.

**B**ecause of the broad sweep of my subject, only generalizations and a few illustrations are possible. I believe direct analogies between the experiences of different cultures and societies are dangerous and where meaningful, require careful detailed analysis. But some important principles of general application can be identified. If these are carefully considered in a different cultural and economic context, they can be useful.

When European settlers first arrived in North America, Indians occupied major parts of the continent and traversed most of it. Lands were taken from Indians by force. Treaties were made by which Indians were removed to more western areas not yet reached by European-American settlers. Tribes were moved time and again, always to less desirable lands, usually in remote more western parts of the country.

*Every treaty over lands and reservations between the U.S. and Indian tribes has been violated by the U.S.*

With few exceptions, Indian lands today are extremely poor with little

agricultural, grazing, or other use. Nearly always any minerals, mining, or other valuable material resources, including water rights, have been taken, forcing the Indians to a subsistence level.

When public reactions to the injustices done to Indian peoples caused Congress to enact laws protecting Indian lands and rights, powerful interests have found ways to evade them. Typical is legislation which prohibited any land in the Crow reservation in Montana from being sold to non-Crows. *Non-Indian ranchers and others had soon leased most of the best farming, grazing, timber and other usable lands for 99 years for insignificant annual rentals*, leaving the Indians with land of poor quality. The cost and time consumed in breaking the leases further disillusioned the Indians.

By a number of Congressional acts, the U.S. moved to extinguish all Indian land claims throughout the contiguous 48 states. This culminated in the Indian Claims Acts of 1946, which gave Indian tribes and groups the right to sue for compensation on the basis of the value of the land at the time they were

dispossessed. The Indians had lost an entire continent, and they were left with poor land on reservations and expensive hostile litigation to secure small compensation. Two cases illustrate the outcome.

- ⊙ The Indians of California were authorized to sue for the value of the more than 80% of the present state of California which they possessed in 1853. The case was settled for about \$27,000,000 in 1963. This was less than 35 cents per acre and less than half a week's wages for each of the enrolled Indians of California. This was the largest such payment ever made for Indian land claims. At that time 49% of the land in California was still owned by the federal government and was worth many billions of dollars.
- ⊙ In 1971, Congress enacted the Alaska Natives Claims Act which compensated Alaskan Indians, Eskimos and Aleut people living in the Aleutian island chain \$1,000,000,000 in cash, half paid out over 10 years plus 40 million acres of land. At the time, nearly 99% of

all land in Alaska was owned by the government. This legislation occurred just after the discovery and leasing of oil at Prudhoe Bay in the Arctic Sea for which oil companies paid in advance nearly \$1,000,000,000 for lease rights, before any oil production. The forty million acres has protected Indian land title for the nearly 100 Native villages which contain in total less than 1% of the forty million acres, but that land has little value. Most of the rest of the native land has limited natural resource value. The land was made tax free for twenty years only. Since 1992 all of the land is at risk of being lost for failure to pay taxes and most regional Native organizations are bankrupt. This settlement, in which I was general counsel for the Alaskan Natives, was larger in dollars and land area than all prior Indian land settlements combined. The U.S. purchased Alaska from Russia in 1867 for \$7,200,000.

*The lesson: a political and legal system designed to favour land exploiters will always enable the rich to take the land of the poor.*

Different parts of the U.S. have different land ownership histories. The original states were formerly 13 British colonies. The land was given to Royal favourites, all rich Englishmen, or groups otherwise able to colonize and develop the land granted. Thus nearly all the land in the original states in 1789, when the U.S. Constitution was ratified, was already in private ownership.

Florida and Louisiana were acquired early in the 19th century through military pressure, population pressure and purchase. The U.S. government acquired title to most of the land, the remainder having passed into private hands through prior sovereigns.

Texas was acquired by annexation in 1845 after U.S. immigrants there had taken it from Mexico by force in 1836.

*The U.S. wanted sovereignty, territory for the expansion of slavery and looked to stretch across the continent to the Pacific.*

The northern segment of the 48 contiguous states was filled out by the Oregon Treaty of 1846 which

established the U.S. boundary with Canada in the west to the Pacific at the 49th parallel north latitude. After the Mexican War, and debating whether to take all of Mexico, the U.S. took California, Arizona, New Mexico, and parts of Nevada, Utah and Colorado in the Treaty of Guadalupe-Hidalgo in 1848.

In addition to sovereignty, the vast majority of land ownership under both the treaty with Mexico and the treaty with Canada was transferred to the U.S. government. Only small modifications in the US borders have since been made.

Having acquired an empire, the purpose became its disposal, development, use and exploitation. Generally public lands remained public until some profit, however speculative, seemed possible from private ownership. Once in private ownership the lands are used, or exploited until profits no longer are possible. When this time comes lands are abandoned no matter how ravaged or hazardous they may be.

Vast land grants were made over a period of decades to railroads that were usually owned by wealthy capitalists. A common grant in addition to the right of way for tracks was to permit the railroad to choose one, sometimes two, or more, sections containing 640 acres of land from each township through which it passed to which it was given title. A section is one square mile. A township is a six mile square containing 36 sections. The railroads chose the most valuable sections. In time, railroads discontinued most passenger traffic for which the land grants were made. The country was left with little rail passenger capacity as its population grew. This helped stimulate demand for highway construction, automobile manufacture and gasoline production. The major assets of most western railroads by the mid-twentieth century were the lands given them from the public domain for passenger service they no longer provided at a time it was needed most. The land grants became worth billions of dollars in minerals, timber, other resources and their development value.

*Nearly all public land policy has been intended to benefit powerful*

*economic interests that are able to secure legislation from the Congress to enrich them at the expense of the people.*

Mining, oil leasing, grazing, timber cutting, water rights, farming and other profitable uses of the vast but shrinking public domain of the U.S. have been and still are given to wealthy individuals and corporations for a minor fraction of their value, often virtually free by federal statutes and regulations.

*These grants benefit the rich and powerful, who often degrade and waste the resources, pollute the environment and leave the areas poorer, the resources depleted, the environment less healthy and the natural beauty diminished.*

Laws that were supposed to protect the public domain for future generations, to assure beneficial uses and development of public lands, to assure just compensation for federal lands and resources granted to private interests and to provide the poor family and individuals an equal opportunity to share in the distribution of public property have nearly always been subverted to enrich the rich.

Among many illustrations is the Reclamation Act of 1903. The federal government was to spend many hundreds of billions of dollars on development projects in the public land states of the west. It realized that land uses and values in project areas would be radically changed. Major dams, most with multiple purposes such as hydroelectric power, navigation, water storage and conservation, flood control, irrigation and recreation, would make virtually unusable desert and mountain lands invaluable.

*With road access, water and electricity available, land not worth \$10 per acre became worth \$1000 per acre and soon much more.*

All the expenses of the projects were paid by the public. Most of the land was public. A treasure was available for the people and their future.

To create the appearance of sharing, Congress placed a 160 acre limitation on the amount of land on which a family could use project water for irrigation. Obviously the poor family could be very comfortable and become rich on 160

acres of irrigated land. But the law never protected the small family farmer. Virtually all the Reclamation Act lands were concentrated in the large land holdings of corporations and rich families. Huge fortunes were made. For example, the family which owned the Los Angeles Times media conglomerate also owned more than 60,000 acres in one tract, El Tejon, which was worth tens of millions of dollars with irrigation rights. The son of another even larger land barony became Secretary of the Army.

*The poor were driven off the land into urban slums, or subsistence life in shanties along the rivers.*

Vast fortunes were accumulated in a few hands from lands originally belonging to all the people from mining, oil production, grazing, unregulated cutting of public forest lands. As resources were depleted and the land ravaged and polluted, small towns, often company-owned towns, became ghost towns as jobs disappeared and workers moved on to the cities.

Those enriched by the public lands dominated local and state politics, elected representatives and Senators to the U.S. Congress and prolonged their domination of the national inheritance. This is a part of the plutocracy that controls America and makes our democracy of limited power.

Not all federal land law and policy served only powerful economic interests originally. Two important grants of land were authorized in 1862 by Civil War legislation that was concerned with post-war development. They were the Land Grant College and the Homestead acts.

Over 13,000,000 acres of Public Lands were given to the states to establish and support state colleges and universities to provide higher education for their citizens, particularly the poor who could not afford higher education. They emphasized agricultural and mechanical courses. These colleges, established by major land grants, have provided college educations for millions of Americans.

Today many of these land grant colleges are among the best and largest universities and research facilities in the

country. They are public and state controlled. They now charge high tuition fees, compete for military research contracts, provide military officer training and are no longer distinguishable from other public and private higher education. The poor have great difficulty meeting their admission requirements and paying tuition.

The Homestead Act offered undeveloped 160-acre tracts from the public domain set aside for the purpose to any American family provided that they homestead and use the land. These tracts had no utilities such as transported water, or roads, or of course, electricity, gas or telephone service. The Act was in part an extension of an earlier American ideal shared by people like Thomas Jefferson of a nation of small farmers. The Act led to some corruption and false claims, but it did provide many American families an opportunity to start a hard and risky life in undeveloped areas where home building, dry land farming and livestock grazing were possible. Many thousands of those capable of taking advantage of it benefited. Few traces of those benefits can be found today. Former African-American slaves were never able to participate. They remained largely tied to the lands their fathers worked as slaves under conditions often no better, usually on a share crop basis where they did all the work and could barely subsist while the land owner reaped the benefit of their labour.

Soon land monopolization, farm mechanization and later agribusiness drove the small farmer and share cropper off the land. In 1900, half the American labor force worked in agriculture. Today farm labor is about 5% of all labor. Of all the revolutionary changes in American life this has had the greatest effect, for better and for worse.

No ideology, whether that of a nation of small farmers, or communal farming, can long withstand physical, economic and social truths. There is greater efficiency and higher productivity in high technology, large-tract farming, along with a greater chance to prevent the harmful use of soil. Poverty farming on small tracts is a hard and often miserable, lonely and socially deprived life. It will always be hard "to keep the

boy on the farm after he had seen Paree," as the American song says. But corporate agribusiness has rarely hesitated to deprive the poor of bread, children of milk, sell unwholesome products, or charge excessive prices where it was more profitable to do so. It is a cruel master at home. It destroys lives and cultures in poor nations.

Corn producing, selling and consuming Mayan Indians, a million people in Chiapas, Mexico, were forced to revolt as they did the day NAFTA became law on January 1, 1994. The alternative for them was to see their culture die. For most of their cash came from the sale of corn. The cash was essential to sustain their Mayan way of life. The day NAFTA became effective corn prices in Mexico dropped 40% as trucks from the U.S. poured across the border with agribusiness corn from Kansas, Nebraska and Iowa.

Major farm producers are rich and powerful. U.S. food production is enormous and capable of more, but only at declining profit. A prime result of the agricultural revolution is urbanization with all its comforts, cultural and social advantages, efficiencies and potentials, but also crueller impoverishment of millions, slums, educational deterioration, family breakdown, pollution, violence, crime, sky scrapers and land barons.

A major international calamity is occurring from agricultural development caused by U.S. agricultural export-import policy enforced through treaties like GATT and NAFTA. These make poor countries, Arab oil rich countries, and others dependent on food importation from the U.S. and other rich producers and therefore extremely vulnerable to foreign coercion and the threat of economic sanctions. The sovereignty of a country largely dependant on imports for basic foods is never solid, or secure. This export-import policy combined with arable land monopolies in most poor countries, causes even nations with highest levels of malnutrition to produce export crops such as sugar, coffee, bananas and tropical fruits for rich countries, often through operations by foreign agribusiness, instead of needed

food for their people. This is how the rich landowner makes the most money. Agribusiness drives the poor off the land to urban poverty where their labor can be exploited by foreign textile manufacturing and other industries for 1/20th of the minimum wage in the U.S. The urban poor cannot even find land for small gardens to feed their families. Their exploitation is complete.

Over a period of decades, lands from the public domain in the U.S. were placed in wonderful National Parks, National Forests, Recreational and Wilderness areas. But the pressures of those economic interests that wanted to accumulate rental income from land and natural resources have eroded and endangered those National Parks.

Various devices are used to achieve this.

- ⊙ The lands are burdened with user fees which exclude the poor.
- ⊙ Privatization of services within the parks.
- ⊙ Most damaging: constant demands for inconsistent uses to enrich private mining, grazing, timber and commercial interests.

The boundaries of the parks often shrink but rarely expand. Air and water pollution, overuse, adjacent development, the decline of wildlife and the endangerment of species will destroy these precious resources unless the desire to exploit yields to a spirit of preservation for future generations.

Industrial sites, commercial properties and residential land are overwhelmingly private in the U.S. Because of the power which stems from land ownership, landlords and slumlords exert vast unjust, arbitrary influence over the development, use and government policies in urban life and over the lives of the poor. These are only some of the consequences of this private ownership of land:

- ⊙ The U.S. government has spent more on new prison construction in the past 15 years than it has on public housing, even though there are some millions homeless in America and prisons manufacture more crime.
- ⊙ Land pollution.

- ⊙ Growing concentration of wealth in the hands of the few, with fortunes made on land speculations and monopolies.
- ⊙ Increased costs of production and the provision of wholesale and retail services because of increases in rent and interest payments.

Today in the U.S., the richest 1% of the population own more than 45% of all non-residential real property. The top 1% own 37% of all assets, including 49% of all publicly held corporate stock.

We can now identify some of the general lessons that can be drawn from this history of land policy and private land ownership in the U.S.

1. The command to acquire - a central principle of the 19th century capitalist economy as it first evolved in Western Europe - when aligned with the privatisation of the rental value of land and natural resources, completely subverted or generally eroded every land policy, law and regulation that was designed to protect the public and the millions living in poverty.

The present U.S. political, legal and economic system will always enable the rich to take the land from the poor. A result is the vast concentration of land and related resources in wealthy families and corporations, the greatest disparity between the rich and the poor of any of the 25 richest nations, and a growing income gap between rich and poor. Over the past 15 years, real income has declined for the majority of the population while income for the richest 1% has increased radically. This concentration of wealth makes democracy a minor entertainment. The plutocracy controls.

2. Public ownership of land is best for the people. If there is an exception, it is in residential housing, including vacation homes or dachas. There, the private ownership of the right to sell or rent housing structures - but not the land itself - appears to generally lead to better upkeep and improvement. In the U.S. this has often been the major means of saving and a principle resource of

### economic security for middle income families.

*These apparent benefits involve a society where health care, hospital, unemployment, social security and retirement protection is non-existent for many and inadequate for most.*

Home foreclosures and losses, which are an inescapable part of private ownership and mortgage financing, are human and family disasters, however. Still, communities, families and individuals need security including security in the use of property as a basic element of economic justice and stability. Some rights of possession, not necessarily land ownership, and family inheritance of homes and dachas would seem important. The right to sell, or rent such rights to one home and one dacha might be a good policy.

3. Privatization of public lands has nearly always profited the rich and deprived the public of assets. It is the poor who suffer most. Privatization and impoverishment go hand in hand. Capitalism and colonialism have always relied on large private land monopolies.

*Privatization is usually a form of grand larceny, taking from the people and giving to the wealthy.*

What Americans call their national heritage, their public lands and resources, have generally met this fate. The privateer, interested in profit, will abandon the property when it is exploited, or use it to increase his economic power if its value grows, further dominating the lives of the poor, socially, economically and politically. At risk of privatization today in America are not only our public lands, facilities such as airports, and vital services such as public rail, subway and bus transportation, water supply, garbage disposal, but our schools, police protection, social security, public hospitals, government medicaid and medicare, even prison operations, to name a few.

The last eight years in eastern Europe and Republics of the Soviet Union have seen the threat to jobs, transportation, schools, health systems, homes and government services from foreign

capital which will only squeeze out cash and profit, interfere in self-government, and remove assets, or abandon them once they lose their value or ability to generate profit. Third World countries are under enormous pressure to privatize, which will leave them hostage to foreign capital, as does foreign debt, and without essential government services.

4. Western-style capitalism is inherently at war with publicly-owned lands and related resources that are - or ought to be - utilized for the common good. It is inherently at war with the environment because environmental protection costs money and reduces profits. It is at war with the poor at home and in poor nations.
5. Rigid ideology and hypocrisy concerning public policy are dangerous to the beneficial use of land. Major economic, demographic, social and political dynamics must always be addressed. New ways, free of doctrine or a desire to deceive, can be found to create a land policy which is best for the people of the Russian Federation. My advice would be to be flexible, resist foreign influences including foreign capital, the demands of international banking which have further impoverished and indebted the Third World and other recipients of their loans and programs. Find new forms of protecting the public ownership and interest in all the land that best serves the people.

*Start with the assumption that public ownership of land is best and accept variations only to meet clear and important common needs of the people.*

The people of Russia ought not to succumb to the western ideology that all development and consumption is progress for the good. That assumption is the principle cause for the ravaging of the earth and its environment, the excessive consumerism of societies, the conflict, militarism and violence that dominates the planet today.

## BOOK REVIEW

# Land, culture and psychology linked by land policy

## *Land of Freedom*

Fred Harrison

Land Policy Council, London, £3.00.

There is a wisdom about this booklet that belies its small size. It presents a penetrating, enlightening and heartening analysis of the problems affecting Russia, and reflects how the President must help the people renew their links with land. Like Russia there are western societies who have also suffered an identity crisis, cut off as their people are, from a proper relationship with land. Yet their leaders do not think to consider that the role of land could be the cause - and the cure - of their many problems.

The author, Fred Harrison, is well known to readers of *Land and Liberty* who appreciate that it is his love of morality and land economics that mark him out and put a stamp on everything he writes. The nature of the challenge in Russia today is clearly and patiently set out, and the solution stated. The philosophy of freedom, he writes, must not entail a rejection of, or domination over, nature. Freedom must be defined in terms of our ability to liberate nature and therefore ourselves, in the quest for self-realisation through a peaceful and prosperous community. In the new Russia the people who occupy land should pay the full rental value to the community, the revenue would then return to the people in benefits received. Thus the debt to nature would be discharged.

Between 1993-5 Harrison researched widely in Russia, conducting numerous interviews with many people, many of whom expressing the wish to enjoy a revival of their culture.

Harrison wades in to make clear the roots of Russian traditions, from the first Romanov who came to power in the 17th century: Mikhail Romanov convened in 1613 a national body, the Assembly of the Land, but it was to be short lived.

By 1645, the second Romanov (Alexis) abolished these land-related institutions in favour of centralised bureaucratic control, the model that has lasted 300 years. So it is that with the exploitation of the people has come the enslaving of the land - the policy inspired by European influence and mainly used to finance military adventures. Later Peter the Great added his destructive influence and raised taxes to ruinous levels.

Today the author warns the Russian people about allowing others to define their national identity for them; they must question whether western institutions and laws are today consistent with their own psychology and ecology, and in particular whether the set of property rights which relate people to each other and to the natural environment will bring that elusive freedom. In 1992 Harrison became a Consultant to Russia's Ministry of Construction. Representatives of no less than 100 member-cities of the Union of Russian Cities endorsed the fiscal strategy described in this essay. He has worked with municipal governments to develop a distinctively Russian solution to the controversial problem of property rights, rejecting the Western model of public finance. It is, he makes clear, inappropriate both for the people of Russian and, indeed, for people everywhere.

His chapter on The Paying-for-Benefits principle is required reading for anyone seeking to give a moral lead on public issues today; Harrison casts a beacon of light on how Russia might yet turn from national depression and gloom to restore herself in the great business of living.

JULIA BASTIAN