

## Climate Change is an Abuse of Power

*It should be illegal for governments to preside over catastrophic climate change. But it's not. Here's how to take back control.*

By Hugh Macleod

STARTS

Forget Brexit, dear reader, just for a minute, and indulge me in an analogy.

You're in a car, your car, but you're not driving. You're a passenger, the wheel given over to an ambitious acquaintance who says she knows best.

The car is speeding along. It's taken some knocks over the years, but the engine is still good. You've been weaving past obstacles; a pot hole here, a boulder there. Sometimes your acquaintance seems to be in control. Sometimes, less so. But now you're aware of something looming up ahead, not a single difficulty to be dodged, but a line, curving away, an absence of all and everything that was certain. An edge.

As the horizon slowly opens up, it's clear: You're heading for a cliff. Only a serious change of course is going to save you both. You look across, and your designated driver turns the wheel a bit. The cliff recedes and you feel a brief sense of relief.

But then she turns it back again, swerving to avoid another bump in the road, rather than slowing down to go around it on the safe side. Now that black edge is closer than ever before. "Don't worry! I've got this," yells the woman at the wheel. But has she? You're still heading straight for disaster. It's then you realise: She's not going to turn in time. Maybe she can't. *You* are going to have to grab the wheel. Politeness pauses a moment, deference to the idea that the person in charge wouldn't really drive this metaphorical Ford Sierra of State right off terra firma and out to that perilous plunge into the unknown. Yet there's only seconds left ...

We freeze the action, dear reader, to reveal that yes, of course the madcap at the wheel is Theresa May. But it could be any prime minister or president to whom we have dutifully handed over control of that vehicle for human cooperation and flourishing we call the nation.

But no, the cliff edge is not Brexit, as problematic as that may be in the short term. Brexit is, comparatively, a blip. This leap into the abyss is deeper, darker. It is our first (last?) truly planetary catastrophe. Scientists of chemistry call it [climate change](#), biologists call it [mass extinction](#). The UN Secretary General calls it [suicide](#). Reports of the [looming edge](#) abound. Graphs are drawn, statistics revealed, satellite imagery captured and published, of ice [melting](#), bees [disappearing](#), and just about every living thing under the sun [declining](#).

Yet nothing, really, is done. Our Ford Sierra still bombs along, straight towards the [line](#).

So when all evidence of the past three decades shows that, despite the most powerful [governments](#) and most powerful [companies](#) knowing exactly the consequences of continuing with business as usual - profit over people, pollution over preservation -; when the British government increases tax-payer subsidies for fossil fuel [companies](#) while slashing support for [renewables](#); when Denmark's

Maersk (one of the 100 companies that account for over 70% of greenhouse gas [emissions](#)) touts its green [credentials](#) even as it commissions new gas rigs for ageing North Sea fields, when 2018 recorded the all time highest amount of CO2 released into the [atmosphere](#); when all that and more is taken into consideration, perhaps it is time to ask ourselves whether our acquaintance at the wheel there, now with only moments to go before it is too late, is actually going to steer us away from catastrophe. Is it sensible, or even sane, to repeat the same thing over and over and hope for different results?

Or is it delusional?

When you're being driven over a cliff, do you take the wheel before it is too late? We all know the answer, instinctively. It would be madness not to. Lemmings are oblivious. We are not.

How then, if we must, do we grab the metaphorical wheel?

I am not suggesting revolution. Far from from it. We should certainly be exercising our right to protest, perhaps even rising to acts of civil [disobedience](#).

But strong states are the only institutions capable of averting the fall. Free markets did not fix the hole in the ozone [layer](#), or ban smoking in pubs (at least not by themselves), and climate change is the "greatest markets failure the world has [seen](#)", in the words of the government's own top advisor. But governments and businesses are not the only agents of state. We, the passengers, are the principle.

And we have the courts. Public powers, such as those exercised by our government when it pays or withhold energy subsidies, when it green lights single use [plastics](#), when it licenses BP to [continue](#) pumping oil out of the North Sea, are, in theory, subject to oversight by judges. 'Was it reasonable?' is the test courts across the country apply to the behaviour of private citizens every day. The same test applies to our public bodies, but the threshold is set very differently.

In the name of discretion, or at the altar of national security, the government is allowed to behave in ways no private citizen ever would be. Caught selling dangerous explosives to those too immature to use them properly? If you're a shopkeeper you could be going to prison. If you're a secretary of state selling arms to Saudi for use in what your own ministry warns are war [crimes](#), you're going home with a pat on the [back](#). Caught fly tipping asbestos on the common? Big trouble. Caught pumping nuclear waste into the Irish Sea? If you're working for the government, the [court](#) will tell you to run a consultation, and then leave you alone to get on with it.

Is our government, are the governments of the world, then, to be granted discretion to drive us all over the edge of the cliff, in the name of national security? That would seem ludicrous, unthinkable perhaps. Yet surely the best lesson of history is that the unthinkable, for better and worse, can happen. The truly difficult truth to accept about climate change is that the unthinkable is already [happening](#).

Yet in the face of difficult choices, as the omnishambles of Brexit illustrates perfectly, politicians prevaricate. The Thames had been an open sewer for decades, and cholera had killed tens of thousands, before the summer heat wave of 1858 drove the [Great Stink](#) into the halls of Westminster itself, and forced the choking MPs into legislating to dig up half of London and save the environment.

Should we wait for yet another heat wave, or for London's already poisonous [air](#) to start choking this current crop of 'leaders'?

Or should the courts use their powers to impose some limits on our cavalier chauffeurs, an extra set of breaks in the front seat there, allowing the passenger to slow things down if the journey is getting out of hand? Maybe even a parallel steering wheel, so we can make the life saving adjustments directly, ourselves? After all, we are the driving instructors.

That is why I believe the courts of this country, and all countries, must now come to recognise in law a citizen's right to a sustainable environment. The [Dutch](#) have already done it, the court ruling, memorably, that, "this discretionary power vested in the State is not unlimited: the State's care may not be below standard."

If it is indeed 'reasonable' for governments to use, or omit to use, their powers to drive us off the edge of the cliff, then a new test of that discretion is required. Perhaps the test for what is 'reasonable' needs to be supplanted by a test for what is 'sustainable'?

Is it sustainable to allow a transition period for the change from diesel and petrol vehicles to electric? Absolutely. Is it sustainable that the change requires 20 years? It seems [not](#). But if the government could defend the timeline then the court would rule in its favour.

The point is, the policy itself, the exercise of government power over the public's right to a sustainable environment, would have been subject to the binding scrutiny of the law, now, today, in real time, not merely the distant targets of the current UK Climate Change Act, which only becomes legally enforceable in 2050. (And no, we're not on target to meet [them](#).)

Just as the concept of 'reasonable' has been tested, tweaked, and re-defined a thousand times in what is our great and ever evolving common law tradition, so too could the meaning of 'sustainable' be argued over, picked apart, and put to service for the public good in the years ahead.

The term has already been debated by [scholars](#) of international aid. But the best definition, to my mind, comes from Norway's three-time PM, Gro Harlem Brundtland. Sustainable development, she said, was that which "meets the needs of the present without compromising the ability of future generations to meet their own needs."

For as that edge appears before us now, as our battered old car takes one more turn atop the cliff, before careering over forever, a voice from behind your passenger seat, a voice from just there, over your shoulder, a small voice but familiar, that is loved and is yours, but is not yours, asks simply: "Mummy, Daddy? Where are we going?"

ENDS

[Hugh Macleod](#) spent a decade as a journalist based in the Middle East, reporting for [The Guardian](#) among others, and is now studying to become a barrister, with the aim of helping establish the right to a sustainable environment in English law.