

Why the UN *Universal Declaration of Human Rights* is fatally flawed

(This text is an extract from chapter 7 of The Silver Bullet)

AROUND the world, people campaign for human rights as never before. Curiously, however, the birthright to land receives rare acknowledgement. Collectively, we have forgotten the philosophy of sharing the resources of nature, a primordial right that was recognised by John Locke when he wrote *Two Treatises on Government* (1690). That is why it is one of the supreme ironies that Locke helped to lay the foundations of the modern power structure that excludes the majority from their right to land. The tradition which he helped to enshrine in law has disfigured the various bills of human rights in the 20th century, including the United Nations' attempt to pronounce on the right of all people to be treated as equals.

In his account of the rules of governance (he called it a social contract), Locke explained that everyone enjoyed the natural right to “life, liberty and estate”.¹ That word *estate* is the traditional English word for the bundle of rights held over land and property. There was no ambiguity in Locke’s exposition of natural rights: we all had the right to land, without which there could be no life. But he conceded that, in a commercial society, people could hold more land than they needed to meet their immediate needs, so long as they left enough land for others to use. But that provision – that everyone was entitled to access land – was not incorporated into his draft of the constitution for the settlers of Carolina. Instead, his provisions consolidated the monopoly of land for the English aristocrats who embarked on the most audacious land grab in history.

Today, the property rights that were defined by Locke’s successors are treated as sacred. Those rights, however, are wrapped up in documents that display a curious opaqueness, as if there was something to hide. The UN’s *Universal Declaration of Human Rights* is the prime example. It affirms the right to private property in a way that (1) sanctions the deprivation of people’s human rights, and (2) legitimises the appropriation of property that belongs to others.

The modern doctrine of human rights has abandoned its origins in natural rights. The doctrine has become little more than the expression of a vested interest. The constitutional documents of the US, for example, protect the version of property

¹ Locke, (1690:Ch.5).

rights favoured by the heirs to the English aristocracy,² a historical reality that is obscured by the rhetorical claim that all citizens are treated as equals.

The United Nations adopted the *Universal Declaration of Human Rights* in 1948. This is the template against which we judge the behaviour of individuals and of sovereign nations. It purports to define the rights of everyone on earth. Unfortunately, the exercise of those rights permits the institutionalised abuse of people in every country of the world.

- The *Declaration* fails to specify the pre-conditions for liberty. So even if we all complied with its strictures, people cannot secure their humanity because the individual's *right to life* is unenforceable.³
- The *Declaration* fails to specify the conditions for a healthy society. Obligations are placed on the state which cannot be fulfilled without abusing people's freedom, which includes their right to retain the property they create by their labour.

These defects render the *Declaration* inadequate to secure the universal rights as these were conceived under natural law.

Problems begin with the preamble, where the UN promotes "inalienable rights". Primordially, early humans acted *as if* they recognised the equal right of everyone to access nature's resources. This biologically-based 'right' gained formal recognition as humans acquired the cultural capacity to consciously express their inter-personal agreements. And yet, there is no reference to people's equal right of access to land or nature's resources in the UN document.

The UN records its disapproval of the barbarous acts which result from contempt for others. But those abuses were rarely inspired by the desire to deprive people of employment, shelter, or medical attention; in the significant cases of mass intrusion on the rights of others, the aggressors sought to appropriate the territory on which people were settled. And yet, *the Declaration makes no provision for restoring every person's equal right of access to, and use of, land.*

² Jensen (1970).

³ In Britain, for example, with its Welfare State and commitment to the human rights championed by the UN, an estimated 50,000 people die prematurely every year because of the impact of the tax regime. The estimate is by the late Dr. George Miller, who was a member of Britain's Medical Research Council's Senior Clinical Scientific Staff, and Professor of Epidemiology at the University of London Queen Mary and Westfield College (see Miller 2003).

Without land, the affirmation that people are “born free and equal in dignity and rights” (Article 1) is meaningless. In Article 2, we are assured that “everyone is entitled to all the rights and freedoms set forth in this Declaration”. They are guaranteed freedom of religion, to get married and have children, to work and associate with others. But what they are not guaranteed is an entitlement to occupy the space they need on which to build their homes, work for their living, practice their religion and procreate.

Article 3 offers a variation on the Lockean theme. Whereas the philosopher wrote about the right to “life, liberty and estate”, the UN, in Article 3, offered “security of person” in place of land. But *without the guarantee of land, no-one’s life can be secure*.

The *Declaration* offers a crude portrait of the individual detached from nature and barely anchored in the community that gives personality its content. Thus its catalogue of rights are assigned to individuals in a sometimes empty rhetoric: who would one sue to secure a remedy for the right to employment?⁴

The *Declaration* grants society a grudging status. Where it is introduced, society is burdened with the responsibility to secure the rights of individuals without provision for it to acquire the necessary resources. In Article 28, for example, “Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised”. But *the Declaration remains silent on the rights of a community against the individual*. Where the individual is said to have a duty to the community (Article 29 [1]), the duties are not specified.

It is not possible for people in community to fulfil obligations without access to resources to fund the provision of public goods. Culture, for example, is acknowledged as indispensable for the dignity and development of personality (Article 22). Everyone “has the right to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits” (Article 27 [1]). So we are *entitled* to the benefits of a civilisation. But civilisations are contingent on the ability of people to generate and share in the economic surplus (rents), without which there would be no culture, arts and science. And yet, *the UN*

⁴ Difficulties with the concept of the right to work in human rights legislation are reviewed in Blake (2002:144-145). See also Blake (2000).

Declaration is silent on the right of the community to claim those rents to fund culture. And it is silent on the duty of the individual to deliver those rents.

This places the nation-state in an invidious position. It is obliged (under Articles 21 and 22) to deliver public services to everyone, including social security, but the terms on which it may raise the funds to meet the costs are not specified. There is a right way and a wrong way to achieve this, and a person's liberties are infringed if the wrong choice is made.

- **The wrong way** is to tax the product of people's labour. This is an intrusion on private property that is possible only by exercising coercive power. Under the *Declaration* such revenue-raising instruments ought to be outlawed, *unless there are extenuating circumstances in each case to justify the infringement of a person's liberty and private property.*
- **The right way** is for the state to act as the guardian of the public value. In this case, the rents are freely yielded by the individual in exchange for the use of public goods. Under the *Declaration*, *this financial expression of human rights and obligations ought to be sanctioned as the pre-eminent method for raising revenue.*

The omissions from the *Declaration* create an intolerable philosophical and legal situation, for the individual depends on a healthy society for the fulfilment of personal potential. The individual is recognised by the UN as a social being – someone with “honour and reputation” to protect (Article 12). But this means that, for the individual to equip the community with the means that lead to the enforcement of personal rights, revisions to the *Declaration* are imperative.

The need to fill the void in the UN *Declaration* is urgent, for sovereign states today are unable to meet their responsibilities. In Britain, for example, more than 25% of households are deemed to be ‘breadline poor’.⁵ Those households are dependent on the state for subsistence, a dependency that undermines their right to the dignity that comes with the ability to pay one's way through life. Britain, despite its tax exactions,

⁵ Dorling *at al* (2007). The authors found that the wealth gap had increased over the previous 40 years – the better part of the life of the Welfare State, which employed progressive taxation. What the authors called the “breadline poor” households had increased over this period, peaking at 27% in 2001.

is not able to fulfil its obligation to enable everyone to live the life visualised by the *UN Declaration*.

If an honest politician were to propose that all of the rental income of a person's land should be paid to offset the cost of the services that give his site its utility, the howl would go up: *confiscation*. Legal action would probably follow on the grounds that government was taking the property of its owner. We need to untangle the mess behind property rights.

- Criminals who reallocate the possession of articles that we have earned the right to possess by our labours are left in no doubt about what law-abiding citizens think of them. They are imprisoned.
- When people walk away with publicly-created wealth, however, action is not taken to restore that property to the rightful owners. The owners are the people who, by their presence and co-operative activities in the community, originate that value. Yet, their deprivation is sanctioned by law.

Why don't we throw into gaol the people who steal the public value – because the UN ritualises a doctrine of property that makes respectable the private appropriation of that value.