Land Research Trust

SCOTTISH LAND REVENUE GROUP

On Human Rights, Responsibilities, and the Crime against Humanity

The UK Government proposes to enact a Bill of Rights
"to restore a proper balance between the rights of individuals, personal responsibility and the wider public interest".
Lawyers and civil society reformers fear this is a "power grab".[i]

Our proposals for the new Bill of Rights, which we have submitted to the Ministry of Justice, restores power to people and holds government accountable for its actions. A justice-based model of governance must enshrine amended policies on property rights and tax policies.
The existing tax-and-tenure system

1. inflicts on citizens the crime against humanity
2. underpins the power that autocrats like Vladimir Putin exploit
3. renders everyone vulnerable to existential threats that include nuclear war.

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MARCH 2022

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Culpability of the democracies

The UK Government's decision to enact a Bill of Rights is of historical significance with existential implications for the global community of nations. Of particular importance is its emphasis on "the role of responsibilities within the human rights framework".[ii] The government focuses on the responsibilities of individual citizens. This contribution to its consultation attributes equal emphasis on the responsibilities of governance.

Britain's influence in the shaping of constitutions in the modern world places a special burden on the UK to lead by example. That history stretches from *Magna Carta* in 1215, to the Bill of Rights (1689), the Slave Trade Act (1807), the 1918 Representation of the People Act, to the Human Rights Act (1998). Parliament now has the opportunity to enshrine in law the rights with responsibilities that would define a new paradigm for living constitutions, to address the crises of the 21st century.

With the collapse of the USSR in the 1980s, the doctrine of the "end of history" duped western democracies. This led (*inter alia*) to the extension of NATO into Eastern Europe and the dismantling of Ukraine's nuclear self-defence capability. The delusions of statecraft culminated in President Joe Biden's declaration that the democracies were at war with the autocracies. On 24 February 2022, that war turned hot.

In the 1990s, western governments and their intellectual emissaries actively participated in the shaping of the Russian Federation's constitution. They advocated the "shock therapy" privatisation of Russia's natural resources. The outcome was a politics that inevitably led to the creation of a class of people who would necessarily engage in "state capture". The result was Vladimir Putin and his courtiers (the oligarchs), the corruption of life in Russia, the war with Ukraine and the threat to use nuclear weapons. To advance his aspirations, Putin pulverised the people of Ukraine and their social infrastructure. In the face of Ukraine resistance, he warned:

> **"The current government in Kyiv has to realize that if they continue to behave like this, they will endanger the future of Ukraine's statehood. And if this happens it will be entirely their responsibility."**[iii]

The UK's new Bill of Rights can redeem the role played by the West in this unfolding tragedy. The challenge is to highlight, in law, the route to an alternative future that excludes the existential crises in the realms of the environment, demography and economy.[iv] This entails the reconstruction of governance. Integrating the doctrine of responsibilities with human rights would transform the way governments fulfil their duties, thereby shifting the democracies onto the moral high ground.

Flaws in the UN model

The UN's Charter and Declaration of Human Rights were supposed to be the core pillars of freedom. The scope of their terms, however, was not sufficient to deter a President of the USA from inspiring an insurrection bid against the democratic will of the people of America. The UK's initiative to redefine rights and responsibilities affords the opportunity to identify the flaws in the UN doctrine, flaws that expose societies to systemic lawlessness and the degradation of humanity.

To understand why human rights must be associated with the corresponding responsibilities, we need to reconcile ourselves to the reality that the democracies perpetrate the crime against humanity against their citizens on a daily basis. To reconcile the community of nations to the need to revise the UN's Declaration on Human Rights, we need to understand how the UN was

co-opted into authorising, by default, the crime against humanity (Appendix 1). This crime deprives millions of people of their right to life (literally), which raises the question of culpability. The governance of Scotland illuminates that issue (Appendix 2).

The constitution of responsibilities

Arising from the cut-and-thrust of its political and imperial history, England exercised seminal influence on both the concept of human rights and the form of governance that emerged in modern times. That influence flowed from the fact that generations of lawmakers chose not to codify the British constitution. Under their model, there are "no unambiguously constitutional 'higher' laws".[v] Ambiguity made possible a self-centred, class-based model of politics that undermined human rights in the British Isles. Then, through colonialism, the legal ambiguities shaped constitutions across the world, including the USA.

The gravity of those ambiguities is dramatised by the existential threats from the eco-crisis. The UK subscribes to the UN's Agenda for Sustainable Development. The authors of that Agenda claim it is "grounded in international human rights standards, putting equality and non-discrimination at the centre of its efforts and encompassing not only economic and social rights but also civil, political, and cultural rights, and the right to development". The aspiration is to deliver these outcomes by 2030. In reality, these goals are not deliverable at all, let alone by 2030.

The tax-and-tenure laws enshrined in the constitutions of western democracies routinely subvert UN goals of "equality and non-discrimination; of respect for race, ethnicity and cultural diversity".[vi] The laws that articulate "human rights" permit the freedom to treat people as unequal, and the freedom to degrade their lives. The tools – fiscal in nature – that abuse people's rights constitute a crime against humanity.

That crime manifests itself in the systemic segregation of people at the social margins, and distributes power and wealth up the social scale. While formally acknowledging the rights of citizens, governments abuse the right to work and to invest in the quality of their life, and defeat those aspirations with punishing property and fiscal policies. How this came about requires an understanding of the history of the concept of human rights and its association with the concept of the crime against humanity (Appendix 1).

The doctrine of rights only makes sense in the context of relationships between people in community. Rights are claims against others. Isolated individuals who live in a social vacuum do not need them. The reciprocal of rights, therefore, is the corresponding responsibilities. Those responsibilities may take a passive or an active form.

- **Passive responsibilities:** as with the obligation not to interfere with the equivalent rights of others, such as the right to work, or to shelter.
- **Active responsibilities:** as with the obligation to render a product or service of equivalent value to those received from individuals, corporations, government or society.

Property rights occupy the epicentre of the problem of the welfare of individuals, and of society. They are enshrined in law and policed by society. The equal rights of any one individual, therefore, must be consistent with the rights associated with property. This is not the case, however, and governments are responsible for enforcing the unequal outcomes through the way they raise revenue. This becomes clear when we understand the impact of tax policies. The nature of taxation was clearly defined by the OECD.

Taxes, it explains, are "compulsory, unrequited payments to general government. They are unrequited in the sense that benefits provided by government to taxpayers are not normally in proportion to their payments".

Tax policies were designed to accommodate the nature of rent, after this stream of national income was privatised over the course of the 17th to 19th centuries. Rent is defined by economists as a "transfer income". That is, the owners of rent-yielding assets exercise the right to appropriate value from others, without the responsibility on them to deliver a product or service of equal value. One necessary outcome, in the realm of governance, is the discriminatory impact on the population of the tools employed to raise public revenue.

A life-and-death issue

Today, individuals who advance their private interests by annexing the power of the state routinely abuse human rights. Vladimir Putin and his circle of "oligarchs" reveal a mortal defect in international law. Inspiration for remedial action would be provided if Prime Minister Boris Johnson's administration decided to enact an effective Bill of Rights for the UK. Otherwise, our world will continue to be afflicted by governance that constitutes a crime against humanity. For the origins of that crime, we have to contextualise the formation of property rights and fiscal policies in parliamentary practices.

The enclosures of the English commons, and displacement of families from their clan lands in Scotland and Ireland, lasted for 300 years. Successive British governments committed a never-ending crime against their own people. The emerging model of property rights and the enabling tax policies became the structural pillars of nations throughout the world. Understanding how these became the crime against humanity begins by reviewing the defects in the concept of "human rights".

The UN's Draft of Articles on Prevention and Punishment of Crimes against Humanity excludes the destruction of the assets on which people rely for their existence as human beings.[vii] In particular, crimes perpetrated by the Tax State are exempt from censure. This is a fatal limit to the usefulness of the doctrine of human rights.

Article 2 codifies the crime under 11 headings. Its language favours the values and behaviour that flow from the property rights and fiscal policies (the "tax-and-tenure model") which systematically erode the essence of humanity.

Box 1 **Dead Weight**

Economists measure tax-induced distortions to behaviour in terms of dollars lost to the economy. They acknowledge that this value would be produced if, instead of taxing wages and profits, government revenue was raised from rent. The losses arise as people "duck and weave" to avoid the taxes. The statistics deflect attention from the causal chain of human suffering as the burdens ripple through the society as under-employment and poverty; unaffordable housing; forced migration; and a thousand and one inter-generational reactions to taxes.

Box 2 **For the want of funds**

Taxes levied on earned incomes distort production, employment and a nation's income. One outcome is a shortage of funds to support the services which people wish to share in common. This results in deaths that would not otherwise occur. The UK's National Health Service provides an example. Shortage of funds results in the under-employment of medical and nursing staff. One outcome is the "blunders" in care, which result in the otherwise avoidable deaths of 150 people every week.*

* Michael Ashcroft and Isabel Oakeshott (2022), *Life Support*, London: Biteback.

For example, 3 of the 11 categories include –

- **"Murder"**. Excluded from this crime are deaths that originate with fiscal policies that constrain the freedom to work and sustain life.

In the UK, every year, tens of thousands of people die prematurely – losing up to 12 years of life – as a direct result of the stresses and strains of "excess burdens" that taxes impose on the population.[viii] Excess burden is the technical term for that confluence of behavioural reactions that yield "deadweight losses" (Box 1).

Boris Johnson acknowledges this phenomenon of premature deaths. In doing so, he raised the issue of culpability. Referring to the deprived communities in the coastal town of Blackpool compared to rural communities in the Ribble Valley, he noted that there was a difference in lifespan of seven years. He asked:

> **"What monkey glands are they applying in Ribble Valley…that they live seven years longer than the people of Blackpool only 33 miles away?"**[ix]

George Miller (1941-2007), a member of the UK Medical Research Council's Senior Clinical Scientific Staff, and Professor of Epidemiology at the University of London Queen Mary and Westfield College, estimated annual premature deaths, traceable to the government's revenue system, as about 50,000, with people losing up to nine years of life.[x] A comprehensive evaluation is likely to result in a far higher number of involuntary premature deaths (Box 2).

Box 3 **Unaffordable homes**

In communities throughout the land, the enforced out-migration of young people from their place of birth results from the cost of "housing" which (in reality) is the cost of land. This out-migration created the diaspora of people from the British Isles in North America, Australia and New Zealand. The exodus continues to this day. Northern Ireland is one victim: it suffers from the lowest levels of productivity in the UK because of the "brain drain" of young people who are forced to migration in search of employment and affordable homes elsewhere in the UK.

*Jude Webber (2022), "N Ireland struggles to fulfil economic potential", *Financial Times*, February 28.

- **"Deportation"**. Excluded from this crime is the forced exodus of people who are driven out of their communities of birth by the cost of housing.

Historical legislation on property rights in land erased traditional right of access to the commons, which deprived people of the right to remain in the communities of their birth. The nobility's aim was to privatise the nation's otherwise taxable income: the rents, which were net of people's wages and profits. The trump card was the ultimatum to the working population: pay Rent, or move on!
Many of the Dispossessed had no choice: they moved on. What originated with the enclosure of the commons continues today in the form of unaffordable house prices (Box 3).

The Covid-19 pandemic added a further twist to the history of displacement. Richly endowed asset owners moved from metropolitan regions to rural refuges. This accelerated the rise in rural house prices. Not only did this drive young people from their home communities; it attacked the family unit, which has become "a crucible for anxiety, dysfunction and despair". In 2021, 72% of young people in rural areas said that affordable housing was their top concern; with 84% of those who wanted to leave, saying the cost of shelter was an important factor influencing their decision. Attempts by governments to address this crisis merely exacerbated the problem. Current land rights convert tax subsidies into higher house prices,[xi] adding further twists to the enforced migration of young people from their home communities.

- **"Apartheid"**. Excluded from this crime is the systematic segregation of low-income families in locations that perpetuate deprivation and death.

Multiple generations of originally displaced low-income families trapped in low-value neighbourhoods suffer from the social pathologies that originate in the tax-and-tenure system. Historically, the privatisation of rent led the aristocracy, in Parliament, to shift the revenue base on to wages and profits. The negative impact of this fiscal history may be imagined by what would happen if the process was thrown into reverse.

The OECD confirms that rent-as-public-revenue yields virtues that it highlighted in relation to the housing crisis. It concluded: "shifting the base of [property] taxes from the value of structures to current land prices would bring multiple benefits". Those benefits included enhanced social mobility, a more efficient labour market and increased economic growth. The OECD's verdict: "Shifting [taxes] from the value of structures to current land prices would encourage construction in valuable developable areas, helping to address supply-demand mismatches".[xii]

Families whose ancestors were victims of the original land grabs highlight the inter-generational impact of the tax-and-tenure model of governance. The Dispossessed became dependant on charity.

Geographer Paul Longley and his colleagues at University College London documented the transmission of deprivation across England and Scotland with data that "allows us to chart the different social mobility outcomes experienced by every one of the 13,378 long-established family groups". Using family names, they developed charts to depict the fate of people over the course of the last 165 years.

Out-migration from home communities was not the result of a footloose disposition, a lust to wander. People displaced by poverty remained in the state of deprivation when they relocated elsewhere in the UK. The research demonstrated that "there has been no level playing field for any recent generation".

"In defining our population of interest as 'long-settled family groups', we bring focus to the intergenerational inequalities that the British state has bestowed and sustains today."[xiii]

This conclusion indicts the Welfare State, which spans three generations. Seventy years of state-sponsored/tax-funded interventions have not erased the poverty and deprivation. This denotes the unequal treatment of citizens under the rule of law.

Graph 1 **The Fiscal Pincer**

Fractured humanity

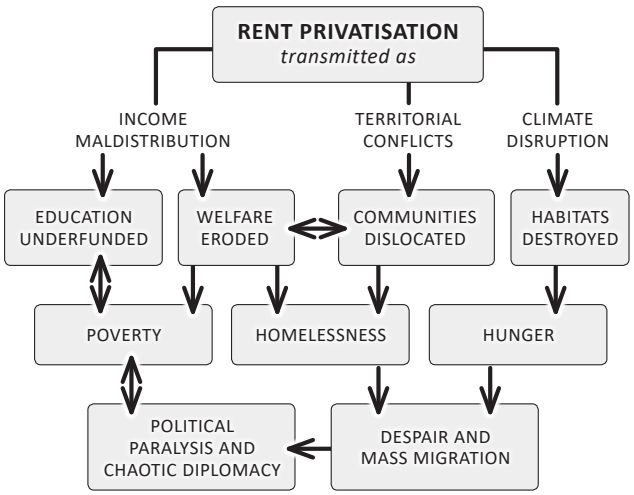
People do not choose deprivation as a lifestyle; nor do they intentionally transmit that state on to their children and, through them, onwards to generations that span centuries. The pathologies embedded in the social milieu deprive people of full control over their lives.

To trace the assault on people's freedoms to the political decisions of what are now the western democracies, we need to place humanity in its evolutionary context.

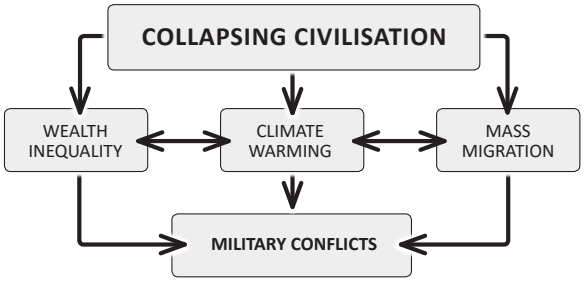
Hominids grew out of nature into a unique social space; but at no time could that evolutionary process detach human-kind from the natural habitats which sustained life. Communities of individuals expanded their numbers, but they were careful to preserve their symbiotic relationship with nature. Consequently, when any act of violence severed people from their habitats, the ripple effects surfaced in the form of fractured personalities and social divisions. If those fractures were preserved, societies were blighted by a menu of pathologies which we list in the form of economic inequalities and psych-social traumas.

In the modern world, the rupture of people from nature, and the consequential disturbances to society, did not originate with an Act of God. In Europe, it was premeditated by individuals who knew that, to capture the net income of their communities, they had to take the population hostage. The only way to achieve this was to privatise the commons. From that point on, to preserve their privileges, they had to design the political system to protect their property rights in land from the people whom they displaced from their traditional communities. The transmission of the pathologies had a crushing effect in what became a political pincer movement by the architects of this form of politics (Graph 1).

Graph 2 **Cascading Vectors of Privatised Rent**



Graph 3 **Symptoms of privatised Rent**



The traumas rippled through society by many routes (Graph 2). The net effect was a dysfunctional system that was detached from nature; with populations pitted against each other in the competition for resource-rich territories.

For humanity in the 21st century, this process of disintegration now assumes a threat to the existence of humanity itself. Graph 3 illustrates the inter-actions of some of the forces at work: cumulatively, they are impelling governments towards a state of policy paralysis.

Thus, we end up with a crime against humanity that is concealed in a nexus of property rights (land tenure) and tax policies which policy-makers and the public take for granted as normal. The political system, now called democracy, was not capable of overcoming the structure of power that embedded injustice into the system. To deconstruct the prevailing paradigm, it is necessary to confront difficult questions. One concerns the failure of the democratic model.

What about democracy?

The defence of the democracies against the indictment that they authorise crimes against humanity would focus on two issues.

1. *Universal suffrage:* people have the power to over-rule predatory behaviour in favour of equality before the law. Did people acquiesce in the tax-and-tenure model? If so, does that negate the argument that governments enable this crime against humanity?

2. *The Welfare State:* beginning in 1945, caring legislation was supposed to erase problems like poverty, inequality, unaffordable housing and the other tragedies that originated as socially significant pathologies in the 17th century. Does the fact that well-meaning governments failed in this mission mean that the entrenched traumas were beyond their power to eliminate?

The evidence undermines these two contentions. Vigorous attempts to reform the Westminster model of finance, on terms that would eliminate the crimes against humanity, were intentionally defeated by the class called "rent seekers". Those failures illuminate what lawyers call "the guilty mind". The democracies are entrenched in a cultural process that opposes reform of the fiscal system.

The guilty mind

The maldistribution of a nation's net income is not a state secret. Economists like Joseph Stiglitz, the Nobel laureate, have consistently highlighted the source of inequality, which he traces to "the growth in rents – including land and exploitation rents (e.g., arising from monopoly power and political influence)". His analysis showed that "the increases are closely related to increases in land prices… largely, related to increases in the value of land".[xiv] That is why he emphasises the need to shift taxes onto rent, to reduce inequality and encourage more investment in capital formation.

On three occasions in the 20th century, attempts were made to transfer the tax burden off people's earned incomes, and onto the net income that is produced by everyone through their cooperation in the marketplace. The owners of rent-yielding assets managed to negate them.

1. *The first attempt:* 1909-1920
   A Liberal government began to rebase revenue on Rent in the People's Budget (1910). Landlords in the House of Lords fought back, and the fiscal reform was terminated in 1920. Their lordships demanded reimbursement of the Rent they had begun to pay into the public purse. Parliament obliged.

2. *The second attempt:* 1931-1934
   A Labour Chancellor introduced the rent-as-public-revenue policy in the 1931 budget. Opposition came from within the Commons. Philip Snowden, the Chancellor of the Exchequer, censured politicians of all parties who ultimately defeated the reform.[xv]

3. *The third attempt:* 1945-1979
   Labour governments sought to reform the land market and draw revenue from Rent. Margaret Thatcher finally buried these initiatives. She co-opted the working class into the "property owning democracy".

This record emphasises the role of the policy-makers. Also implicated, however, was the civil service. In particular, HM Treasury was assiduous in reinforcing policies that protect the value of rent-generating assets like land. Nicholas Macpherson (now Baron Macpherson of Earl's Court) served as HM Treasury's top economist before becoming its Permanent Secretary. He has confirmed the Treasury's disposition. He had occasionally dared to wonder whether the UK would be better off with a fiscal charge on Rent.

"It worries me…that we don't have a land tax. In a sane world, we would have a proper land tax. Sadly the only person to try it was Lloyd George and he ended up having to pay every single penny back."

Macpherson revealed the depth of the prejudice against any discussion on that subject in the corridors of HM Treasury. His colleagues viewed him as "insane" when he raised the prospect of shifting the revenue base on to Rent.[xvi]

Systemic incompetence

The imperative need for remedial clauses to the new Bill of Rights is emphasised by one harsh reality: because of the deadening effect of the tax tools, revenue raised by government necessarily falls short of the funds required to underwrite the required public services. This translates into the deficiencies in all of the services of the state, at all levels – medical welfare, civil administration and military defence. Failures of law enforcement are particularly tragic, as chronicled in the media over recent decades. The failure to protect children is an inter-generational crime. The sexual abuse of children by paedophile gangs and priests in cloisters has occurred on a systemic basis in towns across the UK.

- The "jewel" in the UK's Welfare State is the National Health Service. For too many expectant mothers, hospitals became mortuaries.

Because of under-funding and deficient administration, hundreds of babies have died, or suffered brain damage, in NHS hospitals in regions from Shrewsbury in the West Midlands to East Kent in the South-east. In the case of Nottingham University Hospitals NHS Trust, patients or their families were informed that theirs were one-off tragedies. The evidence did not support this attempt to escape responsibility: bereaved families received more than £91m in damages and legal costs since 2010.

Medical staffs in NHS hospitals are heroes, caring for patients, day-in, day-out. The repetitive nature of the avoidable deaths and damage to mothers and babies, however, is on a scale that reveals institutional failure. The failure, ultimately, must be attributed to funding from government. Too frequently, hospitals are under-staffed and under-trained.

Because of these deadweight burdens imposed by taxation, ill-heath surfaces in so many forms and places. In 2013, the wider costs to the UK economy of mental ill-health were estimated by the Chief Medical Officer at £70-100 billion a year (4.5% of GDP). According to the Confederation of British Industry, 63% of time lost to poor health is in the working age population, with the annual cost in lost output estimated at £300bn (excluding treatment costs).

In the rented housing sector, because government fails to enforce the law on Category 1 hazards (defined as serious threats to health and safety), over 580,000 properties fall into that category. According to the National Audit Office, this negligence created "the associated costs to the NHS…estimated to be £340 million a year".

Most of these human costs are avoidable. They are inflicted by decision of government, which is why those decisions, relating to the fiscal system, induce on a routine basis the crime against humanity.

Box 4 Blighted at birth

People were vilified as vagrants in the early history of displacement. They were punished by whipping at the stocks, and death. Today, tax-funded attempts to combat poverty amplify the social pathologies. The creation of an Office for Health Improvement and Disparities in 2021 was accompanied by "the starkest evidence yet of the large, persistent and widening inequalities in life expectancy at birth in England. The divide takes many forms - north-south, rich-poor, male-female, London versus the rest of the country".*

*ww.kingsfund.org.uk/blog/2021/10/rising-health-inequalities-office-health-improvement-disparities

History's survivors

Enclosure of commons and clan lands drove the inhabitants of ancient villages into towns. In England, the result was a poor north/rich south divide. Displacement cramped people into smaller living spaces in densely inhabited neighbourhoods in large towns. People paid Rent and taxes and survived at the margins with the aid of tax-funded handouts. State intervention accommodated poverty as an endemic feature of Parliamentary politics. Today, unable to survive on state subsidies, many families rely on gifts from food banks, including many who were working and receiving wages. One study found that "76% of the food insecure adults in our sample reported being employed".[xvii] (Box 4)

Redefining human rights

Nation-states wilfully employ the fiscal system that privileges behaviour now called "free riding". Democracies of the 20th century were co-opted into perpetrating the crime against humanity. The evidence is overwhelming, and leads to the conclusion of guilt (Box 5).

The human rights agenda needs to be redefined, so that responsibilities are clearly associated with the rights that people claim under the rule of law. In relation to property rights, the possession of an

Box 5 **Guilty as charged**

- Consequences arising from laws and revenue policies are intentional.
- Segregation results from property-based privatisation of net income.
- Gesture politics authorises the postcode premature deaths.
- Governments are culpable for past deeds, and for prolonging the crime against humanity.

asset must not give owners the right to appropriate the incomes of others without giving something of equal value in return. The owners of land did not create the amenities – private or social – that are accessed at any given location. The value of the services of those amenities are not the property of the land owners. Title to that value – the annual location rent – cannot be claimed as private property, when deeds to the occupation of land are transferred.

Paying for services received is a principle honoured in the private sector. People do not claim the right to walk into a supermarket, fill a basket with goods, and walk out without paying the price of the products which they wish to consume.

- When employees offer their labour to entrepreneurs, they expect to receive (in wages) a value equal to their input to the enterprise.
- When owners of capital loan their assets to borrowers, they expect a reward for contributing to the productivity of an enterprise.

The human rights agenda needs to frame the rights of property so that the owners of rent-yielding assets pay for the benefits that they receive. This means pooling rent into the public purse. As Adam Smith noted in *The Wealth of Nations*, rent is the "peculiarly suitable" source of revenue to fund public services.

- Rent pooled into the public purse is not the result of a "compulsory, unrequited" act as defined by the OECD. The payment is a price, a fee, a royalty – call it what you will – but it is not a tax. Payment is proportionate to the benefits that rent-payers receive.
- The payment is not compulsory. Citizens agree on the sums that they individually pool into the public purse when they negotiate the price they are willing and able to pay for exclusive possession of the locations they want for residential or commercial purposes.
- Governments are not able to exercise arbitrary power. Citizens emancipated from the "compulsory, unrequited" system of taxation are motivated to defend both their personal and social interests, through a comprehensive system of audits and accountability.

To secure this outcome, the UK government needs to enshrine in law the rights and responsibilities that conform to three principles.

PRINCIPLE 1
Every right is associated with an equivalent responsibility

The implications, in relation to the rights to work, to property and the welfare that determines the capacity to earn income, is summarised by this rule:

Keep what you create,
and pay for what you receive.

People conform to this principle in their private lives, as they go about their daily business. No-one expects to get something for nothing, unless they participate in a national lottery (in which losers willingly accept their losses).

The prevailing political culture is based on *irresponsibility*, as the OECD definition of taxation affirms. This state of affairs was designed for one reason only: to benefit those who privatised rent. Rent, as economists readily acknowledge, is a "transfer income" – value is transferred from those who create it to others who give nothing in return, i.e., it is wholly *unearned*.

Existing constitutions camouflage this reality South African constitution, enacted after apartheid in 1996, is an example. In the Preamble, it states:

"We, the people of South Africa,
Believe that South Africa belongs to all who live in it, united in our diversity"

The millions of families that are segregated in the shanty towns, barely eking out an existence, do not have equal ownership rights to South Africa. The owners are not those who hold title to the land; but to those who appropriate the rents of the nation, which includes foreign corporations that succeeded in engaging in "state capture" (meaning: it could exact some of the revenue out of the public purse).

The existential dimension to this issue is emphasised by the fact that the power of privately appropriated rent-yielding assets eclipses the reproductive power of working people. The productive capacity of a population is abused to the point where people are unable to add sufficient net resources to fully fund their shared needs, let alone the aspirations of those who appropriate the nation's rents. This crisis arises solely because of the privatisation of Rent.

PRINCIPLE 2
Public goods are funded out of rent, the nation's net income after deducting wages and profits

People produce the net income by cooperating with each other in all spheres of life. In an authentic democracy, they decide which services they wish to share in common; and in doing so, they are under the obligation to fund those services out of rent.

PRINCIPLE 3
Governance must submit to accountability by publishing the impact of its money raising and spending policies

Without a comprehensive audit, governance is not transparent; which negates the spirit of democracy.

To aid their work, policy-makers need the statistics of a Whole-of-Life Budget to guide decision-making. If the revenue raising and spending decisions were inefficient, the Whole-of-Life Budget would reveal how wealth in all of its forms – not just material, but also psychological, spiritual and social wealth – was depleted out of the population.

Under current parliamentary practices, Bills that entail the expenditure of money are supposed to be accompanied by Impact Assessments. These do not include full disclosure of the estimated losses arising from current deadweight tax policies. This offends the spirit of the UN's standard for the collection of statistics:

Box 6 **Information**

The UN principle of accountability is described thus:

Accountability from a human rights perspective means that the State, or those in authority, must be held accountable to the population affected by their decisions and actions. This relates to the obligations of the State, or those in authority, under international human rights law (dutybearers) and the corresponding rights of the population (rights-holders) under the same standards.

*https://www.ohchr.org/documents/issues/hrindicators/guidancenoteonapproachtodata.pdf p.18.

The United Nations Fundamental Principles of Official Statistics state that statistics play a fundamental role in the information system of a democratic society, and beyond serving the Government and the economy, in honouring a population's entitlement to public information.[xviii]

The Whole-of-Life Budget would enable an informed citizenry to hold their elected representatives to account. This is not the case at present, because the Office of National Statistics (ONS) fails to comply with the UN's principle of data collection.

As State institutions, national statistical offices are themselves human rights duty-bearers. They have obligations to respect, protect and fulfil human rights in their daily exercise of statistical activities.

The information deficiency in ONS data-collection practices deprives UK citizens of the opportunity to hold lawmakers to full account (Box 6).

Public participation

The UK government invites public participation in the redefinition of the Bill of Rights. In support of this intention, it has undertaken to "complete a full Impact Assessment as necessary, once we have considered the responses to the consultation. We welcome responses from consultees on these proposals with regard to the potential impacts". Those impacts include what the government calls "equality impacts".[xix]

The public needs to engage with the government in examining the scope of that impact assessment; to determine whether the clauses in the Act would, indeed, equalise people's life chances "on the ground".

The transition to a new fiscal system will be disruptive, and it is incumbent on the government to facilitate that shift by developing transition measures that protect the vulnerable. UN agencies and the OECD recognise the concept of a "just transition". The UN has emphasised this strategy in connection with combating climate change.[xx] Unfortunately, governments emphasise the climate crisis as its priority, rather than social reform as the pre-condition for solving all of the existential crises, which are by-products (collateral damage) of centuries of irresponsible governance.

Authentic democracy

Optimal policies for an authentically justice-based constitution do not entail the removal of land from current holders.

With the onset of settled agriculture and urban living, 10,000 years ago, it became necessary for individuals to stake out the areas they needed on which to live and work. That settlement came with the obligation to pool their share of the net income they produced, to administer the social affairs of their communities.[xxi]

That same principle continues to hold true today. People who require exclusive possession of land – thereby excluding others from that occupation or use – fulfil their social responsibilities by pooling the current market-based rent into the public purse. By fulfilling their obligation, they organically eliminate political behaviour that inflicts the crimes against humanity and degrades the democracies.

This doctrine rehabilitates the concepts of national sovereignty over territory, and the rights of individual possession. This combination delivers an authentic democracy.

The urgent need for this paradigm shift in rights and responsibilities is emphasised by the failure of public policy in the 21st century. Again, the UK is the metaphor for what happened on a global scale. Consider the mortal impact of austerity, as ordained by governments following the 2008 financial crisis. One consequence of the deprivation caused by austerity was the termination of the increase in life expectancy for men and women in all parts of the UK.[xxii] This was an avoidable tragedy.

In 1997, Prime Minister Tony Blair and his inner circle of government ministers were informed that the nexus of tax-and-tenure policies would cause the peak in house prices in 2007, leading to a global depression.[xxiii] No action was taken. As a direct result, the banking system seized up in 2008. The enormous money creation exercise that followed prompted the austerity policy which, in turn, curbed the rise in life expectancy.

Appendix 1
"Fighting for our land"

The President and the citizens who took up arms to defend Ukraine repeatedly uttered those words, to explain why they were willing to die for their country. The word "land" was meant literally; but it was also a metaphor for their way of life. Without land, there can be no life.

Land serves a dual purpose.

- As a territory, it provides sovereign governments with the revenue needed to provide citizens with the services they need to share in common.
- As individual plots, it provides people with the locations on which to situate the residential or commercial activities that sustain their families.

If the rights and responsibilities associated with the possession and use of land are not correctly synthesised, frictions arise which can lead to mortal outcomes. One source of friction in the 1990s was the emergence of land allocation in the form of state franchises. This is the early stage in the process of privatising the revenue required by government. In time, the franchise system mutates into a constitutional form purely through the routine practices associated with the privatisation of a nation's net income – rent – which is the only source of revenue a post-slave state can access to fund "the commons".

These issues were not addressed by the nations that drew up the UN Charter and Declaration of Human Rights. That is one reason why the control over land, at the sovereign and personal levels, are ultimately at the root of the existential threats to humanity in the 21st century. How did this come about?

In 1945, Hersch Lauterpacht (1897–1960), a Cambridge law professor who was born in the territory we now call Ukraine, published *An International Bill of the Rights of Man*.[xxiv] This inspired the UN's Bill of Rights. Lauterpacht served as an adviser to the UN Commission on Human Rights, in the course of which he submitted a critique of the shortcomings in the UN Charter. Rights, he pointed out, were not matched by the corresponding responsibilities.

In his Preliminary Report, Lauterpacht stressed that the provisions in the draft of the declaration on human rights were insufficient: there was no guidance

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on how to fulfil the goals. The UN Charter, he observed, "has not adopted machinery for the full enforcement of its legal obligations". A Bill of Rights without guarantees "must be at best precarious and at worst meaningless". He pointed out that

> **"the precious rights of personal liberty and political freedom may become a hollow formula for those whom the existing social and economic order leaves starving, destitute, illiterate and deprived of their just share in the progress and well-being of the society as a whole."**[xxv]

An unenforceable right is a mere aspiration. For Lauterpacht, consideration was necessary "not only [for] the rights but also the duties of the individual to the state". Furthermore, the state itself had obligations. Unfortunately, the UN Charter "incorporates substantial, though not clearly defined, obligations in the matter of human rights and fundamental freedoms".

For the Bill of Rights, Lauterpacht insisted, "enforcement constitutes the crucial problem". He offered a draft of such a Bill. His goal was to remove suffering which he called "undeserved want". His draft, however, suffered from a grave omission. London human rights lawyer Philippe Sands observes:

> **"Lauterpacht was silent about property rights, a nod perhaps to the political wind from the east and to political considerations in the UK".**[xxvi]

The absence of an informed theory of property rights, one that explained the terms on which freedom could be enjoyed, was fatal for the doctrine of human rights.

Lauterpacht was willing to accept the *status quo* on property rights. In his draft of Article 14, he states:

> **"Everyone has the right to own property *in conformity with the laws of the state in which such property is located*. No one shall he arbitrarily deprived of his property."**
> (emphasis added).

If those property rights were associated with injustices, the UN was not going to propose why and how they ought to be modified. As a result, nation-

states in the following decades were able to employ policies that affronted the rights that their citizens are supposed to enjoy. Perhaps the single most important reason for this flaw may be traced to the failure of Lauterpacht to integrate his formulation of human rights in the social context within which they were to be enforced.

The crime against humanity

Among those who disagreed with Lauterpacht was Raphael Lemkin (1900-1959). He formulated the concept of genocide, which the UN was in the process of adopting as a crime against humanity.

Lemkin objected to the way in which Lauterpacht confined his vision to crimes perpetrated against the *individual*. There was a cultural dimension to the crime, he insisted (Box 7).

Box 7 Cultural Genocide

Following the atrocities of World War 2, the community of nations sought to formulate the terms of a crime called genocide.

Raphael Lemkin, a Polish lawyer, proposed that genocide should include behaviour that caused "disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity and even the lives of the individuals belonging to such groups".

Lemkin argued that cultural genocide should feature in the UN Convention on Genocide, as it was "the most important part of the Convention". The provision was rejected. Lemkin was crestfallen. He understood that "the destruction of the cultural pattern of a group" undermined the essence of humanity.*

* Fred Harrison (2012), *The Traumatised Society*, London: Shepheard-Walwyn, pp. vii-ix.

The only way to synthesise the issues arising from the possession and use of land is by according responsibilities equal weight with the claims to rights. If the right of possession had been combined with the obligation to pay for the benefits that flowed from the occupation or ownership of land, the rent would have been pooled into the public purse and there would be no need for governments to tax wages and profits. Instead, in Russia, the resource rents were "up for grabs".

RAPHAEL LEMKIN

This culminated in the political model employed by Putin: grabbing other people's land.

The West turned a blind eye to the political tragedy evolving in Moscow because, as Philippe Sands put it, "we in the West have turned a blind eye because our snouts have been in the Russian trough, bathing in the fruits of oligarchy" (Box 8).

Many territorial disputes and human sufferings that followed World War 2 might have been avoided if the UN had committed itself to a coherent agenda that combined rights with responsibilities. If, in the post-war era, nation-states had enforced that agenda, the crime against humanity would have ceased to be an existential threat. And the devastation that we are now observing in real time, in Ukraine, might have been avoided.

Box 8 Snouts in the trough

PHILIPPE SANDS

Philippe Sands' family suffered the historical injustices perpetrated by the Nazis in Ukraine. He attributes culpability for events in 2021 to a wide range of actors:

"Not just our politicians, but our bankers and financiers, our oil companies and our lawyers, growing rich at the expense of others and of decency as our courts and rules are invoked to protect the dismal reputations of those who have gained entry with 'golden visas'. I hope we look back in shame on this period, as London was allowed to become the laundering capital of the world, a place which the anti-Mafia journalist Roberto Saviano has characterised as 'the most corrupt place on earth'."*

The money channelled through London was the rents of Russia's natural resources.

* Philippe Sands (2022) "Why we need a new Nuremberg Trial to make Putin pay", *Daily Mail*, March 5.

Appendix 2
Scotland and the quest for a Just Transition

Political power was devolved from Westminster to Edinburgh under the Scotland Act (1998). The SNP party has governed since 2007. It makes bold claims about how it will improve people's life chances.[xxvii] Those goals will not – because they cannot – be achieved. The government is persisting with the existing methods for raising revenue. One outcome is that boys born in Glasgow live 11 years fewer than boys born in Westminster, in central London.[xxviii] If there is one tragic statistic that best characterises the spatial divide in the UK, it is that mortal difference in life chances. The cause of the discrimination is systemic, and causally rooted in property rights and fiscal policies that shape the distribution of income across the UK.

The SNP government is not concerned with revising property rights, beyond searching for ways to reallocate the existing distribution of land.

The Parliament in Edinburgh declared that land reform was essential, which is why it created the Scottish Land Commission. Its Head of Land Rights and Responsibilities stressed the need for reform to deliver a Just Transition. In the attempt to resolve the eco-crisis, for example, she noted the need for an approach "which reduces inequalities rather than exacerbates them. Our governance of land ownership and land use decision-making must adapt to support this and guarantee that the economic benefits are realised and retained in communities and local economies, in a just transition".[xxix]

Under the current social paradigm, this equalisation of life chances between the landless, and the owners who benefit from the unearned capital gains that accrue to the owners of land, is not attainable.

Likewise, the Scottish Government's Land Rights and Responsibilities Statement (LRRS) is misleading when it claims that it offers "the framework of how we can do this and ensure that accountable and responsible approaches are at the heart of land ownership and use". *The current government's commitment to existing fiscal policies renders it incapable of overriding the damage caused by privatised rent.* The political rhetoric of fiscal policy, as expressed by one prominent current practitioner, does not offer an effective guide to remedial policies (Box 9).

Box 9 **Fair's fair?**

US President Joe Biden insists "the tax system is not fair".* For revenue raising and policy-making purposes, the concept of "fair" is meaningless. It does not provide objective standards against which to determine who should pay, how much ought to be paid, and the nature of the benefits in return for the payments. The OECD definition of taxation provided the clearest expression of the defects in tax policies.

* https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/03/01/remarks-of-president-joe-biden-state-of-the-union-address-as-delivered/

In Scotland, the chain of direct political responsibility for the crime against humanity began when, in 2007, the incoming government established a Ministerial Task Force on Health Inequalities. The aim was to identify and prioritise practical actions to reduce the widening health inequalities in Scotland. The statisticians were diligent in tracking the gap in health outcomes between the most deprived and least deprived areas.

The unequal mortality rate provides one index of the discrimination inflicted on people. The pre-pandemic trends affirm the existence of structural barriers to improvements in life chances.

- The gap in healthy life expectancy for males increased from 22.5 years in 2013 to 26.0 in 2019.
- The gap in premature mortality rates has increased to its highest point since 2007.[xxx]

The one uncontroversial conclusion from all of the statistics is that place is linked to mortality rates.

- People segregated in low-value locations endure lives foreshortened by a dozen years, compared to
- neighbouring high-value locations, where residents enjoy the longest lives.

Place-based segregation driven by location values does not attract the forensic examination of most epidemiologists. The implicit assumption is that location values offer no insights into the discrimination of people who are supposed to enjoy equal rights to life.

How do we demonstrate that these outcomes are the direct result of the nexus of property rights and fiscal policy? If there is an unbroken chain of causation between land and taxation, we are led to conclude that public policies constitute a crime against humanity.

In the case of Scotland, the unbroken chain of causation – the sequence of evidence – is beyond contestation.

- Clearances of the clan lands created homelessness and poverty and drove the exodus of people who sought refuge on other continents. There, to survive, they cleared indigenous peoples from *their* land. The original act of violence was transmitted through time and space.
- Enactments in Parliament since the 18th century enshrined in law the forces that initiated the clearances:
  i. laws on property rights,
  ii. institutions to enforce those rights, and
  iii. development of new forms of culture designed to bend moral sentiments in ways that accommodated the new practices.
- The devolution of power, at the end of the 20th century, included the right to alter the tax-and-tenure nexus. Obligations attached to the possession of land could have been redesigned to begin the process of equalising life chances. The government chose not to exercise its fiscal powers.

Power devolved to Holyrood authorised the zero rating of the income tax, and replacing the revenue from location rents under a reformed Council Tax. That power was not used in a revenue neutral way to enhance the life chances of the people of Scotland.

This history of dispossession, the creation of poverty as an institutionalised process, and the legislation and cultural engineering to reinforce the outcomes of the original land grabs, is not controversial. The fingerprints of the original perpetrators (the clan chiefs), the enabling institutions and the costs inflicted on the losers are all on the record. Supplementing the written history is the oral testimony of Scottish descendants in the diaspora.

This horrific history, and the culpability of individuals past and present, is not peculiar to Scotland. The crime was inflicted on the peoples of Ireland, England and Wales and was repeated by others in countries across the world over the course of the past five centuries. If the community of nations agreed to match human rights with responsibilities, work would begin to address the legacies of that history. Failing that agreement, the world will see The Great Convergence of four existential crises – economic, demographic, environmental and social – following the peak in house prices in 2026.[xxxi]

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