Putting transformative land reform into practice

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In 2014 BBC Scotland screened 'The Men Who Own Scotland', signalling renewed media interest in the 'land question' fuelled by the then imminent report of the Scottish Government-appointed Land Reform Review Group and an inquiry by the UK Parliament's Scottish Affairs Committee on land reform.

A fair chunk of the programme involved reporter David Miller asking owners of large-scale private landholdings whether they felt it was fair that half of Scotland's private rural land was owned by 432 people.

Spoiler alert: not a problem, as far as they could see.

The programme highlighted eye-wateringly sharp increases in rural land values between 2003 and 2013 when Scottish farmland value increased by 204 per cent, second only to gold as a profitable source of investment. It also drew attention to Scotland's rural land being untaxed, resulting in what Miller described as the "quirk" of Anders Holch Povlsen, the Danish billionaire, paying tax on his then 160,000 Scottish acres to the Danish government, which taxes Danish nationals on all land they own regardless of location, but not a penny to the Scottish Government.

Back then, the possibility of transformative land reform seemed to be in the air. True, the community land movement as a process of transferring large estates into communities' hands had "run into the sand" as Miller put it. But the then land reform minister, Paul Wheelhouse, hinted that change was coming in his interview for the programme, saying: "I think that if we don't see a fairer distribution of land then, as a parliament, we will have failed the people of Scotland".

Fast-forward nearly a decade to 2023 and ask yourself how much has really changed.

Land reform, as measured by the transfer of large-scale rural landholdings into community ownership, remains largely mired in the sand, with private ownership becoming ever more concentrated.

Since 2016 the Scottish Land Fund has helped bring 11,979 hectares of rural land into community ownership, 9560.19 hectares (80 per cent) of which comprises four community buyouts: Garbh Alt Community Initiative's buyout of the West Helmsdale Crofting Estate in 2017; North West Mull Community Company's purchase of the Isle of Ulva in 2018; and the Langholm Initiative's two purchases of part of the Tarras Water and Holm Hill Estate in 2020 and 2022.

To put that into perspective, the Scottish Land Commission's latest review of the rural land market estimates that 139,124 hectares of Scotland's rural land changed hands in 2022 alone. It states that "anywhere between a third to half of all transactions" happen 'off-market' as rural land values, already at record levels, continue to rise.

The existence of a "shadow land market" operating beyond the knowledge and reach of all but a wealthy elite doesn't sound much like a ready-made route towards diversifying land ownership to ensure more sustainable land use.

Neither does the SLC's confirmation of corporate and institutional investors being particularly active in the estates market inspire confidence about that situation changing anytime soon. Quite the opposite, given the commission's conclusion that these players' motivations are "much more clearly centred around land ownership as a financial asset, store of wealth, and an inflation hedge, and less overtly as a route to meeting ESG goals – for such buyers land use is a secondary consideration, and a decision to be made at a later date".

That's not to say there hasn't been policy progress since 2014. Extending the scope of the community right to buy legislation and funding to urban as well as rural communities, introducing provisions to transfer public assets into community control, and committing to doubling the Scottish Land Fund to £20 million annually by the end of the current parliament are all welcome developments.

But they are sticking plaster solutions to profound structural problems associated with concentrated, predominantly rural, landownership that demand more systematic and co-ordinated policy responses.

A template for such an approach already exists. Not long after 'The Men Who Own Scotland' aired in 2014, the Land Reform Review Group published its report, 'The Land of Scotland and the Common Good', filled with legislative, administrative, and fiscal recommendations for putting genuinely transformative land reform into practice, most of which remain unimplemented.

The Scottish Government can begin to bridge that 'implementation gap' via the Land Reform Bill due to be introduced to parliament by the end of 2023 with a specific focus on rural landholdings.

Its central proposals include a Public Interest Test on transfers of large-scale landholdings; a duty to provide prior notification of an intention to sell and a linked pre-emptive right to buy for communities; compulsory compliance with aspects of the currently voluntary Land Rights and Responsibilities Statement; and compulsory Land Management Plans.

Recently published analysis of responses to the government's public consultation paper on the bill indicates majority support for all of these proposals.

So far, so progressive. But there's a glaring problem. The government proposes a minimum landholdings threshold of 3,000 hectares to trigger the Public Interest Test and related provisions.

That's far too high a bar to enable essential oversight of a rural land market increasingly divorced from any semblance of serving either the public interest or the common good. Its scope for positively influencing landowners' (whether, public, private or community) management of their landholdings would be similarly marginal. A minimum threshold of 500 hectares would better align with the government's stated ambitions for the bill.

Genuinely progressive land reform involves reconnecting land to its economic rather than speculative value, and that involves much more focus on fiscal measures than has hitherto been evident in policy.

Most of Scotland's political parties made vague mention of 'land value capture' measures in their manifestos for the 2021 Scottish Parliamentary Election. Time to match warm words with tangible legislative and fiscal action.

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Bays of Harris, where a buyout is mooted

Photograph: EILIDH CARR