

# Land reform, planning and people: *an issue of stewardship*

**John Bryden and Keith Hart**

*The Arkleton Centre for Rural Development Research  
University of Aberdeen, Scotland*

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This paper examines the recent policy shift from state regulation to community participation as the framework for greater local decision-making. The authors do this by looking through the lens of land reform in Scotland; and in particular the issue of *stewardship* – a concept which appears to have won wide acceptance by most sides in the land reform debate. By way of a conclusion the authors highlight the need for a more equal and widespread ownership of land as a condition of economic democracy, and that for devolution of power downwards to local communities. They argue that if concepts such as stewardship and community planning are used to obfuscate these real issues, such that no one knows what kind of power is being exercised by whom, then they merely constitute rhetorical devices cloaking the real interests and conflicts involved in the processes of devolution and land reform. As such they hinder realistic analysis of the issues, even if they may on occasion help to bring people together.

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## **Introduction**

This paper is about the changing relationship between people and society, about the shift from state regulation to community participation as the framework of local decision-making. We look at this question through the lens of land reform in Scotland; and we focus in particular on the issue of *stewardship* – a concept which appears to have won wide acceptance by most sides in the land reform debate. This concept provides a key to the history of land-holding in Scotland: from the confused potential of the present, through 20<sup>th</sup> century bureaucracy to the feudal state before that and even to the fabled democracy of clan society. *Stewardship* is an omnibus expression which appeals to all sides of the relationship between the state, civil society organisations, landowners and local communities. Apparent agreement on the importance of *stewardship* may mask real conflicts of interest between different groups. As such, it could even be counterproductive to achieving major reform, by obfuscating what ought to be clarified. On the other hand, if communities are to play a larger role in the care of the land in future, the idea of *stewardship* may be a useful way of building alliances and partnership across the interests and classes involved.

Scotland has the most concentrated land ownership of any western society, with 75 percent of private land being owned by 0.01 percent of the population ([Bryden 1996](#)). In the light of this, the purpose of land reform must be to achieve a more equal distribution of land ownership and of the economic and political power which is associated with it.

The paper starts with a brief description of the land reform process in Scotland since 1997, and the proposals which are on the table in 2000. Since land reform is about changing the relationship between landowners, communities and the state, we outline the main forms of social organisation that have underlain these relationships in Scotland. These forms are then explored in relation to the concept of stewardship. Finally we ask if the discussion of *stewardship* helps to clarify the debate over land reform in Scotland.

## **Land Reform**

The Government's outline proposals for Land Reform in Scotland (LRPG: Recommendations for Action) were announced by the Secretary of State for Scotland, on 5<sup>th</sup> January 1999. These followed an intensive period of investigation and consultation by the Land Reform Policy Group (LPRG). The remit of the LPRG followed the Government's manifesto commitment to "*initiate a study into the system of land ownership and management in Scotland.*" It was to "*undertake a comprehensive analysis to identify and assess proposals for land reform in rural Scotland, taking account of their cost, legislative and administrative implications, and likely impact on the social and economic development of rural communities and on natural heritage.*" The Group sought to identify the key problems, issues and opportunities for reform. This work was reflected in the first consultation paper – LRPG: *Identifying the Problems* – issued in February 1998. A second consultation paper – *Identifying the Solutions* – was issued in September 1998. The fact that well over a thousand responses were received to the two consultation papers indicates a high level of interest in land reform in Scotland.

The Government's proposals were aimed in large part at the new devolved Scottish Parliament which came into being later in the year. During the parliamentary campaign all the main political parties, with the exception of the Conservatives, announced their proposals for land reform, and this revealed substantial common ground. The new Scottish Executive published a Land reform White Paper in July 1999. The main proposals were for three bills:

- one on the abolition of feudal law;
- one on community rights to register an interest in land and ultimately to acquire it in the event of it being sold, involving information on land ownership and right of public access to land; and
- one on national parks.

The LRPG did also make several proposals which concern different mechanisms through which the public interest in land might be secured. These included planning mechanisms, community involvement and consultation and codes of *good practice* which may be linked to grant-aid approvals (measures of a *cross-compliance* type).

Land reform, in its many guises, implies changes in the balance of power between individual property owners, communities and the state. The recent debates and current proposals on this thorny topic take place within a historical context. There are several historical layers feeding into what is going on now, especially in the Highlands and Islands where feudalism and its tribal antecedents were quite recent and are still living features of contemporary society. Tracing regional history back from the current

period, it is possible to link state-promoted communitarian development initiatives to four phases of history.

1. **Scottish devolution in the context of the European Union:** a renewed emphasis on local community, combined with a relative withdrawal of the state on terms still to be decided;
2. **The modern bureaucratic state:** a 20<sup>th</sup> century experiment in impersonal rule which can perhaps best be characterised as *state capitalism* (Hart, 2000) the management of markets and accumulation through the nation-state, in this case the United Kingdom;
3. **The feudal precursor of the modern state:** evolving over several centuries as a synthesis of personal and impersonal rule, typified by institutions such as '*the Crown*' and the decentralised authority of landowners; and
4. **The pre-state social forms of the Celtic periphery:** clan society, about which little is known and much is imagined, especially since they represent a possible historical precedent for contemporary initiatives aimed at communitarian democracy.

What is at stake in the land reform debate, as in wider issues of decentralised development, is greater democracy, more power to the people. But this has been confused by the application of rhetoric derived from modern planning and romantic nationalism alike to a historical situation that is, even more than most of Britain, the product of an uneasy compromise between feudalism and bureaucracy. Greater democracy requires changes in the way that individuals relate to the collective associations of which they are a part, in the way that social hierarchies and inequalities of power function in practice. How do people get more say in matters affecting their separate and common interests? If they delegate these powers to representative bodies or individuals, how are the latter made accountable, so that their actions may be seen to be legitimate expressions of the public interest?

Each of the phases of history outlined above may be said to have organised relations between individual persons and collective institutions in different ways and each remains a source of precedent for negotiating a way towards a more democratic approach to land ownership now. Clans resisted formal rulers; feudal domination was carried out by lords linked to kinship; and bureaucracy rests on the impersonal rules of office. In the 20<sup>th</sup> century, when authority of modern states was never seriously challenged, no-one looked to historical antecedents, feudal or tribal, for alternative models of how to govern society. But in the 19<sup>th</sup> century, when it was understood that society was on the move, comparative investigation of pre-modern alternatives was an intrinsic part of the search for new solutions to the problem of organising society in the machine age.

Our premise is that society is on the move once again and that the Highlands and Islands represent an important crucible of that social experiment which people everywhere are turning to in the wake of a retreating state capitalism. The main body of the paper takes up these questions through the issue of *stewardship*, the idea of care exercised on behalf of others by a person or body responsible for assets held

individually or in common. This is particularly relevant in the land reform debate, since the various competing interests are all likely to justify their claims in terms of the notion of responsible care or *stewardship*. Thus:

- *landowners* justify their position as care for the land and its people;
- *state bureaucracy* in its guise as the Crown presumes to exercise that role in the name of the eminent domain and representative democracy;
- *communitarian groups* use their closeness to the inhabitants of an area to assert their priority over the other two; and
- *indigenous activists* may even invoke an ancient clan democracy as cultural precedent for decentralised control of the land.

The invocation of notions like *stewardship* and *community* to legitimise claims for decentralised development through instruments such as land reform is thus particularly confusing. We live in times where conflicts of interest are frequently masked through the use of rhetoric commanding widespread popular support. In the remainder of this paper, therefore, we will explore how the concept of *stewardship* may be related to the various historical layers present in contemporary Highland society; so that, finally, we may return to the prospects for land reform there in the light of this discussion.

## Stewardship

*Stewardship* emerges as a central issue in the recent literature on land reform and in the responses to the consultation papers of the Government's Land Reform Policy Group. The concept appears to be shared by a wide variety of interests. Thus the proponents of land reform, Robin Callander and Andy Wightman have argued the Crown's ultimate responsibility for the management of land under the current feudal system amounts to a responsibility for *stewardship* (Callander, 1998; Wightman 1996). Callander explains it thus:

*"The Crown, by virtue of the sovereign rights it holds in trust for the public, has a responsibility for the management of Scotland's territory and its natural wealth and resources. This responsibility can be equated with stewardship ...."* (p117).

Several respondents to the first LRPG consultation paper from amongst landowners and non-governmental organisations (NGOs) argued that (good) "*stewardship is more important than ownership*". In a note prefacing Robin Callander's book, the Head of WWF in Scotland, Simon Pepper explains that WWF equates *stewardship* with '*sustainable management*' of natural resources, and that "*stewardship, embodying the principle of legitimate use for human benefit – but with a duty of responsibility to future generations and to the wider community – is a concept of increasing relevance and value in Scotland and elsewhere ....*". On the face of it, *stewardship* is a concept on which landowners and conservationists agree – indeed Ramsay (1993) argued that it represented common ground between these two groups, and the basis for an alliance between them.

According to the *Oxford Dictionary*, there are essentially four groups of meaning of the word 'Steward':

- an official who controls the domestic affairs of a household .... servant of a college who is charged with the duty of catering;
- the title of an official of a Royal household;
- one who manages the affairs of an estate on behalf of an employer. In Scotland '*a Magistrate appointed to administer the Crown lands forming a Stewartry*';
- an administrator and dispenser of wealth, favours, etc., especially one regarded as the servant of God or of the people.

According to the *American Heritage Dictionary*, the word is derived from *sti-weard* or hall-watcher. *Weard* is related to aware and wary in being watchful; it is similar to warder, warden, guard and even lord, referring to someone who manages another's property or the household affairs of a large concern. In this, it appears to identify the person who would be responsible for '*economy*' in its original Greek sense, *oikonomia* or household management. In the case of both economy and *stewardship*, an original focus on domestic affairs appears to have been extended in modern times to more public responsibilities. But we should remember that the great house of ancient and medieval times was often the most inclusive level of society.

As O'Riordan pointed out (1976) the notion of *stewardship* is thus a very old one, and pertains to the management of resources on behalf of another or others. Its roots are not merely '*feudal*' but '*pre-feudal*'. However, the kind of *stewardship* implicit in the old clan system was presumably different from that which derives from the feudal system, as Anglo-Saxon law gradually replaced the ancient Celtic law and custom.

Three points are relevant for our present argument. First, when charters conferring feudal property rights on clan chiefs (or those otherwise favoured by monarchs) were granted from the 12<sup>th</sup> century onwards (David King of Scots) they concerned only a small amount of arable land. This, as Cosmo Innes pointed out, "*is a narrow strip on the river bank or beside the sea*" (1872, p155). The rest of the land – the majority – was still held in common. Innes makes a convincing case that as the extent of occupation and use of land expanded, sometimes centuries after the original charters were granted, "*our lawyers lent themselves to appropriate the poor man's grazing to the neighbouring baron. .... The poor had no lawyers*" (*ibid*). Second, the Highlands were the last to be feudalised. Again, we rely on Cosmo Innes: "*A clan in the Highlands before the fifteenth century lives in patriarchal fashion. The clansmen looked to the chief as their leader and father, but what we should call the common people of the clan held their crofts and pastures from father to son, from generation to generation, by a right as indefeasible as the chief's .... The power of the chief, from its very nature, depended on the good will of the whole tribe – for who was to enforce a tyrannical order?*" (*op.crit*, p157). While we do not sign up uncritically for this romanticised version of Victorian anthropology, it remains at least an important myth which is deployed today by various interests in the land reform debate, and highlights the feeling of disenfranchisement of rural communities, and especially the Gaeltacht since the 18<sup>th</sup> century.

The chiefs, of course, got the Crown-charter after lawyers discovered that clan lands "*could not be held or vindicated, or perhaps could not have money raised upon them ...*" (*ibid*). In this way clanspeople "*became altogether dependent on the will of the laird, and fell a long way below the position which they had occupied before the lands were feudalised. That, I think, was the most flagrant injustice inflicted by lawyers*

*carrying out to the letter the doctrines of feudalism, which they assumed were the same with the old patriarchal occupation”* (pp157-158). The main point for present purposes is that under the patriarchal clan system, the chief was claimed to have a duty of care or *stewardship* for the clan as a whole, and that was legitimised not by the State or the Crown but by the clanspeople themselves, at least in theory. Although it is very unlikely that this system was in any sense egalitarian in practice, it is certainly a very powerful myth which is not entirely without foundation. But we may also be forgiven for making a third point. It is that this history lived on to a much greater extent in the Highlands than elsewhere in Scotland for three main reasons: first, because of the oral traditions of Gaelic culture; second, the relative recency of feudalism (and remember that it took a further three centuries or thereabouts for the changes in titles to have any real effect); and third, because of the brutality of dispossession in the 18<sup>th</sup> and 19<sup>th</sup> centuries. This cultural legacy feeds into contemporary debates on land reform in all kinds of ways that need to be accounted for. It must be part of any explanation for why the Highlands, today as for the last two centuries, have been at the forefront of the land reform movement.

The etymology suggests that *stewardship* is about looking after something not for oneself, but for another or others. There is a strong connection with the management of lands and estates, especially those of the Crown or nobles, and in the Gaelic with the continuity of traditional law and custom through oral transmission. In Scotland too, because of the link between the Crown and the Community of the Realm, and thus to the position of the Crown as Paramount Superior in Scots Feudal law, there is some inference that the Crown is *‘looking after’* the land and other natural resources on behalf of the people of Scotland (a point strongly argued by Callander, 1998, pp45-46).

In relation to land, *stewardship* involves the way land is looked after, for whose benefit, and with what legitimacy and authority the *‘steward’* acts on behalf of others. Landowners and their organisations often point to their role as *‘stewards’* of the land or countryside. More enlightened landowners argue that their role as *‘stewards’* extends beyond land to the people dependent on it for their livelihood. In this context, some recognise that whilst in the past the great majority of people in a rural community were either employed by, or were tenants of, landowners, this is usually no longer the case. Often too, they refer to the need to leave the land in good heart for future generations. In this discourse, the landowner is presumed to know what is best when it comes to acting on behalf of others, and there is no discussion of how he or she legitimises that action. It is a paternalistic discourse, rather than a democratic one. If there is broad agreement in Scotland that *stewardship* of the land is about caring for the land (and the people linked to it) on behalf of others, then the critical issues are:

*Who is to do the caring, on whose behalf, and with what authority or legitimacy?*

Although the concept of *stewardship* and what it actually entails in terms of practical management of land are clearly contested, there are even more fundamental and politically significant disagreements around these issues. Such disagreements are also linked with some of the most difficult issues to be faced concerning the relationship of

society to the individual. They concern what common rules governing the actions of each individual we agree to among ourselves; in other words, the relationship between public and private rights and obligations.

As we have seen, the shift from pre-state to feudal society and land tenure in Scotland apparently involved a change in the relationship between the community and the landowner or chief which effectively transferred legitimacy from the community to the Crown. The Crown in turn claimed that its legitimacy came from God. At the same time, property rights were transferred from the community to the landowner and the Crown.

The power which accrued to landowners in the feudal period was contested by merchants and then by industrial and manufacturing interests from the 18<sup>th</sup> century onwards. These conflicts, and the expansion of empire, led to the increased power of the state, culminating in 20<sup>th</sup> century state capitalism. Powers of local taxation and the administration of local '*justice*' were removed from landowners and passed to the state. In this period, the state took unto itself enormous powers, and became highly centralised. Especially in the period after the Second World War - 1945, it took responsibility for the welfare of people and, effectively, over the welfare of land. It did so through the extension of planning and other laws, as well as by direct action such as that concerning national parks, the growth of various environmental designations and subsidy schemes and taxation relief in relation to land use. In other words, the state took responsibility for a large part of what might be called '*stewardship*'. Bureaucracy, held to be impersonal, took the place of the personal relations which characterised former periods. And the state claimed its legitimacy from democratic principles.

By the 1970's this system was looking shaky indeed. Challenges to the legitimacy of the state came from the Trade unions, new political movements and from intellectuals of the left (Habermas, 1976) and the right (Hayek, 1957 & 1976). The planning system was in disarray; the notion that a remote and centralised bureaucracy could somehow '*know better*' how things should develop in local areas was becoming untenable. Thatcherism brought the critique of state bureaucracy to the centre of government itself. These challenges were reinforced in the last decade by tendencies of globalisation, the collapse of the Soviet Union and especially developments in the use of information and communications technologies. Increasingly, the call was for devolution of powers, greater involvement of citizens and '*communities*' in decisions affecting their future, for a more '*holistic*' notion of development, and for integration of the plethora of largely unconnected policies, agencies and initiatives. In the most general and fundamental sense, the issue of the relationship between individuals and their communities, between society and the state was once again at the heart of politics.

### **Land Reform, Planning and Democracy**

The debates around land reform have reflected these general shifts in political thinking and practice. Land reform implies a change in the balance of public and private rights and obligations over land. In the debates on land reform in Scotland, several prominent commentators have called for the retention by the Crown of a statutory obligation of *stewardship* to be imposed on landowners. Their proposal is to

retain the ultimate superiority of the Crown, through the Scottish Parliament, after reform of feudal law. Whether or not such a proposal were adopted (and it is not part of the Scottish Executive's proposals for feudal law reform), the question remains of how the public interest in land is to be secured in practice.

In essence, what we can observe in the debate over land reform is a major shift from centralised, statist notions of land control, at the extreme involving nationalisation, (an issue no longer on the agenda of any political party today), to notions in which '*communities*' have a much greater role to play, whether by acquiring land themselves or by involvement in the decisions of those who do own it. We can observe the same kinds of shift in relation to '*planning*' here the current idea is '*community planning*' where people are said to participate in plans affecting their future through their '*communities*'. These shifts in thinking and practice are not comfortable for many groups or interests. For landowners, there is opposition to the notion that they are naturally the best people to exercise *stewardship*. Equally, for planners and professionals, there is a challenge to what they feel is their expertise. For environmental movements and specialists too, perhaps especially for them, there is a challenge to their conviction that they know best what *stewardship* is, as well as to their remote bureaucratic organisations and sources of power. For local communities, whose power over the land and other resources in their area has been systematically removed over at least three centuries by landowners and then by the state, there are challenges to get people interested and involved and to devise ways of responding to their new or at least evolving role. In addition, there is a fundamental contradiction in seeking to hand power over planning to communities without altering the fundamental rights of landowners to decide outcomes affecting communities.

All of this is to some extent hidden from view by the use of synthetic terms like '*stewardship*' and '*community planning*' which can mean all things to all parties involved. We have seen that these *portmanteau expressions* somehow express the complex history of changing relations between individuals, communities, and the state since mediaeval times. If this can be the source of a shared conceptual vocabulary allowing diverse interests to make common cause at the local level, is the price paid in obscuring the real conflicts at stake too high?

The issue in land reform is the extension of democracy and democratic practice. How, in a period when the power of states is diminishing and communities are being told in many areas of economic and social life to take more control of their future, can real power over land and other resources be transferred to communities? How should the state, in its new role of facilitator rather than director of operations, assist such processes; and how in that case should community power be exercised? Any concrete proposals for land reform must be judged in the light of answers to these questions. If they are to have a chance of achieving what is expected of them, they must be surely grounded in a realistic analysis for which notions like *stewardship* are hardly adequate, for the same reason that they may be powerful symbols allowing cross-sectional coalitions to be mobilised.

The consultation process on Scottish land reform revealed varying support for measures affecting the balance of public and private interests in land, as well as for differing interpretations of the concept of *stewardship*. Some difficult questions remain. For example: Can we be sure whose interests are evoked by such

terminology? How are local community interests to be balanced against the wider public interest? What, indeed, gives the ‘community’ its interest in land, when it has no legal property rights and can hardly be said, as it could of the ancient clans, to be exercised in defending its interests against predators? These are some of the questions which must be dealt with if the LRPG and the Scottish Executive’s proposals are to be seen as an adequate set of mechanisms to ensure the responsibility for care of the land on behalf of the people at large. On balance, it does not seem that such mechanisms would be strengthened by the introduction of a general obligation of *stewardship* on landowners through the retention of ultimate superiority by the Crown.

## Conclusion

[Bryden \(1996\)](#) has argued that if democratic and participatory local structures are to be held accountable for future development of communities, then their ability to influence the use of land and access to it would critically determine the success of their activities. “*The notion of ‘empowerment’ can only be realised under conditions which are not generally present under our existing tenure system and concentrated land ownership*” (p33). Land reform, if it is to mean anything in Scotland, must be judged by whether or not it leads to more democratic and widespread ownership. Thus the two key elements in the LRPG’s vision statement were “*increased diversity in the way land is owned or used*” and “*increased community involvement in the way land is owned or used*” (Scottish Executive, 1999, p4). Abolition of feudal law will not achieve either of these, nor will the creation of national parks or the formalisation of access rights. Of the proposals on the table (Scottish Executive, July 1999), the main hope rests with proposals for a community right to buy. However, these proposals are deeply flawed by the restrictive definitions of eligible community bodies currently mooted, and by the absence of measures which would encourage sales of large landholdings and reduce land prices to realistic levels (see [Bryden, 1996](#)). Policies which could make a more significant difference to the current inequalities of land ownership and associated power in Scotland – such as land taxation and residence requirements – are so far absent from the agenda.

The issues facing Scotland today that we have highlighted here included the need for a more equal and widespread ownership of land as a condition of economic democracy, and that for devolution of power downwards to local communities. The key policy questions are how these can be achieved in practice. If notions like ‘*stewardship*’ (and we have touched on others such as ‘*community planning*’) point to a more constructive relationship between the state, NGOs, local communities and individuals, and a more equal and transparent division of power between them, then they may be useful concepts. If on the other hand they are used to obfuscate the real issues, such that no one knows what kind of power is being exercised by whom, then they merely constitute rhetorical devices cloaking the real interests and conflicts involved in the processes of devolution and land reform. As such they hinder realistic analysis of the issues, even if they may on occasion help to bring people together.

## Note on LRPG Membership

The *Land Reform Policy Group* (LRPG) was chaired by Lord Sewel, Minister for Agriculture, the Environment and Fisheries. Prior to being appointed a Scottish Office Minister he held the post of Vice Chancellor of Aberdeen University. Other members

of the LRPG were senior Scottish Office (and Forestry Commission) civil servants representing the main departmental interests. Professor Bryden was appointed as the LRPG's external assessor and thus had a unique insight into this period of government policy - deliberation, evaluation and formulation. (Scottish Office, 1998)

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### **Further Information**

The paper was presented at the *Millennium Conference on the Future for the Environment in Scotland – Resetting the Agenda?* held in March 2000. The conference was jointly organised by the Royal Society of Edinburgh (RSE) and Scottish Natural Heritage (SNH).

The [Arkleton Institute for Rural Development Research](http://www.arkleton.org.uk) was established in 1995 to research issues of rural change and development in Europe, including rural policy and practice. Professor [John Bryden](http://www.arkleton.org.uk) is one of the Institute’s Co-directors. [Keith Hart](http://www.arkleton.org.uk) is a senior research fellow at the Institute.