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Land Reform Team
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Dear Land Reform Team

Consultation Response to the Future of Land Reform in Scotland

I am responding as an individual, but specifically, as one who is a Fellow of the Centre for Human Ecology in an advisory association with which I am making this response. My connection with land reform is that I was a founding trustee of the original Isle of Eigg Trust that brought about that community's land trust ownership in 1997. I am also author to a number of academic papers (e.g. <http://goo.gl/544fU8>), and books including *Soil and Soul* (Aurum), *Rekindling Community* (Green Books) and *Hell and High Water: Climate Change, Hope and the Human Condition* (Birlinn).

I am going to limit my response mainly to highlighting the issue of *vision*, consistent with your statement in Section 3: "*We would like to hear your views on our **vision** for a Land Rights and Responsibilities Policy and the proposals we have set out for a Land Reform Bill.*" I will include a couple of other notes, but am trusting that other individuals, and bodies such as Community Land Scotland and the Scottish Crofting Federation (of which I am a fully paid-up member), will attend to the various points of detail in your questionnaire, and with greater current competence than I can offer.

I have 3 points to share: 1) **Vision**, 2), **Land Value Taxation (Rating)**, and 3) **Definition of "Community"**.

1. **The Articulation of Vision:** I welcome not just the subject matter of this consultation document, but also, its open, explanatory and visionary tone. I note, for example, the recognition of prior cross-party land reform achievements implicit in the warm references to Lord Sewel's pioneering work. I appreciate your statement that: "*Land, both rural and urban, is intimately linked to ideas of well-being, justice, economic opportunity and identity*" (Section 11). Including well-being, justice and identity is especially satisfying, as is your overarching principle (made in the course of unpacking the magnificent statement of vision (Section 33)), that: "*The ownership and*

use of land in Scotland should be in the public interest and contribute to the collective benefit of the people of Scotland.”

As the principles of such vision are implicitly understood but often not well articulated in Scottish communities, I would like to spell out points that might be held in mind by the Team as underlying guiding and motivating principles in its work.

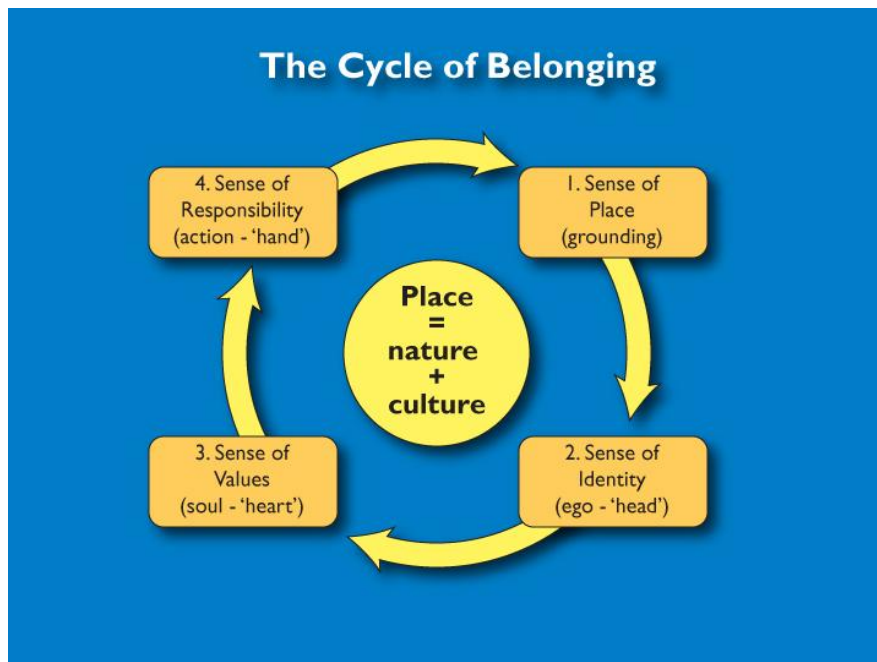
- a. Property rights, like the right to conduct a business upon the fabric of society, are subordinate to the social contract that gives a democratic society its cohesion. Anything short of that principle would not be democracy: it would be an oligarchy, even, a plutocracy. Land reform is not just about agricultural or commercial land use. It is about the very texture of material substance upon which a nation finds its meaning and has its being. Anything short of such a tangible material basis for human life would not be reality: it would be virtual reality, which is tantamount to unreality. As such, land reform carries in its essence the vision of the kind of society that the people of Scotland have voted to become. It is not just about economics; it is also ontological (concerned with the nature of being). Therefore, any attempt through the exercise of elite power or disproportionate financial and legal muscle to undermine the people’s aspiration towards a more authentic connection with their land would be a challenge to democracy itself; indeed, to the roots of national identity.
- b. In particular, the claim often made by landed power that it is the *management* and not the *ownership* of land that matters, is spurious. It is an attempt to ward off community empowerment by those whose sense of entitlement means that they do not see their role as being one of membership in a community of equals. *Management of the land proceeds from land holding or “ownership”; not vice versa.* Community relations based on the grace and favour of landed power (i.e. private owners who have a disproportionate sway over land assets in a community) tend towards being sycophantic and inauthentic relationships. They are galvanised not by freedom, but by the hypnotic magnetism of power. This stunts or erodes the fabric of the community and jeopardise its healthy survival. It is a gut reason why so many of us have pressed for land reform in Scotland. Such is not a particularly revolutionary aspiration. We just want to be like other, more progressive, European nations. We just want to throw off the yoke of being, to varying degrees depending on the locale, colonised by residual feudal mores.
- c. Large scale private land ownership was, until the early modern era when it was imposed from the outside, an alien social concept. Earlier constructs were based on clan and a sense of commons. As scholarship has more and more established, internal colonisation took place in the Highlands after the Statutes of Iona (1609), followed by Culloden (1746), and earlier in the Lowlands. Modern mores have softened attitudes to private ownership and its nature. It is now widely seen as a virtue and a stimulus to enterprise, provided that it supports and does not undermine the context of community. Unfortunately, the sociology

of wealth means the big private owners tend to equate with particular social classes. This can pull threads within the fabric of community, transgressing the egalitarian lilt of grassroots Scottish society. Social class matters in this context. Encoded within its self-perpetuation at “upper” echelons is a presumption of entitlement, and jockeying to hold on to privilege (such as through private school networks). Whilst this is normal behaviour for oligarchies, it challenges democracy based on the principles of a fair and open society. I therefore welcome the Land Reform Team’s proposal to remove the distinction between moveable and immovable property in the law of succession. Over a generation or two, this will democratise both land ownership and its gender construction in ways that affirm the principles of ECHR. It will go to the heart of residual feudal and patriarchal primogeniture.

- d. Evidence from existing examples of land reform demonstrates that as a community becomes empowered, being democratically accountable unto itself and able to make decisions about the habitation, resource use and amenity enrichment of their own place, individuals within that community become strengthened in a multitude of ways. Dependency yields to independence, including that based upon new-found opportunities for entrepreneurship. People who were net drains on the taxpayer become net contributors, thus strengthening the tax base of the nation for the common good. Such asset-based development brings real repays initial heavy volunteer input with real positive benefits. Examples are the freeing up of land for affordable housing, renewable energy production, ecological restoration, the self-provision of services and business opportunities based on ambient resources. The evils of social stratification diminish as people find contexts of conviviality in which to be mutually enriched by their interdependence. Competence, leadership and capacity grow. It is one thing, for example, to be sent on a training course by an absentee landlord or remote corporation; but quite another (in terms of motivation, affirmation and sense of belonging) to be sent by one’s own democratically-elected community representatives. All told, land reform empowers people to settle more deeply into their geographical place. Families find a deeper soil into which their long-term presence and stability can be rooted. All of this upholds the values, wellbeing and identity of a place. Here lie the deeper meanings of “sustainable development”. Communities like the Isle of Eigg or North Harris and Scalpay demonstrate these principles magnificently. If islands have been leading the way it is only because their microcosmic nature, intrinsic resourcefulness and reduced levels of social stratification help engender the process. These are signs and portents to a wider Scotland: a gift from the periphery to the centre.
- e. Not all is rosy, but such is where the learning curve is steepest and most instructive. In particular, when communities come into their own power, they must learn how to *recognise* and *process* conflict. It is helpful always to remember that conflict is normal in human societies. Under monolithic private land ownership, an artificial lid is held down. Residents will speak of “not having been able to “grow up properly.” Land reform can lift that lid, and in so doing, much steam can be released. This needs to be skilfully facilitated and understood as a

welcome release from out of the pressure cooker. It allows people to evolve more authentic, mature relationships. The laird – perhaps absentee, corporate, or otherwise ungrounded - is no longer the implicit controlling power at the heart of many a community decision. Short term, shedding such chains is challenging and even frightening. Long term, it builds the resilience, wellbeing and mental health of the whole community. It is the responsibility and joy of freedom.

- f. I summarise these dynamics in the *Cycle of Belonging* as expressed in the following diagram. An initial *sense of place* is the grounding that confers a *sense of identity*. That carries with it the *sense values* which drives the *sense of responsibility*. Thus, the virtuous circle is completed that reconstitutes a sense of place. It is important to note that the sense of responsibility will entail the taking up a burden of awareness. However, the name of the game is to transform it to a *precious* burden of awareness. Here is “sense of responsibility” as *the ability to respond*. In other words, to become more responsive to life itself. Our movement is towards whole people in a whole world. As Gustavo Gutiérrez of Peru sums it up: “*To liberate = to give life.*”

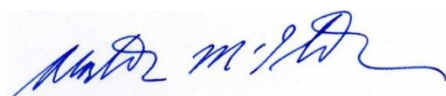


Graphic from *Rekindling Community* (Green Books, 2008), & *Radical Human Ecology* (Ashgate, 2012), Alastair McIntosh

2. **Land Value Taxation (Rating):** My one disappointment with this Consultation is that Land Value Taxation (or Land Value Rating) has not been addressed, but I note with approval the proposal to reintroduce “sporting rates” which is a significant step in that direction. I also note, in Annex B, that land revenue collection will fall within the scope of the forthcoming commission on alternatives to the existing Council Tax system. It is my view that if land reform is to take place within the framework of market economics, then land value rating should be used to finance community buy-outs and, in so doing, reduce the market capitalised value of land that is held for speculative purposes, usually at prices that deprive local communities of their patrimony.

3. **Definition of “Community”:** On how “community” should be defined (Q. 22 of the response sheet), I would urge the Team to recognise the distinction between being a *community of interests*, and a *community of place*.
- a. A *community of interests* is defined by psychosocial parameters – for example, a golf club, a walking group, or usufructual rights (i.e. rights of use that overlap with other rights of use, such as sporting interests overlapping with those of graziers).
 - b. A *community of place* is the geographical territory that holds communities of interest in a given locality. It is the resource bed and social framework of an identifiably cohesive network of relationships that constitutes “inhabitation”. It will include habitat that is both conterminous with a zone of human settlement, and adjacent areas of little or no habitation (such as rough grazings) that form a meaningful (and often, traditional) part of a group’s identity, belonging, well-being, recreation and at least in part, the resource base of its livelihood.
 - c. From the overarching consideration of “sustainable development”, a community of place should be defined primarily in bioregional terms: for example, a watershed, a forest, an upland region or a “central place”. The French sense of “commune” or “domain” reflects this understanding in existing, functional, civilised European practice.
 - d. A community of place may often, but not always, be defined by postcode areas, or by more settled designations such as estate, parish or ecological boundaries. At the heart of any definition should be the “sense of belonging” that coheres existing or emergent social groups.
 - e. No pat definition can be made of a community of place. One size cannot fit all when working with the natural and human diversity of what Iain Crichton Smith of the Isle of Lewis called “real people in a real place” (<http://goo.gl/AJIBEm>). Loose definitions might be nodded towards, but in the end, it should be up to local communities to offer and to justify their own definitions, these to be determined, if need be in the course of land reform, at ministerial discretion. Where conflict of interests with neighbouring communities might be in question, communities must show that they have carried out adequate consultation. This might be the role of community councils where these are functioning. Where they (or their equivalents) are not functioning – why not? Land reform is about bringing such social and democratic functionality back into touch.

Yours sincerely



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