



Community-based land reform: Lessons from Scotland

John Bryden^{a,*}, Charles Geisler^b

^a*UHI PolicyWeb, The Green House, Beechwood Park, Inverness IV2 3BL, UK*

^b*Department of Development Sociology, 237 Warren Hall, Cornell University, Ithaca, NY*

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Abstract

In recent years, the Scottish Highlands have become the epicentre of a land reform significant for its strong embrace of culture and community. Close inspection of the Scottish land reform—wherein communities are granted the right to purchase lands to which they historically enjoyed only conditional access—leads to a series of questions about the relationship between land reform and community. We argue that most land reforms have paid insufficient attention to community strengthening as an end in itself and are the weaker for it. Drawing on insights from community-based natural resource management and local development, we offer qualified evidence suggesting that, as in the current Scottish case, community-centric land reform has a promising future. We trace the pre-reform history of community buy-outs in Scotland and pose various issues that must be addressed if Scotland's land reform legislation is to succeed.

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Introduction

Interest in land reform appears to be rekindling. In the past, land reform promised many things, most of which were technical, legal, and economic in nature. Doving's (1987, p. 394) description of land reform offered textbook language: "Land reform is one of the classical instances of attempts to correct market failures by institutional reform enacted by or induced by the public powers. Land reform means systematic change in property distribution, farm size, and land tenure conditions". What is missing in this reckoning is the community component of land reform. Relatively self-sufficient, secure, and sustainable communities, so essential to social infrastructure, are typically taken for granted or not an explicit goal of land reform. In this paper, we explore certain connections between land ownership and community in an attempt to diversify and enrich future land reform discourse.

The neglect of community in land reform planning is of much interest, given the widespread rush to incorporate 'community' in natural resource decision making and local development (cf. Bryden, 1994) by government and non-government managers. This drive to decentralize control of resources of every description stems in part from reactions to globalization (Griffin, 1999; Dorner, 1999), from normative views that "local is better" (Pimbert and Pretty, 1997; Western and Pearl, 1989), and those who see political advantage in identifying with "local" (Barrett et al., 2001; Wittman and Geisler, 2005). Yet the florescence of interest in local has not pervaded the core thinking of land reformers. Here the tendency persists to view land reform in state-centric terms, even where titling is cast as the panacea for rural poverty and recovery. With notable exceptions (e.g., Li, 1996; Agrawal and Gibson, 1999), community is taken for granted or equated with resettlements which often do little more than warehouse rural people.

Our interest here is in community-based land reform, a melding of land reform, community-based natural resource management and innovative local development. This interest is constrained by the difficulty to which we just

*Corresponding author. Tel.: +44 1463 273 561; fax: +44 7917 050 377.
E-mail addresses: john.bryden@inverness.uhi.ac.uk (J. Bryden),
cgg2@cornell.edu (C. Geisler).

alluded: for many land reformers, “community development” is a rhetorical objective. Community itself becomes an externality, a victim of other more pressing, productivist objectives. It remains to be seen whether new interest in land reform will rehabilitate community as a land reform priority. Our empirical referent springs from an unlikely quarter—the peripheral zones of Scotland—where momentum has recently gathered for The Land Reform (Scotland) Act 2003 (Scottish Executive, 2003). Central to this statute is a “community right to buy” provision which puts communities in the foreground of the country’s land reform. If, as we suggest, the precedents for tight coupling between land reform and community are increasingly problematic, the focal research question becomes: What might we expect from community-centric land reform where the state has empowered communities to purchase and manage lands to which they have historically had neither ownership nor full control?

Before examining the Scottish case, we offer a fuller argument for why communities matter to successful land reform and land reform to successful communities. In the course of this clarification, we expand upon reasons for why this neglected relationship has endured. In the second section we ground the case for close coupling in actual community-based land reform experiences, past and present. This becomes an exercise in “seeing” the counterfactual. Land reform is viewed as a community tool for managing land and resources rather than a state-led intervention to attain greater outputs, to placate rural unrest, to resettle landless laborers or those displaced by public works, and the like. We then turn our attention to Scotland’s recent land reform. We suggest that its explicit approval of state-assisted community appropriation of land has far-reaching implications for standard land reform thinking. The community’s right to buy is fundamentally a right “to be” and to secure a place-based arena of common identity and interests, protected by legal title. This said, what is to keep community-centric land reform from succumbing to reconcentration of ownership and other counter-reform revenge effects known to plague land reforms?

Theorizing community-centric land reform

Readers tracing the literature on community are well aware that the task of finding community—let alone “bringing it back in” to land reform—is fraught with definitional and operational problems. Many have noted that communities are dynamic and internally diverse (Bell and Newby, 1971; Bryden and Hart, 2000) and that place-based community has been widely eclipsed by other non-community forms of organization (for a summary, see Barton, 2002; Barrow and Murphree, 2001). Resurgent interest in community of late is heavily attributable to research on social capital. Despite certain limitations, this scholarship drives home one seemingly irrefutable conclusion: places lacking in solidarity, trust, and association are

likely to have lower levels of well-being and general welfare than those endowed with these qualities (Pretty, 1999). These qualities can be frustratingly subjective, illusive, and underspecified. But they cannot be dismissed. Nor can local culture, which sets the stage for land reform acceptance (or rejection) and is typically embedded in the quotidian activities of community life.

Since at least the 1980s, conservationists have embraced devolution in many forms in a quest for socially sensitive and culturally acceptable protection of nature. According to Hulme and Murphree (2001, p. 2), this approach became so popular in the 1990s that at times it appeared to be a new orthodoxy, seeking to displace the conventional wisdom of state-enforced environmental protection. The new paradigm came to be known as “community conservation” or community-based natural resource management (IIED, 1994; Wilshusen et al., 2003). Its motivations were multiple. Some embraced community conservation for humanitarian and environmental justice reasons (Zerner, 2000; Brechin et al., 2003). Others, reviewing the common property record (Ostrom, 1990; Bromley, 1991)¹ as well as accounts of sustainable resource management among indigenous and settler communities, advocated co-management or full transfer of management to local communities (Western and Pearl, 1989; Borrini-Feyerabend, 1996; Echenter, 2002; Buck et al., 2001). The newest argument for educating and empowering communities to share responsibility for local conservation comes from the realization that vast amounts of biodiversity and ecological services lie outside of protected areas, that is, in place-based communities of many descriptions (Cary and Webb, 2000; O’Riordan and Stoll-Kleeman, 2002; McNeeley and Scherr, 2003). Community-centric conservation has gained allies from above and below.

There was a parallel movement for community involvement in rural development issues, starting in the 1970s as an ‘alternative development’ paradigm (Bassand et al., 1985; Stohr, 1990; Bryden, 1994). Once again there were multiple rationales and motives—the failure of ‘top down’ development; the ‘downsizing’ of the state; the need to capture local knowledge and resources; the development of democratic practice; a move towards more holistic development, and so on. In the European Union this movement resulted in the creation of the EU’s ‘Leader programme’ in 1991—an official programme to stimulate holistic, bottom up, development in rural areas suffering from decline and marginalization.

Land reformers are forewarned, however, that these decentralist impulses are not uncontested. Implacable adherents of state-based models remain skeptical about the capacities of “parochial” local citizens (Terborgh, 1999), and some social scientists assert that devolution to local communities is based on unproven assumptions about local people (Wells, 1994–95; Echenter and Sellato, 1999)

¹Common property is not necessarily property held by a community (see Barrow and Murphree, 2001).

and community development (Brandon et al., 1998). Hard questions have come to the fore regarding issues of “community for whom?” and about “which local community” among many (Shortall and Shucksmith, 1998; Belsky, 2003). For purposes of the present paper, the most trenchant concern lies elsewhere, however. It has to do with the hollowness of community participation if devoid of property rights, a key form of empowerment. Barrow and Murphree (2001, p. 31) raise these concerns in the African case, stating:

“Tenure,... [is] a key variable in determining the performance of community conservation initiatives... As inhabitants of what is technically state land, the residents of most communal lands in Africa do not have strong property rights. Their tenure is uncertain and their decisions on the use of resources subject to a plethora of conditionalities. As in colonial times, communal lands continue to be in various degrees the fiefdoms of state bureaucracies, political elites and their private sector partners. The persistence of this condition in the modern post-colonial state is an indication that the devolution of strong property rights to the peoples of communal land is a fundamental allocative and political issue and that power structures at the political and economic center are unlikely to surrender their present position easily”.

There are, then, valuable lessons to be learned from the community-centric logic circulating among conservation and other theorists. First, communities are a cornerstone of social existence and time-honored arenas of cultural reproduction and collective action. To mobilize reform affecting place and bypass community is to imperil primary social structure and identity. Second, the logic used by community conservationists applies to land as a productive resource every bit as much as does to land as a consumptive resource. If land and resources targeted for conservation are fit for community devolution and people-centered management, the same shoe fits land reformers charged with a broad array of social objectives. Third, devolution of responsibility and stewardship without entitlement is a contradiction. It is symbolic devolution at best, and likely to be dysfunctional when the political cache of land redistribution fades. And, as we suggest below, the devolution of entitlement without responsibility to community is similarly ill-conceived. Wightman (1996, p. 205) knowingly states with reference to Scotland’s land reform that devolution needs to go beyond property rights to tackle other social, economic and institutional issues—laws on taxation and inheritance, services, community development, equitable representation, and the like. We return to this insight later.

“Seeing” community-centric land reform

To this point we have made the case that land reformers have generally accorded low priority to community. We

have suggested assorted reasons why this is so and why it is not easily overcome. But this was not always so. As with community-based conservation, some strains of past land reform revolved around community but have been forgotten. The challenge at hand is not only to find analogs in other policy domains but also to recall the community priorities in past land reforms that have fallen into obscurity. As Rose (1994) reminds us, we must learn to “see” property forms that are uncommon and unconventional and, by extension, to see relationships between property and community that are largely erased from recent memory.

Historically, property questions were deeply embedded in the social relations of community and were mutually constituted. The annals of pre-feudal and feudal society attest to this. Max Weber (1947) saw the spread of quasi-freehold society arise on the frontiers of the late Roman Empire, a policy intended to enlist loyalty among subdued tribal communities. Tonnie’s (1963) widely read treatise on *Gemeinschaft and Gesellschaft* (“community and society”), took pains to identify *gemeinschaft* with feudal property arrangements and *gesellschaft* with their post-feudal counterparts. Colonial settlements were often experimental sites for proprietary models infused with community rights and obligations. In colonial America, quasi-corporations (“town proprietors”) were established and given land allotments by the Crown (Woodward, 1936; Sakolski, 1957; Clark, 1983). Shareholders served as town fathers and elders. They drew lots, divided the Crown allotment lands among themselves, and enjoyed franchise rights not accorded to those without land. Land title and political entitlement went hand in hand. Freeholders selling land were compelled to offer it first to the town—an early form of “community right-to-buy”. Though antithetical in some ways to current “land reform,” these settler experiments were significant departures from the unreformed feudal tenures still practiced in 17th century Europe.

A more familiar “land reform” came to North America in the form of the Homestead Act of 1862. This legislation culminated a vision set forth by Jefferson early in the 19th century upon his return to the United States from his ambassadorship in France (1784–1787). Jefferson was enthralled with what Roman colonizers had accomplished on their northern frontier (Kennedy, 2003). He presented Congress with a township system that would undergird his agrarian republic—a concept incorporated in the Northwest Ordinance of the 1780s and the Homestead Act of 1862 (Dovring, 1987). Land allocations east of the 100th Meridian would be of equal size (160 acres per household); to the west, larger accommodations were made to offset climate constraints. In both, one or more sections of each township were set aside as school lands to educate farming communities in the new republic (Souder and Fairfax, 1996). Though the Homestead Act suffered setbacks and perversions (Kennedy, 2003), it was a self-avowed blueprint for a community-centric land reform.

Land reform with unambiguous community content was popular among English land reformers as well (Girardet, 1976; Bronstein, 1999). At the same time free soilers and would-be homesteaders were agitating in the United States, Chartists were calling for parish-based land reform in rural England. Between 1710 and 1850, 7 million acres of commons land had been legally enclosed by landlords and perhaps an equal acreage illegally appropriated (Spowers, 2002). Land reform manifestos proliferated in kind. Building on the writings of Paine, Godwin and Spence,² the Chartists proposed an agricultural utopia for commoners-turned-laborers caught in urban squalor. Spence's early notion of parish-based communities in rural England captured public imagination and assuaged public conscience. Herein, parishes would be subdivided into 4-acre farms, with parishioners themselves as "landlords." A "commonwealth" of parishes was foreseen similar to Jefferson's new republic. At its height, the Chartist plan had 70,000 subscribers, organized 600 branches in England, and was institutionalized as the Chartist Co-operative Land Society (later, the National Land Company). At core, Chartists advocated a new vision of community secured by a tenure model replacing the disrupted commons culture (Tod and Wheeler, 1978).

Still more community-centric land reforms were prompted by the appearance of the second Domesday Book of 1872. Its revelations of persistent land concentration (Bateman, 1883–73)³ prompted cries for land nationalization by distinguished intellectuals, including Alfred Wallace, Herbert Spencer, Joseph Chamberlain, Mill (senior and junior), Hyndmann, Alfred Marshall, and Ebenezer Howard. During the economic crisis of 1892, the Liberal government empowered county councils to buy large farms and divide them into smaller units of 1–50 acres for lease to individuals or cooperatives. Soon afterwards, Ebenezer Howard (who in 1871 had farmed in Nebraska under the Homestead Act) unveiled his garden city concept to relieve urban overcrowding. The core concept was marriage between town and countryside, to which some 2 million people responded (Hall et al., 2003). In 1913 England passed land reform legislation (Astor and Roundree, 1938), and by 1914 some 15,000 smallholdings were situated on 200,000 acres. After the First World War and during the Great Depression, additional smallholdings were created for ex-servicemen and unemployed factory workers in England and Scotland with both community

and tenure concerns foremost in mind.⁴ In the 1940s the Garden Cities Movement gained new momentum and set the stage for both the Town and Country Planning Act of 1947 and the Community Land Act of 1975. The latter, along with the Development Land Tax Act of 1976, was a self-conscious effort to empower communities to capture socially created land value (Huntsman, 1976/77).

Other land reforms have made innovative connections between tenure and community as well. As in Japan and Taiwan, land reform was an urgent priority in post-World War II Italy. Feudal land tenure traditions there originated with Norman colonization a millennium before. Due to success of the free communes in Lombardy and elsewhere (Medici, 1952), Italy's feudal estates prevailed in the South but bore the brunt of the 10-year (1950–1960) reform following the war (Lopreato, 1967). In that decade, some 673,000 hectares were expropriated and another 94,000 hectares purchased, leading to the creation of 44,000 new farms and the distribution of 70,000 parcels to supplement existing smallholdings. Perhaps most relevant, some 900 new cooperatives were created, as were 180 rural service centers to serve as surrogate communities (McEntire, 1970; Cesarini, 1978).

In India, the Gramdan movement, inspired by Gandhi and initiated by his close friend and colleague Vinoba Bhave, required land titles to be vested in the village community as organized in the Gram-Sabha or village assembly, itself a democratic and autonomous body (Prasad, 1970). Gramdans were gifted by large landowners as part of the non-violent movement to resolve inequalities of access to land and related poverty. By 1969, there were 95,835 Gramdans in India spread through 17 States. Though lacking their former momentum, national and international foundations (e.g., Gram + Dhan, Gramdhan India Foundation and Association of Sarva Seva Farms or ASSEFA) have lent support to Gramdan efforts, as have numerous non-governmental organizations (e.g., Gandhi Smaraka, Gandhi Seva Kendram, and Anchalik Gramdhan Sangh, among others).

More recently, Brazil's Movimento dos Trabalhadores Rurais Sem-Terra (MST) has distinguished itself as a major

²Britain has had a wide spectrum of land reformers old and new (e.g., the Land Tenure Reform Association and the bio-regionalists). Some, like William Ogilvie (see his *Rights Of Property*) advocated ownership rights with fixed rents and services. Others sought market-driven "private" reforms, and still others insisted on the superiority of outright nationalization or state ownership of the fee (Astor and Rowntree, 1938; Cowen and Shenton, 1996).

³The Survey, which included landownership in Scotland, was conducted in 1872–1873, and revealed that half of Scotland was owned by a mere 118 people (Wightman, 1996).

⁴In Scotland, the Congested Districts Board set up in 1897 following the Royal Commission on Crofters and Cottars (The Napier Commission), established 640 new holdings and 1138 enlargements between 1897 and 1912. Its activities were taken over by the Board of Agriculture which implemented the Land Settlement Acts in Scotland, under which 6000 new small holdings were created after World War I (Leneman, 1989). In 1934 the Land Settlements Association was established with Government sponsorship so that, by 1947, nearly 30,000 smallholders were cultivating over 450,000 acres of agricultural land owned by local authorities and other government bodies. In that same year, new laws encouraged cooperatives (the recommendation of the Scott Committee on Land Utilization in the Rural Areas (1942)), but industrial boom drew farmers to cities and the 30,000 fell to 22,000 (Girardet, 1976, pp. 108–109). Nevertheless, there has been a strong demand for home-production allotments in recent years; Pretty (1999) and Bryden (2002) estimate that there are some 300,000 such units in the UK—more than the number of 'significant' farms.

land reform movement dedicated to broad-based ownership encased in new rural communities and ideas of agrarian citizenship (Wittman, 2005). MST and its kindred organizations has attracted landless people from all regions of the country, urban and rural, and sought to acquire legal title for them in self-run, self-sufficient settlements (Wright and Wolford, 2003). Organizers now devote as much effort to implanting sustainable settlement as they do to mapping land recovery strategies and new member recruitment. MST boasts between 1 and 2 million members (making it the largest social movement in Latin America) in a country where 3% of the population owns two-thirds of the arable land and communities are routinely displaced by public works, land grabs, and failed public-sector land reforms. In the aftermath of MST land occupations across the country, questions of community become paramount and are given the fullest attention (Wolford, 2003).

This short overview of community-centric land reforms is conspicuously incomplete (cf. Simon, 1991). To it might be added land reforms in societies which periodically equate community with collectivization, for example, China, Tanzania, Ethiopia and the Baltic states (e.g., Sobhan, 1993; Lapping, 1993). Mexico's 80-year experiment with *ejidos* and Israel's evolving *moshavim* instantiate community and land reform in their own culturally specific fashions. And in myriad cases the community nexus to land reform is present but indirect, from Canada's Prince Edward Island (Lapping and Forster, 1984) to parts of the global South. Widespread tenancy reforms in West Bengal in the 1970s and 1980s led to a dramatic increase in agricultural output that increased local incomes, land values, and tax potential for community infrastructure and services (World Bank, 2000/01). Urban land reforms such as Ian McHarg's proposals for cluster-housing developments aim to create new commons-centered communities (Arendt, 1994) and the global eco-village movement has similar aspirations in rural places. Similarly, community land trusts (Williamson et al., 2002), and modern proprietary towns (Nelson, 2004) are "land reform" experiments that privilege community, as are the many expressions of the so-called new urbanism (Nolan, 2002). Land regularization—the registration of titles in informal and squatter communities—is proliferating in Latin America and creating the potential to collect land taxes for assorted municipal improvements (Deininger and Chamorro, 1999).⁵

Scotland's community-centric land reform

Scotland's land ownership concentration had been the focus of research for several generations (e.g., Bateman, 1883; MacKenzie, 1991/1883; Millman, 1970; Bryden and

Houston, 1976; MacEwen, 1977; Cramb, 1996; Wightman, 1996), along with numerous testimonials on the need for land reform. Just over 1200 landowners hold two-thirds of Scotland's land, a level of concentration unrivaled elsewhere in Europe (Bryden, 1996; Wightman, 1999a). The consequences of such concentration and the feudal "burdens" to which tenants in Scotland were subject until 2000 were and are far ranging. Absentee landlords can legally counteract proposals for community and regional development through active opposition or mere indifference (MacGregor, 1988; Bird, 1982; Mather, 1988–89). They can allocate vast acreages to sport hunting at the expense of crop production (Gray, 1981) and have done so for generations. They can claim the foreshore and kelp washing onto it, severing an important source green manure for local fields and thus the food chain (Macaskill, 2005). They can and do degrade the environment which, if managed for biodiversity and community owned, could be a renewable source of local income (Cramb, 1996). These and other impacts were summarized by Bryan McGregor in the first John McEwan Memorial Lecture in 1993:

"The impact of the land tenure system goes far beyond land use. It influences the size and distribution of an area's population; the labour skills and the entrepreneurial experiences of the population; access to employment and thus migration; access to housing; access to land to build new houses; the social structure; and the distribution of power and influence. In many areas of rural Scotland, large landowners play a crucial role in local development; *they are the rural planners*". (emphasis added; cited in Wightman, 1996, p. 15)

A sea change was triggered in 1997, however, by the election of a New Labour Party committed to greater political autonomy ("Devolution") for Scotland, Wales and Northern Ireland. The new government quickly set about fulfilling a campaign pledge to establish a Land Reform Policy Group (LRPG) under the chairmanship of the then Scottish Office Minister of State, Lord Sewel. Sewel was responsible for steering legislation for Scottish Devolution from the United Kingdom through the House of Lords. The LRPG developed a set of proposals with extensive public consultation and published it in 1999, the same year Scotland elected its own Parliament for the first time in nearly 300 years (Dewar, 1998). The prospects for land reform advanced swiftly. In 2000 Scottish Feudal Law originating in the 11th Century was officially repealed. In February 2001, the new Scottish Executive in Edinburgh issued the Consultation Paper on Land Reform that led to a Draft Land Reform Bill. Two years later, the Scottish Parliament passed land reform legislation. It granted rural communities in Scotland the right of 'first refusal' on the sale of estates and granted crofting communities the right to buy their croftlands on a collective basis, even over the objections of land owners.

Though a legal watershed, the community empowerment embodied in this law was the final phase in an ownership

⁵By systematizing property rights that have been informal, communities enjoy greater social order, increased land value, propensities to invest in land and improvements, and create social cohesion. See Fernandes and Solka (2004) for a critical evaluation.

shift dating back more than a century and having three recognizable periods. The first came on the heels of the infamous clearances in northwest Scotland and of the Domesday survey of 1872–1873 referred to above. The clearances were largely the result of expanding sheep farming and recreational land uses by landed elites and accomplished through rack rents and crofter evictions (Bryden and Houston, 1976).⁶ The Crofters Holdings (Scotland) Act of 1886 curtailed landlord prerogatives to a degree. Crofters were guaranteed fair rents, the right to assign their crofts, and other measures of tenure security (Hunter, 1976). In 1892 a Royal Commission targeted over 300,000 ha of private hunting land for redistribution to new crofts and another 225,000 ha for enlarging existing crofts (Mather, 1988–89). Though not implemented, the Commission's work and later legislation (e.g., an 1897 Act, which established new croft townships, and the 1911 and 1916 Land Settlement Acts) made strong connections between land insecurity and economic destitution in the northern half of Scotland (Leneman, 1989).

Notwithstanding these commissions and legislative acts, little changed in the structure of landownership in Scotland's Crofting Counties until well into the 20th century (Wightman, 1996). This second period of community empowerment was fueled by a spreading awareness that land tenure was an issue everywhere in Scotland, not just in the northwest, and by the land resettlement predicament posed by World War I. To encourage enlistment in the army, the British Government promised homesteads to soldiers upon their return from the war. The appeal was immense, given Scotland's land concentration and the vivid memory of the Victorian-era clearances. Giving it teeth, the Land Settlement (Scotland) Act of 1919 contained powers of compulsory purchase of private estates (Mather, 1978). Returning soldiers found the government to be equivocating, however, and protests and land invasions ensued, peaking in 1922. These were carefully covered in the media because, unlike the crofters' "war" of the past, these "raids" were by war veterans trained in the use of arms. Against this backdrop, Lord Leverhulme gave his sizeable estate on the Isle of Lewis to the local community, and Scotland's historic Stornoway Trust was born in 1923 (Abercrombie, 1981; Boyd, 1999).

Between World War I and II roughly 2000 new holdings were created in the Highlands and Islands; resettlement projects spread to lower Scotland to relieve the traumas of the depression and rural blight after World War I (Mather, 1978).⁷ Another significant development after World War

II was a series of planning acts that further legitimated the nationalization of development rights and public ownership. Private ownership in Scotland in fact decreased as lands were purchased by the Forestry Commission, the Agricultural Department, the National Coal Board, and the Ministry of Defense (Wightman, 1996). Thus, the second period was marked by expanding public ownership across Scotland, increasing set-asides of conservation lands by non-profit groups (Cramb, 1996), and a growing sentiment that small, privately owned farms were problematic (and in any case had little support in the House of Lords in London).⁸ Scotland's feudal land law continued to protect the sanctity of large holdings, and would not expire for several decades.

The third phase in Scotland's community-centric land reform dates from roughly 1970. Two years previously, the Crofters Commission proposed state acquisition and transfer of croft land to crofting communities. In 1969 the White Paper on Land Tenure in Scotland appeared, calling for full abolition of feudal land law. Five years later, the Land Tenure Reform (Scotland) Act passed, prohibiting new feu duties to feudal superiors and allowing the redemption of others (Wightman, 1996). In 1977 John McEwan reminded the public that ownership concentration was a chronic blight on rural Scotland, an indictment with many echoes. In the same year the HIBD developed amendments to its land powers and, following public consultation, published these in 1979. By the 1990s few Scots dismissed the Scottish "land question" as irrelevant or hopeless. Indeed, hope rekindled in proportion to the success of community claims. In February of 1990, the government offered its own crofting estates to local communities, and the Arkleton Trust Report on "The Future of the DAFS Estates in Skye and Raasay" appeared. It supported the transfer of land and related assets to local crofting trusts set up as non-profit companies ("limited by guarantee") with democratic constitutions (Bryden et al., 1990).⁹

Thanks to the prior momentum of crofting communities' intent of regaining their collective land rights, community-based land reform permeated Scotland's political climate well before the 2003 land reform act. The Assynt Crofters Trust was created through a large-scale community buy-out in 1992 (Doubleday et al., 2004; Macaskill, 1999), followed by the Borge and Melness Crofting Trusts (Chenevix-Trench and Philp, 2001). Countrywide momentum was now mounting. The Highlands and Islands Forum (HIF) sponsored an important conference in 1994 under the banner "The People and the Land" which in turn

⁶Crofting tenancies were (and are) organized into "townships" throughout much of the Highlands and Islands region. Most crofters held a legal interest in a commons (a "common grazing") managed by elected committees of crofters. Today, some 17,000 crofting tenancies occupy 800,000 ha or 20% of the Highlands and Islands (Ritchie and Haggith, 2005). For commentary on the complexity of "commons" in Scotland, see Callander (1987).

⁷Mather (1978) states that this was part of a larger resettlement impulse across Europe intended, at least in part, to head off Bolshevism.

⁸In 1964 the Highlands and Islands Development Act was passed. In 1970, according to Mather (1988–1989), the Highlands and Islands Development Board rejected the idea of creating new small holdings as non-viable.

⁹The Solicitor of the Team, Simon Fraser, subsequently became the principle legal advisor to many community land purchases from Assynt to Gigha and North Harris, thereby having a major effect on land reform thinking in this period.

spawned countrywide workshops on community-based forestry. This culminated in full community ownership of forest lands in Treslaig, purchased from the Forestry Commission (Ritchie and Haggith, 2005). In 1995 Secretary of State Michael Forsyth proposed that the Scottish Office transfer ownership of 250,000 acres of crofting land to community trusts. In 1996, three other communities (Cairnhead, Culag, and Abriachan) bought or leased forest lands from the government to expand their economic base. Recapping the momentum of this period, Ritchie and Haggith (2005, p. 10) state:

“Throughout this process, grassroots gatherings such as HIF and Community Woodlands conferences helped the community movement to develop a shared vision, spreading ideas and building confidence. Grassroots networks such as the Scottish Crofters Union, Reforesting Scotland, the Scottish Community Woodland Association...and the former Rural Forum helped by sharing information and lobbying”.

The Scottish land fund

In a prescient move, the Highlands and Islands Development Board proposed changes to its powers of land acquisition in the 1970s, thereby laying groundwork for non-crofting local communities to trigger buy-outs (HIDB, 1979).¹⁰ Several things would happen to fuel such buy-outs. In the same year as the Assynt Crofter Trust was formed, residents from the Isles of Eigg and Knoydart initiated legal actions to gain control of their land and forests. The Eigg estate (coterminous with the Island of Eigg) was purchased by its residents with assistance from a non-governmental organization (The Scottish Wildlife Trust) and a private donor. On the day of the purchase, Highlands and Islands Enterprise was asked by the Scottish Office to set up a Community Land Unit to assist communities in the purchase and management of land, a sign of active promotion and financial assistance for acquisition (Chenevix-Trench and Philp, 2001). The Land Reform Policy Group, established in 1997, issued a report in 1999 recommending a fund to support community land purchases and the community right to buy. The following year, the Scottish Land Fund (SLF) was established and capitalized by the UK Lottery-funded New Opportunities Fund (its “Green Spaces and Sustainable Communities” Programme). It started operations in 2001. This created an initial fund of £10m (later increased to £15m) to assist rural communities acquire and develop land and buildings on a voluntary basis.

¹⁰These proposals were accepted by the Labour Government in 1979, shortly before the victory of a Conservative Party not in favour of land reform. Nevertheless, the HIDB’s proposals were advanced as a private Members Bill in 1980 by Robert MacLennan, then Labour MP for Caithness and Sutherland. The Bill unsurprisingly failed to gain sufficient support in the Commons.

By June 2005, the SLF had assisted roughly 200 communities and committed some £12 million for a wide range of eligible projects, including community purchase of two large estates—the island of Gigha and the North Harris estate, both in the Scottish Highlands and Islands. In fact, two-thirds of SLF grants have been in the Highlands and Islands, reflecting the fact that people of this region led the land reform campaign.¹¹ SLF-funded community purchases have been vital tools for community empowerment and enterprise in rural areas of Scotland (see Table 1). For example, since the Gigha acquisition, some eight new enterprises have started and attracted new families. A small local housing enterprise has started, and housing improvements in the existing housing stock are under way. The school role has increased for the first time in many years. In Eigg, the installation of new water-driven turbines serving small communities has been part of a sustainable energy drive managed by the community, and a new grid serving the whole island is planned. Elsewhere, wind turbines are being evaluated for their economic potential.

SLF funding is currently only available to communities of 3000 or less; this will soon be raised to reflect higher limits in the new Land Reform legislation. All funded projects must demonstrate economic, social and environmental benefits. Communities have to have, and typically do establish, a democratic and locally controlled body (commonly a company limited by guarantee or “non-profit”) to acquire and manage the land and other assets, as well as majority support for the acquisition from community residents. In 2005 local inhabitants of Lewis voted overwhelmingly to launch a ‘hostile’ bid to purchase the 22,267 ha crofting estate of Galson, and in June 2005 the Islanders of South Uist did the same for the predominantly crofting South Uist Estate of 37,652 ha. Both bids were under the provisions of the Land Reform Scotland Act and received SLF funds to undertake feasibility studies and valuations. As of mid-2005, over 123,000 ha of rural land is owned and controlled by local communities in Scotland, 42,455 ha with substantial SLF assistance. If the Galson and South Uist buy-outs succeed, this will increase to some 163,000 ha by the end of 2005. There continue to be a significant number of new inquiries for assistance to purchase whole estates and common grazings. In sum, community buy-outs and upgrades are becoming synonymous with Scotland’s land reform.

Discussion

Land reform is returning to the center stage of rural policy but in a context rather different from the past. This

¹¹Measuring the ‘interest’ in land reform by the number of respondents in relation to the population of each region in Scotland, we note that, of the 338 responses to the first Consultation Paper, 38% came from the Highlands and Islands, which has 7% of Scotland’s population—by far the highest rate of response of any region (Bryden and Hart, 2000).

Table 1
Community land acquisitions, Scotland, 1908–2005

Estate/community	Date acquired	Area of land (ha)	Scottish land Fund assistance for acquisition if relevant ^a	Crofting or non-crofting estate
Glendale Estate, Skye	1908	7674	Nil	Crofting
Stornoway Trust, Isle of Lewis, Western Isles	1923	27,935	Nil	Mainly crofting
Dalnavert Coop, Inverness-shire	1982	61	Nil	Not crofting
Assynt Crofters Trust	1993	8623	Nil	Crofting
Borve and Annishader, Skye	1993	1860	Nil	Crofting
Melness Crofters Estate Ltd, Sutherland	1995	1417	Nil	Crofting
Isle of Eigg Trust, Inverness-shire	1997	2996	Nil	Part crofting
Fernaig Community Trust, Ross-shire	1998	45	Nil	Not crofting
Knoydart Foundation, Inverness-shire	1999	30,000	Nil	Part crofting
Isle of Gigha, Argyll	2001	1377	£3.5 m ^b	Not crofting
Kingsburgh Woods, Skye	2002	178	£150 k	Not crofting
Anagach Woods, Strathspey, Inverness-shire	2002	382	£724 k	Not crofting
North Harris Trust, Western Isles	2002	22,228	£1.666 m	Mainly crofting
Torwood, Falkirk Stirlingshire	2003	111	£145 k	Not crofting
Colonsay, Argyll	2004	120	£153 k	Crofting
Uigshader Community Woodland, Skye	2004	84	£31 k	Not crofting
Assynt Foundation, Sutherland	2005	17,975	£1.632 m	Part crofting
Totals, Wholly or Mainly Crofting		69,857		
Wholly or mainly non-crofting		53,209		

Sources: Authors' constructed table from a range of sources, including The Scottish Land Fund, the Caledonia Internet Website, the websites of separate community trusts, and Andy Wightman's website on Who Owns Scotland? (<http://www.whoownscotland.org.uk/>).

^aSeveral Community land owning Trusts established prior to the Land Fund have received subsequent assistance from the Land Fund for development projects on the land they own (for example, Eigg and Fernaig). Table does not include acquisitions of land for veteran settlement following First World War (intended for individuals and not communities).

^bOf which £1 m was to be repaid within 1 year, a target that was met on time by the Community.

context is community-centric, inspired in part by community-based natural resource management and community development visioning bolstered by mixed models of community ownership and control. Scotland is of particular interest because formal Devolution from UK coincides with a long overdue land reform with explicit provisions for community-based acquisition of land. The Scottish case is in many ways unique. Until recently a stronghold of feudal land tenure, its land holdings are concentrated and, until 2000, subject to a complex layering of feudal obligations. This feudal imprint will fade slowly. Equally unique, Scotland's land reform is neither a recipe for wholesale privatization nor socialization by the state. In an era when land reform is equated with de-collectivization and privatization, the vision in Scotland is about community purchase, ownership, and use. The 2003 land reform depends heavily on creative community planning and learning.

But this strong community role does not exempt the residents of rural Scotland from issues that stalk the reform and, left unattended, could unravel it and result in

ownership re-concentration. Some of these are technical matters of much immediacy. For example, do community rights-to-purchase extend to whole estates or selected portions therein; how will communities finance purchase at valuations typically far in excess of use-values; will community deeds have resale restrictions or conservation covenants that run with the title indefinitely; and, once entitled, will communities meet democratic standards of governance (cf. Wightman, 1999b)¹²? Other matters are somewhat more abstract but ultimately decisive in the fate of Scotland's land reform. Three in particular warrant attention:

- *Which community?*: The distinction between geographic and functional community has a times undermined efforts at community-based natural resource management (Belsky, 2003). Scotland's land reform law adheres to the place-based tradition and requires a majority of

¹²Some of these points were indeed dealt with by the Land Reform Policy Group and the subsequent Act.

“the community” to live in the physical community concerned. But what of seasonal residents, family members who live and work elsewhere, and conservation land trusts and their constituents who, though “absent”, may have legitimate claims to and interests in estate lands, sometimes in partnership with place-based community members¹³? Estate owners themselves may assert community interests in their estate lands or seek collaborative roles of much value.

- *Social capital*: Many who investigate and advocate social capital, from the World Bank to a long list of scholars and community developers (Uquillas and Garara, 2002), would argue that without social capital community-centric land reform will languish. Despite the conceptual problems noted at the outset, communities without social capital are apt to be hollow shells. Rural communities across Scotland populated by urban “refugees” and retirees face the prospect of low social solidarity and difficulties in mounting well-organized buy-out bids. For reasons such as this, Putnam (2000) warns that social capital in some parts of the world is in serious decline. This raises questions as to the timing and logic of land reform where strong community engagement is in flux. Put differently, Scotland’s land reform rests on much more than land title transfers in the narrow sense. If committed, *bona fide* community members are few, dwindling in demographic terms, or at odds with interested members of the functional community, the frailty of social capital will render the buy-out problematic.
- *Community context*: Communities exist in complex social, cultural, and legal contexts and have multiple agendas beyond land reform. Indeed, some of these agendas may counteract land reform, for example in cases where community entrepreneurs have ideas in mind for the buy-out lands that compete with the vision of a land reform nucleus. To speak of community-centric land reform raises a long list of issues under the heading of state–community relationships, including power sharing and sovereignty. For that matter, as Giddens (1990) and others have proposed, the “space” within which community “place” survives is increasingly global, a point confirmed in Scotland by the presence of significant off-shore estate owners as well as dependence on North Sea oil and international tourism revenues. Even if community buy-outs proceed aggressively according to Scotland’s 2003 Land Reform Law, local owners in the future will contend with a slowly changing ownership structure embedded in an enduring power structure—some domestic, some English, and some international. As in the pre-reform era, privacy and

secrecy, legal loopholes, and enforcement problems will obscure ownership identity and render reform execution for communities less than simple.

This list could be extended to include the perennial constraints of adequate funding for community buy-outs through national lottery and legal complexities which are forbidding. For community-centric land reform to succeed, the insights of resident populations, land reform practitioners, and scholars will need frequent airing, a process that will thrive only if there are successes among and evaluations of the early buy-outs.

Conclusion

Some will assert that Scotland’s land reform and its willing-seller underpinnings are conservative. They will portray “buy outs” as a tame response to an antiquated and unjust landownership system with funds, which are inadequate or better spent on other public ends. The powers of the state to condemn properties that are inefficiently used, absently owned, and badly distributed are hardly contemplated. Moreover, the community right-to-buy is compromised by exemptions for offshore owners, inheritance transfers, and beneficial ownerships. Others will counter that Scotland’s new Parliament was astute in finding a non-confiscatory tool for transferring title, one that requires willing sellers and buyers and a commitment to fair compensation. It is a model with particular appeal in settings where *de facto* absentee owners own whole communities.¹⁴ It will be recalled that Scotland is the home of great land reform voices but also the cradle of classical, market-based economics.

This paper draws particular attention to an attribute of Scotland’s land reform with appeal to conservative and progressive alike—community-centric mechanisms for mobilizing and maintaining change. It would seem that Scotland’s land reform is simultaneously top down (state authorized and assisted) and bottom-up (privileging communities). “Community” is both place-based, as in the resulting right-to-purchase section of the law, and functional, as in the proactive role of conservancy and other trust organizations. If the new land reform law is indeed the result of the multi-stage historical process referred to above, truly vast numbers of prior communities and their advocates have moved the legislation forward in its

¹³A number of community land purchases in Scotland, some supported by the Scottish Land Fund, have involved partnerships with “external” environmental groups such as the John Muir Trust. However, where Land Fund assistance is involved, the majority on the Board of the landholding community company must be locally resident.

¹⁴Powelson and Stock (1987) give an example. When the Shah of Iran came to power he asserted ownership over some 2000 villages. Villages and individuals were allowed to buy back their land titles, a source of considerable revenue for the Shah. Of late, Indian villages in Highland Guatemala have raised funds among international NGOs to buy their village titles from large *hacenderos* who, by owning the village, held its members in bondage. Bangladesh’s largest NGO is currently using its resources to acquire land for low income and landless families, with the potential for communities to acquire it. The World Bank is currently promoting a Land Fund to help individual and organizations buy land essential to their livelihood (Uquillas and Garara, 2002).

conceptualization and completion over generations. There is every reason to believe that this process will continue and that Scotland's land reform law will be amended and improved as community rights and responsibilities are better understood through practice.

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