

The implications of the Scottish Government's proposals for land reform

In December 2014, the Scottish Government opened consultation on a set of land rights reforms aimed at making land rights more democratic and environmentally sustainable. In addition to representing opportunities for developing the sustainable management of land in Scotland, they have stimulated debate on land reform in the UK as a whole. This essay first discusses the context of land reform in the UK. It then outlines the recent proposals for Scotland and considers possible impacts on the sustainable management of land in Scotland, especially as relates to the opportunities for communities and social enterprises. It then suggests that similar reforms are unlikely to succeed UK-wide at this time in their current form, though this does not preclude other reform agendas or future possibilities. The essay finishes by suggesting research that might help move the debate forward.

Land reform in the UK

In the UK, land reform has been a “convulsive”¹ part of the national debate for centuries. Issues such as enclosure and land tax have played a huge role in the development of the country.²³ The debate continues today, for example with the recent furore over derelict properties in ‘Billionaires Row’ in London⁴. Centuries after the end of feudalism, 69% of the land is still owned by just 0.6% of the population.⁵ In recent years, the Scottish government has played a leading role in developing land rights. The Land Reform Act 2003 sought to increase the public’s land rights, for example by providing certain communities with the right to buy land.⁶ They have recently proposed further reforms.

New proposals in Scotland

In 2014, the government-commissioned Land Reform Review Group published a report on how land rights could be amended for the public good. The government later used this as the basis for a set of proposals published in the consultation document, ‘A consultation on the Future of

¹ Jason Cowley (19th October 2010), ‘Editorial: The coming battle over land and property’, *New Statesman*, <http://www.newstatesman.com/society/2010/10/land-tax-labour-britain>

² Simon Fairlie (Summer 2009), ‘A short history of enclosure in Britain’ *Land Magazine*. <http://www.thelandmagazine.org.uk/articles/short-history-enclosure-britain>

³ See: Jamie Bronstein, ‘Review: The Land Question in Britain, 1750-1950’ *Reviews in History*, <http://www.history.ac.uk/reviews/review/946> and

⁴ Steve Bird (13th February 2014), ‘Rotting mansions of billionaires row’, *Daily Mail* <http://www.dailymail.co.uk/news/article-2558125/Rotting-mansions-billionaires-row-How-rich-richer-letting-homes-decay.html>

⁵ *New Statesman* (29th March 2012), ‘Leader: Land reform remains one of the great progressive causes’. *New Statesman*, <http://www.newstatesman.com/society/2012/04/land-government-million>

⁶ Land Reform (Scotland) Act 2003, <http://www.legislation.gov.uk/asp/2003/2/contents>

Land Reform in Scotland⁷. These proposals have been described as the most important in over a century.⁸ Here are some of the key proposals and their potential impacts:

More transparent land ownership with the goal of a comprehensive registry.

- Tracing ownership is currently very difficult in Scotland. For communities to engage with the land around them they need the ability to communicate with the owners, and also to hold them to account for damaging or neglecting the land. Hiding ownership of land can be used by organisations seeking to avoid accountability for environmental pollution or other damage to local interests.⁹ Even for land that is managed well, enabling communities to contact the landowner can help it to be used better. It is hoped that increased transparency will enable communities to ensure that their history, culture and environment is better managed.¹⁰

Extending communities' right to buy land. Compulsory purchase orders where land is neglected or where sustainable development is blocked by the landowner.

- This would increase the rights of communities to purchase land from obstructive landowners. In particular, social enterprises could benefit as “the mechanism by which assets can be realised for the benefit of communities”¹¹. If they are able to demonstrate that they can improve use of the land sustainably and to the public benefit, they would be supported by the law.

Example: local residents of the Pairc estate had to fight a long court battle to purchase land from an obstructive landlord. The landlord eventually agreed to sell the land without a court order after nine years. However the time and struggle needed suggests that the 2003 Act was not enough. The proposed changes are designed to make this kind of 'hostile buyout' easier for a wider range of local communities.

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⁷ A Consultation on the Future of Land Reform in Scotland, <http://www.scotland.gov.uk/Resource/0046/00464887.pdf>

⁸ George Monbiot (December 3rd 2014), 'No wonder land owners are scared: we are starting to find out who owns Britain', *The Guardian*, <http://www.theguardian.com/commentisfree/2014/dec/03/landowners-scotland-britain-feudal-highland-spring>

⁹ 'Dealing with Disclosure' (2012) *Global Witness* http://www.globalwitness.org/sites/default/files/library/Dealing_with_disclosure_2.pdf

¹⁰ 'Improving transparency of land ownership', (2nd December 2014) *The Scottish Government* <http://news.scotland.gov.uk/News/Improving-transparency-of-land-ownership-12d3.aspx>

¹¹ 'Response to the Draft Land Use Strategy', The Scottish Social Enterprise Coalition, <http://www.scotland.gov.uk/Resource/Doc/341108/0113333.pdf>

¹² David Ross (15th November 2013), 'The Highland Line: has the Pairc saga raised more questions than it's answered about land reform legislation' *Herald Scotland* <http://www.heraldscotland.com/comment/bloggers/the-highland-line-has-the-pairc-saga-raised-more-questions-than-its-answered-about-1384533131>

Increasing community ownership of land up to one million acres by 2020, supported by an enlarged Scottish Community Land Funding Partnership.

- It is hoped that this would increase the resilience of rural communities by funding social enterprises who can demonstrate plans for “economic, social and environmental development”.

Example: The North Harris Trust were given £60,330 to help them manage an estate popular with tourists for the benefit of the community. The trust was eligible for this funding as it is a social enterprise dedicated to the regeneration and development of the community.

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Setting up a Scottish Land Reform Commission as a centre of expertise to guide future developments.

- There is a lack of evidence on what outcomes should be expected and how best to realise the objectives of the proposals on land reform. Land reform must also be protected from use as a political tool. Creating an independent body to monitor and manage changes can help here.¹⁴

Extending land reform in the UK

The rest of the UK shares many of the same land rights issues as Scotland but there are also differences, for example the increased right to roam in Scotland. In England, Wales and Northern Ireland and there are many social enterprises and communities that could benefit from similar reforms. However, there isn't clear support for a similar reform agenda in the rest of the UK.

In Scotland there is clearer political support for the reforms than in the UK parliament. The SNP proposed the reforms, and they are also largely supported by Scottish Labour¹⁵, Scottish Liberal Democrats¹⁶ and the Scottish Green Party¹⁷, together constituting a large majority in the Scottish parliament. The Conservative party however are resistant to several areas of the Land Reform agenda, and their strength in England, makes UK-wide change more difficult politically. The English Labour party have expressed support for some forms of land reform, with Ed Miliband

¹³ North Harris Trust <http://www.north-harris.org/the-trust/our-aims/>

¹⁴ Andy Wightman (26th November 2014), 'Land reform - the wait is over' <http://www.andywightman.com/?p=3975>

¹⁵ 'Action now needed on land reform' *Scottish Labour* <http://www.scottishlabour.org.uk/press/entry/action-now-needed-on-land-reform>

¹⁶ 'Land reform means opportunity to help create strong communities' (June 11th 2014) <http://centralscotlandlibdems.org.uk/en/article/2014/849568/land-reform-means-opportunity-to-help-create-strong-and-engaged-local-communities>

¹⁷ 'Bold land reform is a test of Scottish government ambition' (May 23rd 2014) *Scottish Greens* <http://www.scottishgreens.org.uk/uncategorized/bold-land-reform-report-is-test-of-scottish-gov-ambition/>

advocating a 'use it or lose it' policy, giving councils power of compulsory purchase to prevent land hoarding.¹⁸ The Green Party¹⁹ and some Liberal Democrats²⁰ have also expressed support for forms of land reform. Much will depend on the distribution of power after the election in 2015.

The position of the media and other influential organisations would also be important in pushing forward a land reform agenda. Supporters of land reform in the UK media include The New Statesman²¹ and The Guardian²². However other reporting has focused on issues such as excessive state interventionism²³ and the risk to businesses²⁴. Well funded and influential opposition should be expected to further proposals. In Scotland proposals have already been challenged by organisations representing land and business owners. Even organisations that support Land Reform would need persuasion to make it one of their priorities. To enable community purchase of land, the rest of the UK would also need an equivalent to the Scottish Community Land Funding Partnership. Even if such an organisation operated throughout the UK, its job would be far more difficult since land prices in England and Wales are generally far higher than in Scotland²⁵.

Finally, the support of the UK public would be crucial and raising the profile of the debate would be crucial. Public perceptions will also inevitably be influenced by what happens in Scotland. Long drawn out legal battles with landowners or evidence of economic decline as a result of the reforms could have a strong disincentive effect. However, if the successes of Scottish land reform are clearly communicated it could increase the demand for similar UK-wide reforms.

A successful land reform agenda in the rest of the UK might need to take a different approach. For example, transparency of land ownership is a more realistic legislative target than compulsory purchase, since even David Cameron supports the concept.²⁶ Some reforms may also be more popular in the media and with the public than others. For example, one Telegraph

¹⁸ The Labour Party (2013), 'Rebuilding Britain', *Your Britain*

<http://www.yourbritain.org.uk/news/conference-2013-rebuilding-britain>

¹⁹ 'Policy: Countryside', *The Green Party*, <http://policy.greenparty.org.uk/cy.html> (accessed on 18/12/2014)

²⁰ <http://www.c4ej.com/political-support>

²¹ New Statesman editorial (29th March 2012), 'Land reform remains one of the great progressive causes,' *New Statesman* <http://www.newstatesman.com/society/2012/04/land-government-million>

²² Observer editorial (10th August 2013), 'Scotland: Reform of land ownership is long overdue,' *The Observer*, <http://www.theguardian.com/commentisfree/2013/aug/10/editorial-scotland-land-reform>

²³ Mure Dickie (November 26th, 2014) 'Scotlands huntin' and shootin' landlords under fire', *The Financial Times*, <http://www.ft.com/cms/s/0/bb7cb03e-7591-11e4-b082-00144feabdc0.html#axzz3MY4yjm4M>

²⁴ 'Nicola Sturgeon warned 'radical' land reform costs jobs' (26th November 2014) *The Telegraph*, <http://www.telegraph.co.uk/news/politics/SNP/11255668/Nicola-Sturgeon-warned-radical-land-reform-cost-s-jobs.html>

²⁵ Jo Blakemore (February 27th 2014), *The Journal*,

<http://www.thejournal.co.uk/business/business-news/farmland-price-hits-another-high-6755452>

²⁶ David Cameron (24th January 2013), 'Prime Minister David Cameron's speech to the world economic forum in Davos', *Gov.uk*

[*https://www.gov.uk/government/speeches/prime-minister-david-camerons-speech-to-the-world-economic-forum-in-davos](https://www.gov.uk/government/speeches/prime-minister-david-camerons-speech-to-the-world-economic-forum-in-davos)

article criticised compulsory purchase but advocated increased land rights for communities and changes to agricultural subsidies.²⁷ Reforms could also spread at further regional levels, for example through the Welsh Assembly. Furthermore, a reform agenda need not focus on legislation alone, but rather on changing attitudes towards land use - for example by promoting a 'presumption in favour of community use'²⁸ of privately owned land. Much could and indeed needs to be done through communities working with landowners to further their *shared* interests.

Further research

The Scottish Land Reform Commission was founded on the recognition that the land reform debate needs more evidence. The following research would help shape the reform agenda moving forward:

What are the views of the public in England, Wales and Northern Ireland on various different possibilities for land reform?

- This would be useful both as a starting point to gauge the demand for reform as a whole and regionally, and also as a benchmark to evaluate changes in opinion over time.

What is the capacity of social enterprise to contribute to the economy and create jobs?

- This would investigate one of the main concerns raised in Scotland, that breaking up traditional ownership and management models would hurt business and employment.

What are landowners concerns regarding community activities on their land?

- To find out how the relationships between community organisations and landlords can improve an important step would be to understand why some prevent, or do not encourage, community use of their land.

What land rights are social entrepreneurs interested in?

- To understand what should be the priority in a land reform agenda we need to understand the needs of those it should be designed to help.

²⁷ Adam Nicholson (28th January 2003), 'England could use some of Scotland's land reform,' *The Telegraph*, <http://www.telegraph.co.uk/comment/4267367/England-could-use-some-of-Scotlands-land-reform.html>

²⁸ 'Aims & History' *Shared Assets* (Accessed on 18/12/2014) <http://www.sharedassets.org.uk/about-us/aims-history/>