Current issues in Labour's economic policy

4. Corporate governance, banking and net zero

31 October 2024

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‘Increase income tax for the top 5% of earners, reverse the Tories’ cuts in corporation tax and **clamp down on tax avoidance, particularly of large corporations.** No stepping back from our core principles.... Set a **national goal for wellbeing to make health as important as GDP**.... Put the Green New Deal at the heart of everything we do. There is **no issue more important to our future than the climate emergency .... Demand international action on climate rights**.’

- Keir Starmer pledges 1, 2 and 3.

‘Labour will also **keep mortgage rates as low as possible**, with a strong, independent **Bank of England** – which will continue to target **stable inflation of 2 per cent**....’

\- Manifesto p. 21

‘The Conservatives’ decision to prevent the **Bank of England giving due consideration to climate change** in its mandates will be reversed.... Labour will make the UK the **green finance capital of the world**, mandating UK-regulated financial institutions – including **banks**, asset managers, pension funds, and insurers – and **FTSE 100 companies** to develop and implement **credible transition plans that align with the 1.5°C goal of the Paris Agreement**.’

- Manifesto p. 57

EU Corporate Sustainability Due Diligence Directive 2024/1760 articles 2 and 22

Companies or corporate groups with 1000+ staff and €450m annual revenue, etc must have a '**business model and strategy... compatible with... limiting of global warming to 1.5 degrees** in line with the **Paris Agreement**... [including] **exposure of the company to coal-, oil- and gas-related activities**'.

But how?

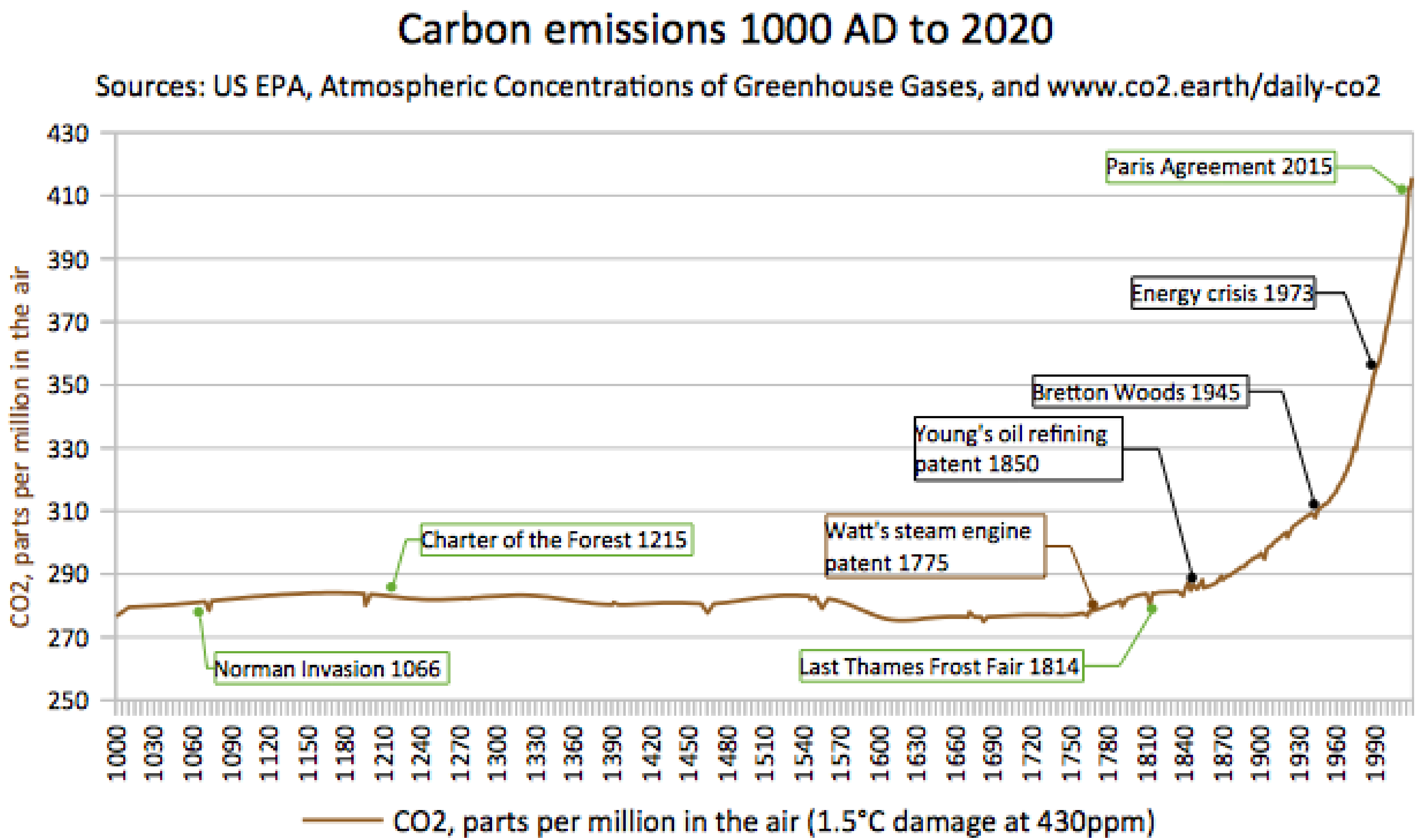
(1) Pledges – in summary

- (i) **Credible 1.5 degree Paris aligned plans** for all banks and FTSE 100 companies
- (ii) **Fairer tax, particularly on companies**
- (iii) National **goals beyond GDP**, e.g. also well-being, low mortgages, and climate for the Bank of England

(2) Human rights (3) Legal background (4) International rank, data (5) Reform models (6) Benefits, costs

(2) Human rights

- ‘**Everyone has the right to work... just and favourable remuneration... Everyone has the right to a standard of living adequate for the well-being of himself and of his family**’. Universal Declaration of Human Rights arts 23, 25
- ‘**Everyone has the right to life**...’ Universal Declaration art 3, also European Convention on Human Rights article 2, etc
- The right to life in ECHR art 2 (and art 8) put a positive **duty on member states to reduce emissions** under the UN Framework Convention on Climate Change. So ‘the **State’s primary duty is to adopt, and to effectively apply** in practice, regulations and measures capable of **mitigating the existing and potentially irreversible, future effects of climate change**.’ *Klimaseniorinnen v Switzerland* [2024] ECHR 304, [545]



0.028% CO2 in air in 1775 -> **0.0419%** (or 424ppm) **in 2024**

We've already reached 1.5 degrees of global warming

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Science & Environment

World's first year-long breach of key 1.5C warming limit

8 February · 3129 Comments

COP28

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Climate change: UN report says planet to warm by 3.1 C without greater action

By Gloria Dickie

October 24, 2024 10:44 PM GMT+1 · Updated 5 days ago

Aa

Summary

- Current policies could lead to 3.1 C warming by 2100
- Nations to discuss updated emissions strategies at COP29 in Azerbaijan
- 1.5 C target likely out of reach without climate overshoot

UK Parliament

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UK Parliament > House of Lords Library > In Focus >

The 1.5-degree celsius global warming threshold: Could it be breache

In Focus

The 1.5-degree celsius global warming threshold: Could it be breached in 2024?

Published Friday, 12 January, 2024

In Focus | Environment | Foreign Policy

James Goddard

UN warns 1.5C climate goal 'will soon be dead' without rapid emissions cut

ENVIRONMENT

World leaders are running out of time to stave off catastrophic climate change, Secretary General Antonio Guterres warned on Thursday as a UN report said current climate policies will result in global warming of more than 3 degrees Celsius by the end of the century – more than twice the rise agreed to nearly a decade ago in Paris.

Issued on: 24/10/2024 - 18:07

4 min

By: NEWS WIRES

So "credible" 1.5 degree plans mean ending gas, oil + coal <u>now</u>

(3) Legal background

(a) Corporate governance in the FTSE 100

(b) Taxation of companies vs labour

(c) Private banks and their regulation

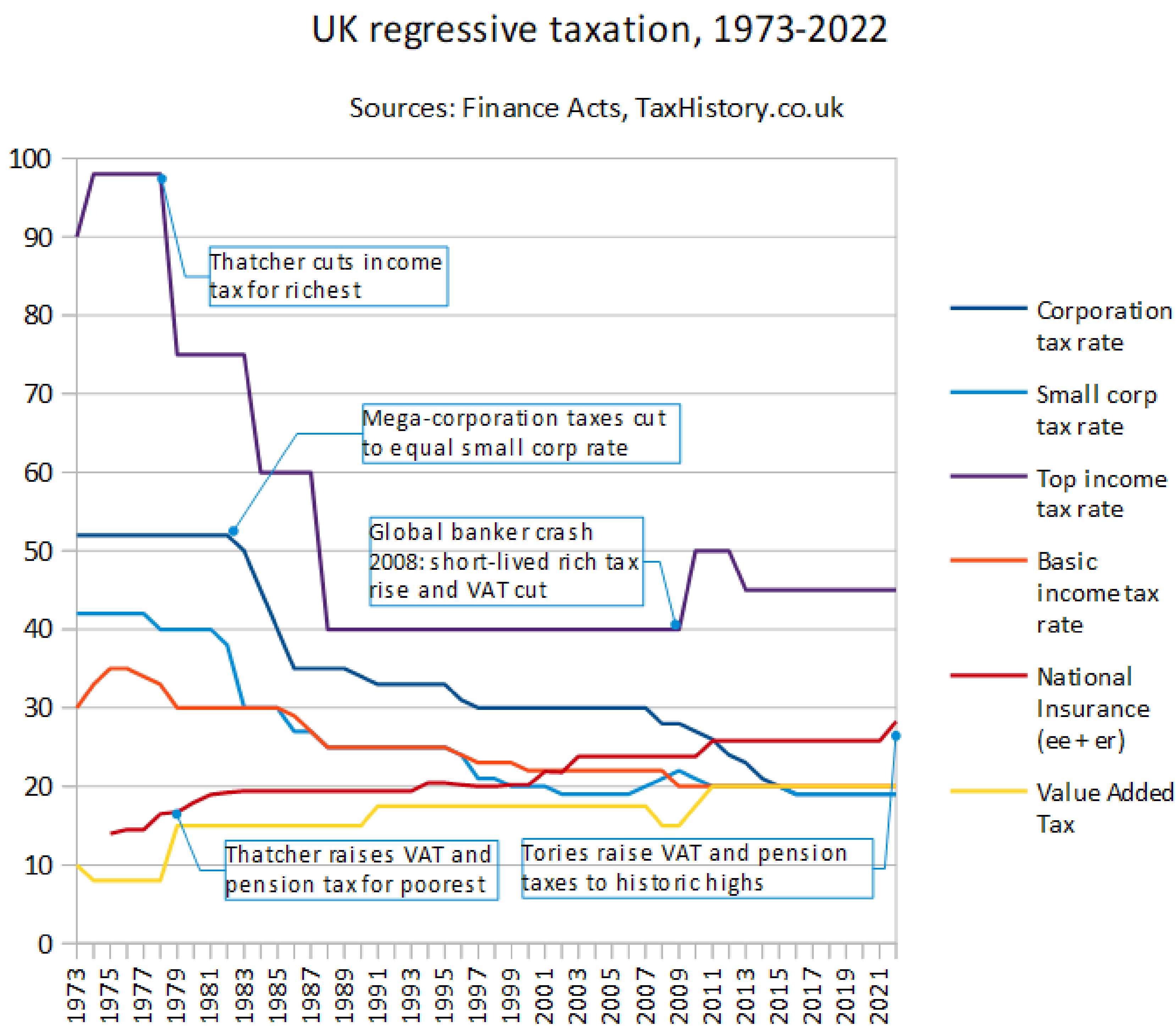
(d) Bank of England’s goals and GDP

(a) Companies in the FTSE 100

- **Directors appoint themselves**, with a 'nom comm'. Can be removed by a majority of the general meeting, invariably shareholders: Model Articles art 20. Companies Act 2006 ss 168-9. UK Corp Gov Code 2024 s 3(17)
- **Shareholder votes are controlled by asset managers** – e.g. BlackRock, Vanguard, L&G – with pensioner money etc. Pension trustees are 1/3 elected (raisable to 1/2), but asset managers refuse to follow their voting policies: Pensions Act 2004 ss 241-3. Howard Report.
- **Few UK companies have worker-elected directors**, unlike most OECD countries. A weak optional rule in the Corp Gov Code 2024 s 1(5)
- **Directors must pay regard to the environment**, **but this a subjective duty**, so hard to show breach. They have a **duty of care, including not wasting money**: Companies Act 2006 ss 172-4. *Medforth v Blake* [2000] Ch 86
- **Director duties are enforceable by members in derivative claims** by statute, but **rarely** done. A more **restrictive, uncertain procedure** exists for a pension "**beneficiary derivative claim**": Companies Act 2006 ss 260-3. *McGaughey and Davies v USS Ltd* [2023] EWCA Civ 873.

(b) Tax of companies (vs labour)

- **Companies that mis-classify staff as 'self-employed'** (Uber, Deliveroo) may **evade 13.8% → 15% in National Insurance Contributions** (+2% employee NICs).
- Labour taxes are higher than dividends and capital taxes
  - Employment: **20%** >£12.5k, **40%** >£50k, **45%** >£125k (**+8%** NICs): Income Tax Act 2007 ss 6-8 (£88k = top 5%, 2024)
  - Dividends: **8.75%** >£12.5k, **33.75%** >£50k, **39.35%** >£125k
  - Capital gains: **28%→32%** >£50k private equity profits carried interest, **10%→18%** >£50k for investor unlisted share profits: Taxation of Chargeable Gains Act 1992 s 1H
- Corporate profit (not revenue/income): **19%** <£50k small rate, **25%** >£250k main rate: Corporation Tax Act 2010 ss 3-4 etc


UK regressive taxation, 1973-2022
Sources: Finance Acts, TaxHistory.co.uk
Thatcher cuts income tax for richest
Mega-corporation taxes cut to equal small corp rate
Global banker crash 2008: short-lived rich tax rise and VAT cut
Thatcher raises VAT and pension tax for poorest
Tories raise VAT and pension taxes to historic highs
Corporation tax rate
Small corp tax rate
Top income tax rate
Basic income tax rate
National Insurance (ee + er)
Value Added Tax
100
90
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(c) Private bank governance + finance

- Private banks must be **licensed** by the Prudential Regulation Authority: Financial Services+Markets Act 2000 ss 19-20, 55A
- Private banks have the **same governance** as other companies: self-selecting boards, shareholders exercising residual control, mostly asset managers
- Private banks are **subsidised** by the state by (1) guarantee against insolvency (2) depositor insurance (3) monetary policy funding in open market operations (4) cheap BoE lending: Banking Act 2009, FSMA 2000 ss 214-5, BEA 1998 s 11 etc
- **No restrictions on financing gas, oil and coal** in the law, merely vague duties, which do yet include divestment and decarbonisation: *McG + Davies v USS* [2023] EWCA Civ 873

(d) Bank of England’s goals and GDP

- Bank of England Court of Directors appointed by Prime Minister, removal for limited reasons. No duty to appoint directors representing unions, regions or environment: Bank of England Act 1998 s 1, Sch 1. cf Fed Act §241
- Main monetary policy goal is **price stability** (interpreted by Treasury), and **subject to that the government’s plans for growth and employment**: BoE Act 1998 s 11. cf Fed Act, max employment, stable prices, mod. interest
- Growth is defined via Gross Domestic Product, and this is calculated to include **economic activities causing pollution, or harm to health and well-being**: HM Treasury + ONS. Also EU GNI Regulation 2019/516 art 1.

Gross Domestic Product: HM Treasury

From 26 January 2017: "GDP is calculated three ways, adding up:

- **all the money spent on goods and services**, **minus** the value of **imports... plus exports** ... [expenditure]
- the **money earned through wages and profits** [income]
- the **value of goods and services produced** [output]

... All three different methods of calculating GDP should, in theory, give the same number...

GDP matters because it shows how healthy the economy is"

- *But this does **not** show an economy's health: it includes profits from **harm to human health** (e.g. tobacco), **pollution** (e.g. fossil fuels) and **welfare** (e.g. privatising the NHS, education). It excludes some unlawful activity (e.g. weed) but not others (e.g. a water company's profits after dumping sewage).*

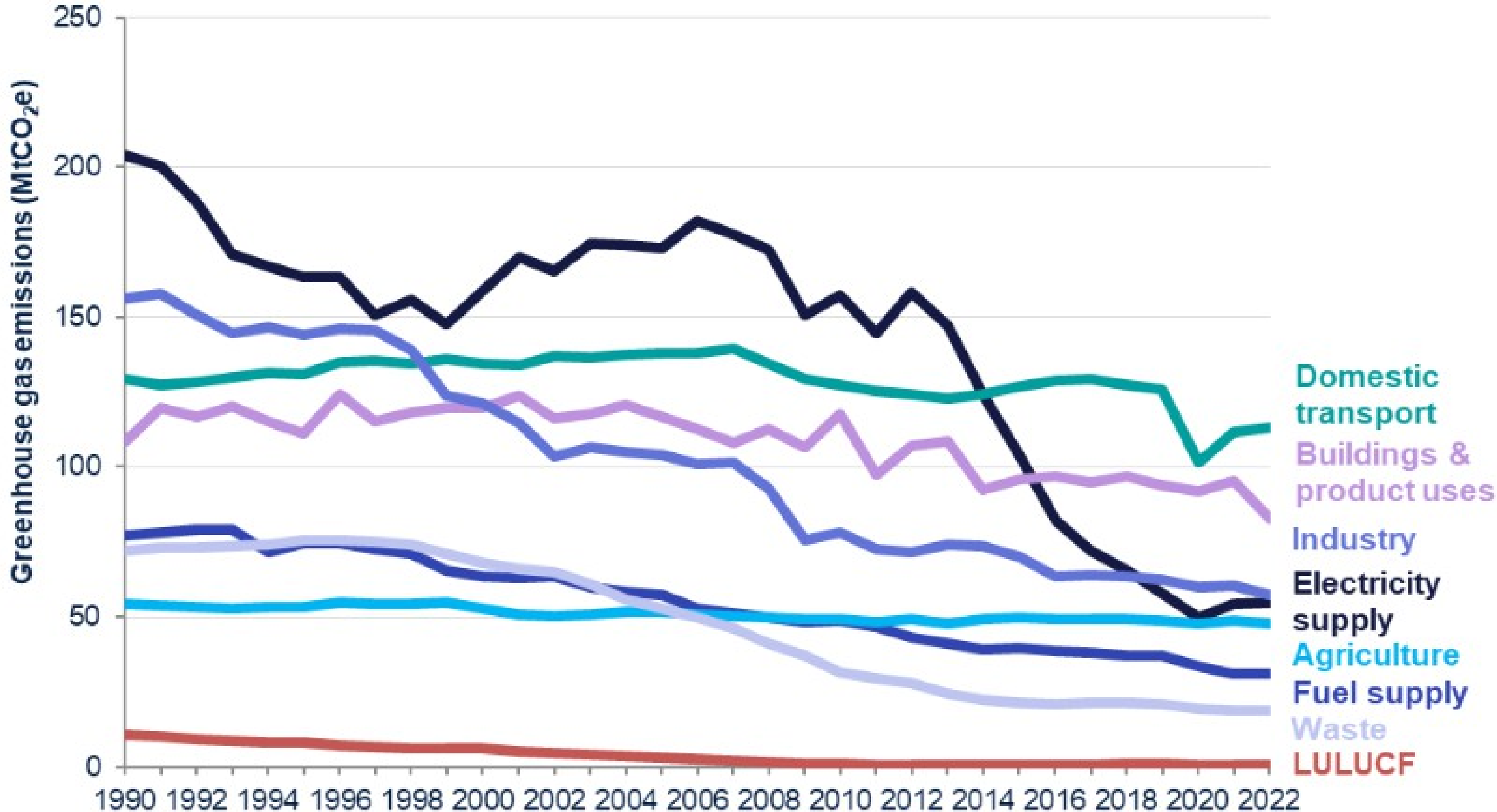
(4) International rank and data

(a) UK’s deceptively huge global emissions

(b) UK’s bankrolling of global fossil fuels

UK emissions seem to fall: 384MtCO2e in 2023

Figure 6: Territorial UK greenhouse gas emissions by NC sector, 1990-2022 ($MtCO_2e$)

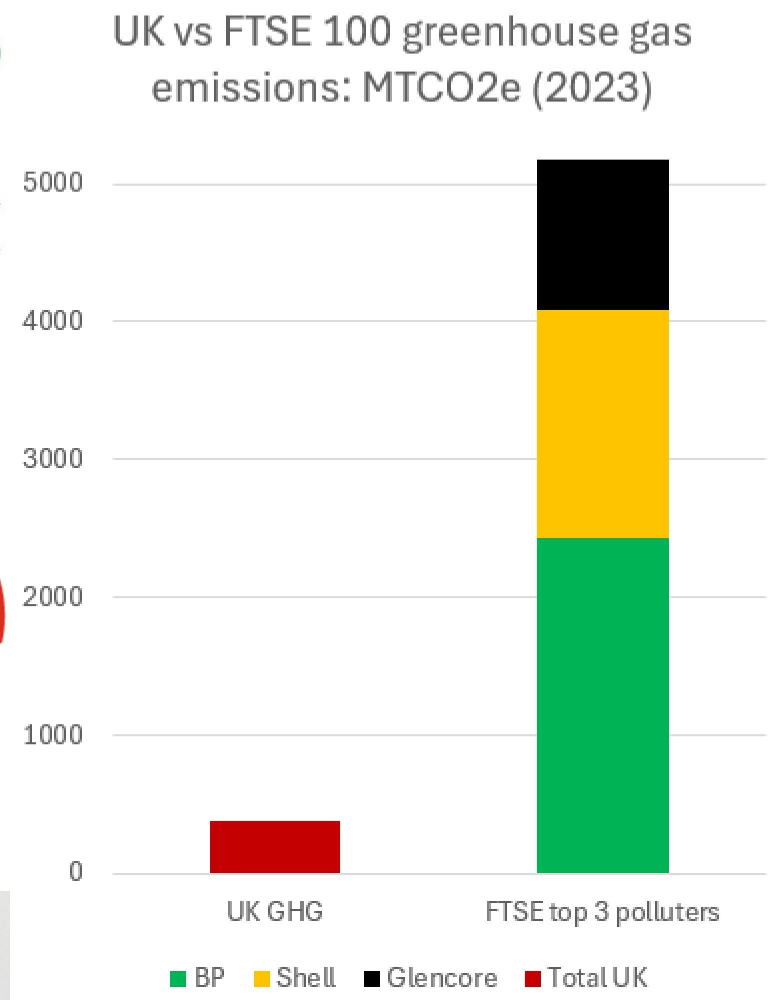


Source: Table 1.2, Final UK greenhouse gas emissions national statistics 1990-2022 Excel data tables

Note: LULUCF is land use, land use change and forestry.

Yet FTSE 100 top 3 fossil fuel polluters are much more

- (1) BP’s global emissions are 2429 megatonnes of CO2e annually, 632% of the UK’s total emissions.
- (2) Shell’s global emissions are 1653 megatonnes of CO2e annually, 430% of the UK’s total emissions.
- (3) Glencore’s emissions: 1,087 Mt CO2e p.a., or 282% UK
- = **5169 Mt CO2e**



(b) Bankrolling fossil fuels: top 5 in the FTSE

- Since the Paris Agreement, 2016-2023, new fossil fuel finance was:
  - Barclays = $235bn,
  - HSBC $192bn,
  - Standard Chartered $71bn,
  - Natwest $27bn,
  - Lloyds $21.6bn

= **$547bn. Over half a trillion.**

Banking on Climate Chaos: Fossil fuel finance report (2024) **$6.896 trillion** since the Paris Agreement from the 60 largest banks globally.

The UK jumps from 22nd to 3rd place for global emissions if we include BP, Shell and Glencore's emissions

	2023 emissions (ktCO2/year)	% global total	Change since 1990	Emissions per capita
China	15943986.55	30.10%	▲ 411.31%	11.11
United States	5960804.38	11.26%	▼ 96.00%	17.61
India	4133554.36	7.81%	▲ 298.87%	2.9
Russia	2672039.44	5.05%	▼ 87.16%	18.66
Brazil	1300168.87	2.46%	▲ 193.60%	5.97
Indonesia	1200199.79	2.27%	▲ 302.24%	4.29
Japan	1041012.82	1.97%	▼ 79.03%	8.31
Iran	996752.68	1.88%	▲ 299.58%	11.64
Saudi Arabia	805158.11	1.52%	▲ 340.39%	22.17
Canada	747678.03	1.41%	▲ 128.49%	19.39
Mexico	712102.1	1.35%	▲ 161.73%	5.15
Germany	681810.33	1.29%	▼ 55.17%	8.26
South Korea	653846.14	1.24%	▲ 201.14%	12.58
Turkey	606429.86	1.15%	▲ 273.54%	7.1
Australia	571839.85	1.08%	▲ 124.23%	21.75
Pakistan	532374.48	1.01%	▲ 264.22%	2.43
Vietnam	524133.46	0.99%	▲ 501.93%	5.19
South Africa	522115.49	0.99%	▲ 128.29%	8.61
Thailand	440783.01	0.83%	▲ 203.08%	6.33
France	385520.12	0.73%	▼ 72.33%	5.81
Nigeria	385112.88	0.73%	▲ 138.38%	1.73
United Kingdom	379318.59	0.72%	▼ 49.87%	5.55

(5) Models and options to meet goals

(a) Companies in the FTSE 100

(b) Taxation of companies vs labour

(c) Private banks and their regulation

(d) Bank of England’s goals and GDP

(a) Corporate governance and FTSE 100

- Make **pension fund trustees are majority-elected pension funds, make asset managers follow their voting policies + raise worker directors standards**: Pensions Act 2004 s 243; Swiss law 2013; most of OECD.
- Company Directors (Duties) Bill, Martin Wrigley (LibDem) proposes amending s 172 duty to employees and environment – text not there yet. However this was already tried in CA 1985 s 309, or US constituency statutes, and may not do much.
- Amend Companies Act 2006 sections 171, on powers of a director and 174, on the duty of care requiring:
  - **duties to switch energy supply, vehicles, buildings, and processes to electric where cheaper in medium/long term**
  - **compliance with 1.5 degree target, through the cessation of gas, oil and coal use and investment as fast as technology allows**
- Enable **enforcement of directors' duties by pension beneficiaries, representative environment groups, unions** through derivative claims: Companies Act 2006 s 260(1)

(b) Tax of capital (c) Private banks

- Ensure that labour is not taxed more than capital, and broadest shoulders bear more (Adam Smith), so
  - raise dividend tax rates to the same as employment income tax (40% over £50k, 45% over £125k) or more
  - raise capital gains tax on private equity profits to the same rates as income tax: started in Oct Budget
- Use **Prudential Regulation Authority powers to require that banks cease all fossil fuel finance**, and require that they divest portfolios, to ensure shift of capital to clean energy: Dutch ABP divested. Fossil Free Finance Act of 2023, S.1138, Ed Markey

(d) Central bank and GDP

- Define **‘price stability’ in law to pay regard to house price stability, pay inequality, and energy price volatility that comes from fossil fuels**: Bank of England Act 1998 s 11
- Set GDP calculation definitions in law that are Treasury and Bank, from Office of National Statistics to (a) exclude all polluting activity profits, such as fossil fuels or banks from fossil fuels (b) discount goods that harm health, e.g. tobacco. Simon Kuznets, ‘**The welfare of a nation can, therefore, scarcely be inferred from a measurement of national income** as defined above’ and it was ‘**dangerous**’ to ‘simplify a complex situation’. Bank of England Act 1998 s 11A
- Adopt an updated Human Development Index, with well-being and education quality and report on goal yearly (New Zealand)

(6) Benefits and costs of reform

- **Economic gains by 2030 are up to £44.1bn** from moving to electric vehicles, **£112.7bn** from clean power, **£19.1bn** from clean heating, **£78.5bn** from other sources = **£254.4bn each year**: CBI, *Going for Green*, Figure 4
- **£1bn a year** by taxing profits earned by private equity executives as income, 28% to 45%: CenTax (25 Oct 24). October budget changes: £140m.
- (HMRC, Direct effects of illustrative tax changes bulletin (June 2024) doesn't forecast for dividend changes yet!)
- Gearing the banking system and central bank to human and environmental goals could avoid estimated **\$38 trillion cost, 19% of the global economy**, or \$6 trillion price to keep below 2 degrees: Kotz, et al (2024) 628 Nature 551

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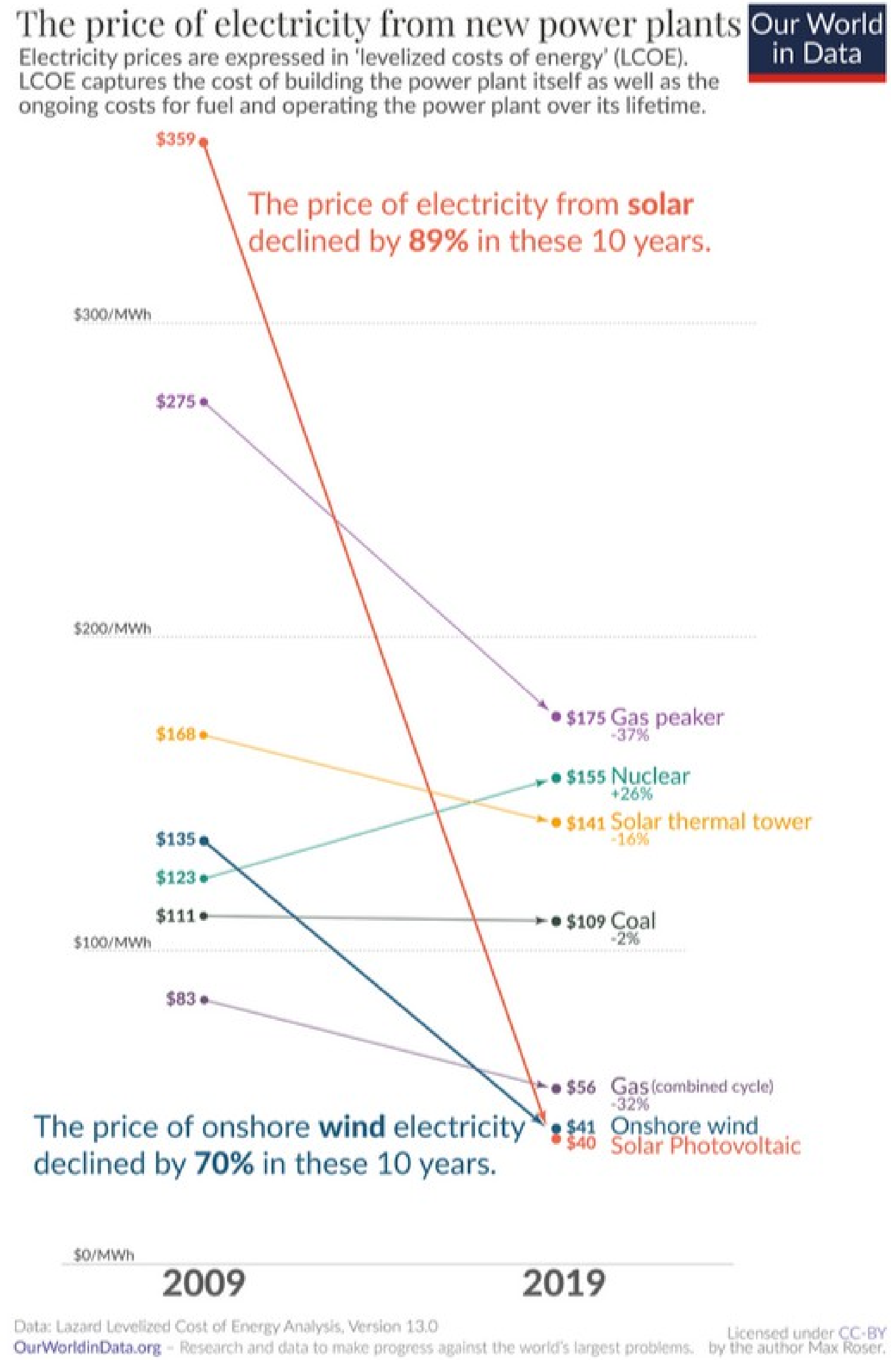
Climate change damage could cost $38 trillion per year by 2050, study finds

By Riham Alkousaa

April 17, 2024 4:11 PM GMT+1 · Updated 6 months ago



Discussion questions

- (1) What are the necessary reforms to corporate governance to comply with 1.5ºC?
- (2) What are the long-term desirable changes to taxation of the top 5% of earners or capital?
- (3) How should banks be regulated to comply with 1.5ºC limit on warming?
- (4) What reforms to the Bank of England and GDP are desirable for well-being and climate?