



Why community ownership? Understanding land reform in Scotland

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ABSTRACT

In 1999 the Scottish Parliament convened for the first time in almost 300 years and in response to long-standing popular discontent about highly concentrated land ownership passed the Land Reform (Scotland) Act 2003. Quite in contrast to the emphasis that much of the international development literature and policy have placed on the importance of individual private ownership, Scotland's land reform promotes community ownership. Rather than breaking up large private estates, land reformers aim to keep these estates whole while transferring ownership of them to local communities. This study uses historical analysis and in-depth interviews to understand why this is being pursued as a rural development strategy in Scotland today. It finds that community ownership is intended not only to encourage the development of resources that private investors might otherwise ignore; but also to enable local communities to guide the development process. Whereas unfettered, market-driven entrepreneurship might generate increased wealth, but not necessarily benefit the local community, community ownership aims to make sure that wealth generated from the land remains within the community; that the benefits of development are evenly spread; that needed services are provided; that the population is maintained; and that resources are managed for the long-term benefit of the community. In this way the Scottish land reform represents a shift (or rather a broadening) of emphasis, from a focus on wealth creation to a recognition of the importance of effective local democratic governance.

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Introduction

"In the opinion of some, the regulation of property is the chief point of all, that being the question upon which all revolutions turn" (Aristotle, *The Politics*: 1266a37–1266b3).

Since Aristotle penned these words in the 4th century BC, thinkers of all political stripes have continued to regard property relations as central to the civic and economic character of society. Consequently, as Aristotle suggests, attempts to generate social change often focus on the distribution of property rights. The term "land reform" is used to refer to any sweeping change in the distribution of rights regarding land. Usually land reform means the breaking up of large estates and the distribution of land to peasant farmers, either by giving them each their own private parcel or through the creation of collectives to capture economies of scale. The reason for land reform is ostensibly to improve the lives of peasants by throwing off the yoke of landlord oppression and by stimulating economic development through more intensive land use.

This paper examines present-day land reform in Scotland with the objective of understanding why land reformers there are pursuing the unusual strategy of transferring estates into community ownership rather than breaking them up into numerous private parcels, a move that would be more in keeping with mainstream ideas of how land reform should work. My purpose in this paper is to make sense of community ownership, not to evaluate its performance. Through a combination of historical analysis and interviews with both land reformers and government officials I identify the goals of land reform in Scotland and arrive at an understanding of the rationale for community ownership in light of the historical and contemporary circumstances of those who are pursuing it. I also use the case of Scotland to make some more general observations about the role of community ownership in the context of rural development.

Although there is a growing appreciation for the value of traditional tenure systems and community-based land distribution, the dominant philosophy of land reform in academic and policy circles has long been one that advocates the creation of widely held individual private ownership (Deininger and Binswanger, 1999). The early American political tradition considered diffuse private ownership of land fundamental to a healthy democracy (Goldschmidt, 1978; Schwarz, 1997; see also Aristotle *The Politics* 1266b15, 1296a14–1296a18). Today it is chiefly advocated as an economic development strategy. Large landlords often underutilize

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their property, either by using it extensively (as opposed to intensively), e.g. for grazing, or by disregarding it altogether. Small farms, on the other hand, are regarded as efficient producers (Binswanger et al., 1995; Prosterman and Hanstad, 2003) and a source of rural employment.

Reforms do not always involve land changing hands. In some cases it may be a matter of altering or simply clarifying the rights of those already using the land. Improved security of tenure is supposed to encourage farmers toward long-term investment, and clear title is expected to gain them greater access to credit. The combination of clear title and alienability is intended to facilitate efficiency-enhancing transfers (Deininger and Binswanger, 1999; The World Bank Group, 2001). Simply put, when the rewards and costs of land use decisions are brought home to the decision-making owners, and when ownership may be freely traded, it is expected that resources will gravitate to the most efficient users, resulting in greater wealth creation overall (Anderson and McChesney, 2003; O'Driscoll et al., 2003). This market-based philosophy of land reform places great emphasis on the importance of property rights that are not only clear and secure, but which are also private and represent a sphere of unfettered control. It is argued that owners should hold complete bundles of property rights because complete control allows for greater entrepreneurial activity, and that people who hold “thin bundles” are less likely to invest in property or to take good care of it (Boudreaux, 2005; cf. Heller, 1998). In this regard the internalizing function of private property is dependent on owners being as unfettered as possible in what they chose to do with their property.

There is far from complete agreement however that the foregoing model of private property rights is the best one. It is not always efficient for property rights bundles to be kept whole. The multiplicity of interests in land are often better served by markets for “partial interests,” such as timber and grazing rights, or the sale of development rights for conservation (Wiebe and Meinzen-Dick, 1998). In places where highly fragmented use rights to the same piece of land already exist, it may be better to devise a system for documenting these than to try to gather them all into one ownership bundle (Pienaar, 1999). The difficulty of internalizing the benefits of good natural resource management has led some to suggest that forests, for example, should be managed as common property regimes (McKean and Ostrom, 1995; Gibson et al., 2000; Glück, 2000), an arrangement that has been well-defended in the development literature (Bromley and Cernea, 1989; Runge, 1986). Market-based land reform has been attacked for failing to lead to increased investment (Thiesenhusen, 2001); for failing to provide farmers with secure tenure (Binswanger et al., 1995) or access to markets for land (Ghimire, 1999); and for being generally unable to improve the lives of small farmers in the absence of technical assistance, access to markets, affordable credit, public infrastructure and social services (Ghimire, 1999; Lappé et al., 1998; Pontifical Council for Justice and Peace, 1998). More generally, it has been argued that complete agency on the part of numerous private owners produces outcomes that are sub-optimal for them compared to a situation where their decision-making is circumscribed by agreements expressing their mutual interests as a community (Freyfogle, 2003).

In light of these debates, the community land movement in Scotland should be of special interest. On the surface, the reasons for land reform seem typical enough: highly concentrated ownership of rural land, a history of injustice at the hands of landlords, and an acute need for economic development. But when one considers the tenure security already afforded to crofters¹ by reform legislation

in 1886 and subsequent amendments, and when one enquires into the specific aspirations of communities that have acquired land, the Scottish land reform reveals itself as having relatively little to do with agriculture. “Land to the tiller” is hardly an apt description of tenure changes in Scotland today. Contemporary reforms in Scotland involve not only farmers but entire communities. The most conspicuous aspect of these reforms is the transfer of land, often entire estates, to community ownership, such that a not-for-profit community organization becomes the landlord. Where such transfers have taken place, the relationship that farmers and shop keepers used to have to their laird is now the relationship that they have to the community organization. The significant difference, in principle, is that the landlord is now a democratic organization of which they are members. Because this stands in such stark contrast to the emphasis that so much of the land reform literature places on the importance of individual private property, we are led to ask of Scottish land reformers, “why community ownership?”

Scottish historical background

In order to understand the land reform movement in Scotland today, one needs to know the origins of crofting tenure and how land ownership in the Highlands and islands came to be so concentrated. The key points in this story are the demise of the clan system; the rise of sheep farming; the Highland Clearances; the rise of sporting estates; and the legislation and continuing unrest that followed the Napier Commission. Knowing this story is important, not because the land reform movement is backward-looking – which it is not – but because the forces that have shaped rural Scotland's history are still in motion today and it is to these forces that land reformers must respond.

The Scottish clan was, in principle, a large extended family of which the chief was patriarch. The land occupied by the clan was not seen as the chief's private property, but rather as the common heritage of all clan members. By the early 18th century, however, clan society was beginning to change. Many clan chiefs spent time away from their people and began to act like absentee landlords. They began to see their clansmen as tenants and looked to their lands as a source of income. In 1746, after the Jacobite rebellion met defeat on Culloden Moor, the military basis for clan society was eliminated by parliamentary acts that stripped clan chiefs of all their powers except the right to collect rent. Some clan chiefs who sided with the Jacobites had their land taken away. Others later sold their land, either to other gentry or to wealthy businessmen. Thus it was under the force of both cultural and legal change, as well as through market transactions, that the relationship of familial responsibility between chiefs and clansmen came to be replaced by a landlord–tenant relationship.

The desire of landowners to maximize income from their land led to the employment of professional estate managers. The price of wool was very high, but in order for sheep farming to be profitable it needed to be done on a large scale. Southern sheep farmers were eager to rent land in the Highlands and landowners soon realized that a great deal more rent could be collected with a great deal less trouble from a small number of sheep ranches than from thousands of subsistence farming tenants. Valleys that once held several townships and numerous small farms would come to be occupied by a pair of shepherds, their dogs, and thousands of sheep. The landlords' consequent need to get rid of

¹ A croft is a form of agricultural tenancy unique to the Highlands and Islands of Scotland. Crofts are usually small and situated on land of marginal agricultural

value. The holder of a croft, a crofter, owns the buildings and other improvements but pays rent to the landlord on whose land the croft is situated. Crofting tenure is statutory and regulated by the Crofting Commission (see crofting.scotland.gov.uk).

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