

Land question offers scope for consensus and action



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How far and how fast will the next stage of Scotland's land reform journey advance during the new parliamentary session, asks CALUM MACLEOD...

The SNP's election victory on May 6th ushered in a new session of the Scottish Parliament likely to be dominated by Covid recovery, climate change and the constitution.

That much is clear from the portfolios allocated by Nicola Sturgeon last week to her new, slimmed down cabinet of 10 ministers compared to the 12 of her previous administration. Deputy First Minister John Swinney is now cabinet secretary for Covid recovery. Michael Matheson now has net zero and energy alongside transport in his brief and Angus Robertson is cabinet secretary for the constitution, external affairs and culture.

On first inspection little appears to have changed in parliamentary terms. The SNP remain tantalisingly (from their perspective) short of majority government with 64 seats. Of the opposition parties, only the Greens have increased their tally, adding two seats to the six they held at the beginning of the last parliament. The Conservatives have 31 seats, the same as their total in the previous parliament. Labour are down from 24 seats to 22 and the Liberal Democrats lost a seat, leaving them with four.

None of that makes much difference regarding the constitutional question where the dividing line between the pro-independence SNP and Greens and union-supporting Labour, Conservatives and Liberal Democrats remains as stark as ever. In contrast, Scotland's perennial 'land question' offers scope for both cross-party consensus and significant legislative action in the new parliament in ways that apparently defy the constitutional impasse.

That isn't altogether surprising.

Land reform — defined as changes to land ownership and use in the public interest — has featured as a distinctive and emblematic policy area for the parliament since devolution in 1999. MSPs passed the Land Reform (Scotland) Act 2003 which introduced the community and crofting community rights to buy during the first Labour-Liberal Democrat coalition government.

That administration also established the Scottish Land Fund in 2001 with an annual budget of £3 million to help rural communities buy land for themselves to own.

Further land reform legislation was passed during the parliament's fourth session between 2011 and 2016 under an SNP government. The Community Empowerment (Scotland) Act 2015 introduced the community right to buy abandoned, neglected or detrimental land and a community asset transfer scheme to enable communities to take control of land and built assets from public authorities.

LAND FUND BUDGET

Following that, the Land Reform (Scotland) Act 2016 introduced a Land Rights and Responsibilities Statement, a community right to buy to further sustainable development, and established the Scottish Land Commission to cement land reform's place on the public policy agenda. The SNP government also increased the Scottish Land Fund's annual budget to £10 million in 2014.

Various commitments in the parties' manifestos indicate that the new parliamentary session will include a further legislative phase of the land reform agenda. The SNP's election manifesto state: "We will improve Scotland's system of land ownership, use, rights and responsibilities, so that our land can contribute to a fair and just society while balancing public and private interests."

"We will bring forward a new Land Reform Bill. It will ensure that the public interest is considered on any particularly large scale ownership and introduce a pre-emption in favour of community buy-out where title to land is transferred".

Land reform has featured as a distinctive and emblematic policy area since devolution

Similar commitments to a Land Reform Bill to control land monopolies in the public interest are contained in the respective manifestos of both the Greens and Labour.

The Greens also call for land held by

Scottish ministers, public bodies, the Ministry of Defence, the Crown and large charities to be subject to a public interest test and "greater public oversight". Their manifesto also includes a proposal that significant landholdings should be required to produce a transparent land management plan and be subject to a public interest test. Additionally, the Greens propose to introduce restrictions on overseas ownership of land, as well as regulating the sale of land of national or local significance.

There is also cross-party consensus on other land reform measures. The SNP government have committed to doubling the annual budget of the Scottish Land Fund to £20 million by the end of the current parliament. The Greens, Labour and Liberal Democrats also committed to increasing the fund in their manifestos.

71 per cent support widening ownership

Both the SNP and the Greens have manifesto commitments to review the Community Empowerment (Scotland) Act 2015 and to introduce Compulsory Sale Orders to support public interest-led development.

Against that background, the key issue is how far and how fast the next stage of Scotland's land reform journey will advance during the new parliamentary session.

That will largely but not exclusively depend on how well disposed the SNP government is to early and transformative legislation to ensure that Scotland's land is owned and used in the public interest and for the common good.

Several interlinked factors come into play in that regard. Both cabinet secretary Michael Matheson and the new land reform minister, Màiri McAllan, will be aware of the strong public support for diversifying Scotland's uniquely concentrated pattern of land ownership.

Recently published Scottish

Government research on public attitudes to land reform found that 71 per cent of survey respondents support widening ownership of both rural and urban land to include more public, community and third sector ownership, with only seven per cent of respondents opposing that aim.

They and Mairi Gougeon, the new cabinet secretary for rural affairs and islands, will be similarly aware of the damaging effects of monopoly land ownership on the sustainability of rural communities. These effects were documented in the Scottish Land Commission's 2019 report on large scale and concentrated rural land ownership which highlighted fear of "going against the landowner" expressed by some research respondents.

The report noted that such fear was "rooted firmly in the concentration of power in some communities and the perceived ability of landowners to inflict consequences such as eviction or blacklisting for employment/contracts on residents should they so wish".

The importance of land reform in achieving a fair transition to a net zero carbon economy will not have escaped the government either. Not least because the Just Transition Commission highlighted that very point in its recent report on how to reach net zero by 2045.

The government has committed to implementing all of the recommendations contained in the Just Transition Commission's report, including that of developing a statutory public interest test for any changes in land ownership above a certain threshold.

Supportive public attitudes to the principles of land reform, together with the importance of diversifying land ownership and use to secure both rural sustainability and climate justice therefore make a compelling case for a Land Reform Bill being passed early in the new Parliament.

MINORITY GOVERNMENT

The SNP's status as a minority government adds a further dynamic to the future prospects for land reform. Particularly if the Greens decide to factor their various land reform manifesto commitments into negotiations with the government as regards the basis on which they will

support the latter's legislative and wider policy programme.

Inevitably the Scottish Government and MSPs of a progressive disposition will face strong pushback from the landed elite and their allies against any land reform legislation they perceive as threatening to their interests. They are likely to portray the introduction of a public interest test, in particular, as unfairly undermining their often long held and extensive private property rights and discouraging 'investment' into the rural economy.

These are difficult arguments to sustain in the face of an unregulated land market in which large tracts of increasingly lucrative land can be bought and sold as trophy purchases without any consideration of the wider public interest implications of such transactions. Even more so, given the levels of scrutiny experienced by communities seeking to use the various Community Rights to Buy contained in current land reform legislation to help safeguard their own futures.

Increasingly lucrative land can be bought and sold as trophy purchases

Far from undermining the prospects for land-based investment, a carefully designed public interest test on large scale and/or concentrated land purchases can balance community, public and private interests in support of a sustainable rural economy. The challenge for both government and parliament is to ensure that such a test, alongside other land reform policy measures to which they have committed, are put in place at the earliest opportunity to help enable Scotland's rural communities to thrive.

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Land near the popular Fairy Pools in Skye was transferred using a community asset transfer, and development to improve facilities there has followed

Photograph: WILLIE URQUHART