



Scottish Churches Parliamentary Office Briefing Paper

Centralisation, Subsidiarity, Local Government and Democracy

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Governance and Accountability in Scotland

With so much attention and focus on the question of sovereignty, culminating in this September's referendum on independence, has the question of scrutiny and reform of existing local governance and decision-taking structures in Scotland been neglected? In 2014 the General Assembly of the Church of Scotland enjoined the Church and Society Council to consider the perceived detrimental effect of the trend towards centralisation which is creating a democratic deficit in many areas of public policy.

Wider public concern and important decisions following the outcome of the Referendum result mean that the relevance and importance of these issues are likely to grow. The Rev Sally Foster-Fulton, Convener of the Kirk's Church and Society Council has said:

"Whether Scotland votes 'yes' or 'no' on September 18, we remain at our best when we are an interdependent society. Human beings are never independent. Supporting and strengthening ways in which citizens can participate in decision making at a local level, encouraging engagement and social investment in issues that concern neighbourhoods and creating spaces for the voices of the people to be listened to are intrinsic in a society that works for everyone, especially those who find themselves on the margins."

This briefing explores some of the recent developments and ideas around the future for local democracy and explains a number of related topics, as follows:

- ❖ Subsidiarity
- ❖ Imagining Scotland's Future
- ❖ Local Government; COSLA Commission on Local Democracy
- ❖ A Single Police Force for Scotland
- ❖ Community Empowerment
- ❖ Land Reform in Scotland and the Common Good
- ❖ Questions for the Future

Subsidiarity

The principle of subsidiarity is rooted in Catholic Social Teaching, and is a position shared and expounded by other Churches. It is often over-simplified as ‘decision-making at the lowest possible level’, but in the life of the Church it has a theological and ethical underpinning which is important to understand, as it shapes the view of a Christian in considering decision-making structures of the state. The following extract is taken from the 2004 [Compendium of the Social Doctrine of the Church](#), presented by the Pontifical Council for Justice and Peace.

CHAPTER FOUR – PRINCIPLES OF THE CHURCH’S SOCIAL DOCTRINE PART IV. THE PRINCIPLE OF SUBSIDIARITY

a. Origin and meaning

185. *Subsidiarity is among the most constant and characteristic directives of the Church's social doctrine and has been present since the first great social encyclical*^[395]. It is impossible to promote the dignity of the person without showing concern for the family, groups, associations, local territorial realities; in short, for that aggregate of economic, social, cultural, sports-oriented, recreational, professional and political expressions to which people spontaneously give life and which make it possible for them to achieve effective social growth^[396]. This is the realm of *civil society*, understood as the sum of the relationships between individuals and intermediate social groupings, which are the first relationships to arise and which come about thanks to “the creative subjectivity of the citizen”^[397]. This network of relationships strengthens the social fabric and constitutes the basis of a true community of persons, making possible the recognition of higher forms of social activity^[398].

186. The necessity of defending and promoting the original expressions of social life is emphasized by the Church in the Encyclical *Quadragesimo Anno*, in which the principle of subsidiarity is indicated as a most important principle of “social philosophy”. “Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do. For every social activity ought of its very nature to furnish help to the members of the body social, and never destroy and absorb them”^[399].

On the basis of this principle, all societies of a superior order must adopt attitudes of help (“*subsidium*”) — therefore of support, promotion, development — with respect to lower-order societies. In this way, intermediate social entities can properly perform the functions that fall to them without being required to hand them over unjustly to other social entities of a higher level, by which they would end up being absorbed and substituted, in the end seeing themselves denied their dignity and essential place.

Subsidiarity, understood *in the positive sense* as economic, institutional or juridical assistance offered to lesser social entities, entails a corresponding series of *negative* implications that require the State to refrain from anything that would de facto restrict the existential space of the smaller essential cells of society. Their initiative, freedom and responsibility must not be supplanted.

b. Concrete indications

187. The principle of subsidiarity protects people from abuses by higher-level social authority and calls on these same authorities to help individuals and intermediate groups to fulfil their duties. This principle is imperative because every person, family and intermediate group has something original to offer to the community. Experience shows that the denial of subsidiarity, or its limitation in the name of an alleged democratisation or equality of all members of society, limits and sometimes even destroys the spirit of freedom and initiative.

The principle of subsidiarity is opposed to certain forms of centralisation, bureaucratisation, and welfare assistance and to the unjustified and excessive presence of the State in public mechanisms. “By intervening directly and depriving society of its responsibility, the Social Assistance State leads to a loss of human energies and an inordinate increase of public agencies, which are dominated more by bureaucratic ways of thinking than by concern for serving their clients, and which are accompanied by an enormous increase in spending”^[400]. An absent or insufficient recognition of private initiative — in economic matters also — and the failure to recognize its public function, contribute to the undermining of the principle of subsidiarity, as monopolies do as well.

In order for the principle of subsidiarity to be put into practice there is a corresponding need for: respect and effective promotion of the human person and the family; ever greater appreciation of associations and intermediate organisations in their fundamental choices and in those that cannot be delegated to or exercised by others; the encouragement of private initiative so that every social entity remains at the service of the common good, each with its own distinctive characteristics; the presence of pluralism in society and due representation of its vital components; safeguarding human rights and the rights of minorities; bringing about bureaucratic and administrative decentralization; striking a balance between the public and private spheres, with the resulting recognition of the social function of the private sphere; appropriate methods for making citizens more responsible in actively “being a part” of the political and social reality of their country.

188. Various circumstances may make it advisable that the State step in to supply certain functions^[401]. One may think, for example, of situations in which it is necessary for the State itself to stimulate the economy because it is impossible for civil society to support initiatives on its own. One may also envision the reality of serious social imbalance or injustice where only the intervention of the public authority can create conditions of greater equality, justice and peace. In light of the principle of subsidiarity, however, this institutional substitution must not continue any longer than is absolutely necessary, since justification for such intervention is found only in the exceptional nature of the situation. In any case, the common good correctly understood, the demands of which will never in any way be contrary to the defence and promotion of the primacy of the person and the way this is expressed in society, must remain the criteria for making decisions concerning the application of the principle of subsidiarity.

Notes

^[395] Cf. Leo XIII, Encyclical Letter *Rerum Novarum: Acta Leonis XIII*, 11 (1892), 101-102, 123.

^[396] Cf. *Catechism of the Catholic Church*, 1882.

^[397] John Paul II, Encyclical Letter *Sollicitudo Rei Socialis*, 15: AAS 80 (1988), 529; cf. Pius XI, Encyclical Letter *Quadragesimo Anno*: AAS 23 (1931), 203; John XXIII, Encyclical Letter *Mater et Magistra*: AAS 53 (1961), 439; Second Vatican Ecumenical Council, Pastoral Constitution *Gaudium et Spes*, 65: AAS 58 (1966), 1086-1087; Congregation for the Doctrine of the Faith, Instruction *Libertatis Conscientia*, 73, 85-86: AAS 79 (1987), 586, 592-593; John Paul II, Encyclical Letter *Centesimus Annus*, 48: AAS 83 (1991), 852-854; *Catechism of the Catholic Church*, 1883-1885.

^[398] Cf. John Paul II, Encyclical Letter *Centesimus Annus*, 49: AAS 83 (1991), 854-856; John Paul II, Encyclical Letter *Sollicitudo Rei Socialis*, 15: AAS 80 (1988), 528-530.

^[399] Pius XI, Encyclical Letter *Quadragesimo Anno*: AAS 23 (1931), 203; cf. John Paul II, Encyclical

^[400] John Paul II, Encyclical Letter *Centesimus Annus*, 48: AAS 83 (1991), 854.

^[401] Cf. John Paul II, Encyclical Letter *Centesimus Annus*, 48: AAS 83 (1991), 852-854.

Imagining Scotland's Future

In 2013 the Scottish Churches Parliamentary Office supported the Church of Scotland in a series of community consultations in the context of the debate about the independence referendum. The events were called *Imagining Scotland's Future*, and in February 2014 the results and analysis of the events were published as [Our Vision: Imagining Scotland's Future](#).

Two of the key themes which emerged were around *Nurturing Inclusive Communities* and *Good Government* – these were amongst the priorities which people wished to see in Scotland's future, regardless of the outcome of the referendum. The relevant extracts from *Our Vision: Imagining Scotland's Future* are copied here:

NURTURING INCLUSIVE COMMUNITIES¹

“Community Spirit”

There were repeated ideas around the importance of community with themes being identified in 28 out of the 32 events. It was felt necessary to “encourage understanding through shared experience”, “build relationships”, and “be more neighbourly” along with a commitment to “caring for the most vulnerable society: Christian love in action”. Ideas covered a spectrum with simple suggestions that individuals or small groups could carry out immediately such as “more smiling faces” and “speak to each other” right through to calls for government or other organisational initiatives to support communities such as “provide places for old people to go and meet more people in the area”, “more places for children to go in small places”, “more venues for indoor activities at reasonable cost”, and “keep running events that bring people together such as the Olympics”. There were a few references to intergenerational community building such as “creativity will happen when young and old find the time to enjoy each other's company”. There were some more specific strands of thinking included in these themes; the encouragement of volunteering, a need for good policing, and references to local food production. Faith was highlighted in a number of ideas including “by continuing to share our faith with others, to be there when others think they do not need us” and a call to “be brave telling people what the church does in Scotland”.

“Try to bridge the gap between them and us”

There was a strong current of ideas about equality and diversity in our communities ranging from the very simple, and often repeated, idea of respect and tolerance to more political ideas such as “low barriers on immigration”. Specific ideas included “working together on common issues affecting society, putting aside our differences for everyone's benefit”. More generally there were ideas about what positive relationships would look like – “don't pull people down and disrespect them for not being like you” and “celebrate ethnic diversity in Scotland”.

“National Pride”

The words ‘pride’, ‘confidence’ and ‘celebrate’ occurred frequently among ideas seeking to emphasise the already positive nature of Scottish identity – “remind all Scots (and others) that for 450 years we have tried to make Scotland a better place”. Some of these ideas were about creativity and culture, including “keeping the Gaelic language” and aspiring for Scotland to be “a nation that enjoys tradition and innovation”. Self-belief and “a culture of positive thinking” also featured in these ideas alongside some ideas about the nature of the political system that is necessary to be a proud nation under the theme “personal, relational and governmental engagement: creating a civic structure which encourages confidence in participation”.

“Local and Global”

“Celebrate Scotland's Influence in the World”

Some participants clearly saw Scotland as a part of the international community with the responsibilities and opportunities that this presents – Scotland should be an “independent, prosperous part of the community of nations, taking responsibility in the world”. There were suggestions for “increased

¹ http://www.churchofscotland.org.uk/data/assets/pdf_file/0019/19243/our_vision.pdf pp. 23-27

international aid” and taking an “international role in standing up for the oppressed”. There was a feeling that Scotland could learn from our neighbours, especially in Scandinavia. These were primarily aspirational statements linking local communities to global issues - Scotland should be an “outward looking, tolerant, fair, prosperous and dynamic country”.

Theological Reflection

Theology and history remind us of the ambivalence of concepts of national pride and identity; it is not long since Scottish and Presbyterian identity were bound up with each other (with that link stoutly defended by a church resisting diversity), and the theology of a chosen people can easily drift into the theology of Holy Willie – “here’s tae us, wha’s like us”. Yet there is a genuine aspiration here to a fresh sense of who we are, in ourselves and in our world; how can a sense of who we are in relation to God fuel that wider vision?

Perhaps an answer comes from where we find our sense of identity. In Christ we are forgiven, set free from the drive to justify ourselves by scapegoating and to assert our identity by excluding; we are called to build a house (community) where “all God’s children dare to seek to dream God’s reign anew”².

Perhaps T S Eliot still captures best the role faith can play here when he asks:

*When the Stranger says: “What is the meaning of this city?
Do you huddle close together because you love each other?”
What will you answer? “We all dwell together
To make money from each other”? or “This is a community”?
Oh my soul, be prepared for the coming of the Stranger.
Be prepared for him who knows how to ask questions.”*³

For “city” read “nation”, and there is a profound challenge here to the currently narrow economic focus of the referendum debate. The values and, even more, the lifestyle and practices of the kingdom are creative of community; what public policy form do these take?

GOOD GOVERNMENT⁴

In 29 out of 32 events there was discussion of good government, and ideas ranged from a strong sense of dissatisfaction with the status quo to specific suggestions as to how to create better governance. Of all the ideas put forward during events the comments made under this heading were the most negative, angry and emotional. In many events these themes were present, but not classed as the most important to discuss, perhaps suggesting that people are not optimistic about the possibility of change. There was a clear sense that all is not well with our democratic system. This feeling reaches beyond the immediate lobbying and financial scandals and challenges the nature of the relationship between national government and local communities; the nature of the party political system and the type of person we want to see representing us. A number of ideas were directly related to the Referendum on Scottish Independence and advocated independence or remaining in the Union. These have not been expanded on here, as we sought to look beyond the polarising question of yes or no during our events.

“Truth and Public Life”

The greatest preponderance of ideas was around the linked themes of integrity, accountability and transparency of politicians. The tone of these ideas was mixed with some cutting and angry comments while others were positive and offered solutions – however, there was an overwhelming feeling that that there was an unacceptable lack of integrity and accountability. Ideas included “MPs to be made accountable – fired if need be”, “there is integrity by government when it makes promises: no false promises”, “creativity will happen when politicians speak the truth when asked, so we and they can trust each other”.

² Marty Haugen: All Are Welcome (Hymn 198 in CH4)

³ Eliot: Choruses from The Rock

⁴ http://www.churchofscotland.org.uk/data/assets/pdf_file/0019/19243/our_vision.pdf, pp. 32-35

It was noticeable during these events that many participants making such comments did suggest, verbally, that they did not intend these comments to be applied to their own elected representatives who they knew to be honest and committed public servants. There appears to be a disconnection between personal experience of elected politicians and beliefs about the political system.

“The Government needs to listen to people”

“Listen to the people of Scotland, their views and visions of their country”

There were recurring calls for politicians and the Government to listen to all people, more specifically there were challenges to the public engagement processes currently being used, “Stop saying you consult on policy when it clearly doesn’t happen” and a call for “real community consultation”. However, some existing systems were mentioned positively such as “enhance the role of [the Scottish Parliament Public] Petitions Committee” and there was acknowledgement that it was necessary for citizens to “engage with the democratic process: challenge the MPs/MSPs”.

“Personal Service”

With the basic premise being a need for “better politicians” there was less agreement about what this would look like. There was a strong theme about “taking money out of politics (as an undue incentive / influence)” and having “politicians really care, and go the extra mile” tied in to suggestions that there should be “fewer ‘professional’ politicians” and more politicians with life experience and specialist knowledge e.g. with “industrial sense” and politicians with “good core values”. From an alternative perspective there were also a few ideas in favour of career politicians and getting young adults actively involved in politics. One idea argued that the solution was “through personal service: be prepared to stand for office, party membership etc.”

“Dissent & Citizenship”

Building on the concept of personal responsibility for good government were a range of ideas around citizenship and the media – “change begins with me/us”. Suggestions included citizenship education in schools and volunteering as part of the National Curriculum. There were a number of ideas about voting including the suggestion of “mandatory voting in local and national elections”. Some of the calls for integrity among politicians were also applied to the media; however there was also a clear view that the media had a role to play in encouraging open debate.

“More democratic and radically different government”

Moving beyond calls for integrity in public life and better listening from government some ideas suggested greater changes to the current system - “strive to establish a more visionary and properly democratic form of government” -or “Participative democracy fuelled by learning and sharing”. There were a number of ideas relating to the party system within politics from all perspectives; “dismantle the party political system”, “retain a system with many political parties” and “a more transparent way of electing leaders”. There were a number of calls for “a written constitution decided by the people”, one phrased in the language of bringing our constitution into the 21st century.

“Devolve power and responsibility to local communities”

One of the key themes coming out of discussions about good governance was about how to “bring decision making close to people”. These ideas were a mix of formal and informal suggestions including “devolve more power to local government to make decisions about local areas” and “promoting / encouraging inclusive community against dominance of ‘central belt’”. There were more general calls for “local answers to local problems – improved democracy” and involving more people in decision making.

“Better Government structures”

Some of the ideas offered were about the civil service and processes rather than politicians themselves. There were two calls for public ownership with particular reference to energy. There was a desire for “less preventative red tape”, “more communication between organisations, e.g. hospitals, doctors’ surgeries and social care: working together”. Specifically in relation to public sector budgets were ideas about “values-led budget management” and “devolution of budgets to local area/region”.

“Ethical direction from Government”

There were a wide range of ideas about what ethical underpinning we wanted for our government systems. These ideas were varied and include; “politicians working for the Common Good rather than against one another”, “a courageous society that tackles problems imaginatively”, “picket and pray”, “I want a country where the basic needs of people are considered strategically, not ad-hoc”. There were social justice themes running through many of these ideas.

Theological Reflection

The Bible is, to say the least, ambivalent about government in its various forms; for example, in the Old Testament, kingship sometimes carries a stamp of divine approval (even, perhaps, ordination) but at others it is seen as an attempt to supplant God’s sovereignty. It would be hard, therefore, and arguably dangerous, to argue for any one structure as the divinely approved system. Yet that is not to say that such structures are irrelevant from a faith perspective. As Jim (now Lord) Wallace has recognised “The theological perspective and history of the Church of Scotland was influential in reviving and promoting the idea of the Claim of Right – the concepts of a limited sovereignty and a popular sovereignty, politicians exercising power as a gift of the people”⁵. The Scottish Parliament was designed with an intention of embodying many of the ideas above; perhaps the comments suggest that it hasn’t felt like that in practice. Has a perspective rooted in God’s sovereignty (and Christ’s Lordship) still got a contribution to make here, or has it lost the resonance it found 25 years ago?

Subsidiarity – the principle, rooted in Catholic Social teaching that “nothing should be done by a large more complex organisation which can be done as well by a smaller and simpler organisation”⁶ - may similarly lose some of its bite as the attempt to embody it in the EU feels stunningly bureaucratic. Might it yet have something to say in safeguarding the position of social institutions (faith communities, local authorities, trades unions, the voluntary sector) from the dominance of central governments and “market forces”?

As in the church, the initial commitment people bring to politics can slip through the fingers of party loyalties and institutionalism. Politicians are people, i.e. riddled with human frailty yet created children of God; at the same time they are good, fallen and to be redeemed, as are their institutions. Within that theological realism, can we help design structures of power that nurture integrity rather than party tribalism?

⁵ J Wallace: Making All Things New or A Blast From The Past in *J McKay (ed): Christian Faith and the Welfare of the City, CTPI, Edinburgh, 2008*, p10

⁶ D Bosnich: The Principle of Subsidiarity, in *Religion and Liberty* 6.4

Local Government; COSLA Commission on Local Democracy

COSLA – the Convention of Scottish Local Authorities – convened a special Commission on Strengthening Local Democracy, which published its final report in August 2014, called [*Effective Democracy: Reconnecting with Communities*](#).

The Commission report points out that Scottish local authorities:

- Collect only 18% of their own revenue in local taxes, compared with a European norm of 40%
- Are on average 45 times larger by area than the rest of Europe
- Have an average population of 165,000 – in the rest of Europe it is just 20,000.

The Commission believes both that Scottish local government is too large and too impotent – and argues for more powers, including control over more of its tax raising, as well as geographically more relevant and smaller areas to increase the connection between local democracy and governance and citizens. The report also asserts that there is a link between socio-economic inequality and an ineffective democratic system – pointing to examples of nations such as Germany and Denmark where there is greater equality and much smaller levels of local government, but which have more powers than in Scotland. The report highlights the importance of the European Charter of Local Self-Government⁷, in particular Article 9.

Among their recommendations, the report calls for:

- A wide-ranging review of structure, boundaries, functions and democratic arrangements to be commissioned, based on the principles outlined in *Effective Democracy: Reconnecting with Communities*, and to be implemented by 2020.
- More tax raising powers, including control over Council Tax, Business Rates and Land and Property Transaction Tax.
- The creation of an Office for Wellbeing to independently monitor and report on wellbeing.
- The founding of a Centre for Participatory Democracy to improve communication and decision-making processes.
- Consideration that local government in Scotland could be asymmetrical – different powers and responsibilities in different areas. For example, large city authorities might have different functions to small towns, remote rural locations or island communities. There might also need to be more than one tier of government in some places – but whatever is created should be in response to local need, not imposed from the centre.
- A shift in culture and understanding of local government away from what powers have been ceded by national legislation (it is not about decentralisation), but recognising the right to self-government in law (in a written constitution) and which puts subsidiarity at the heart of considerations. One way might be to enshrine a definition of the competencies of local government and national government, in line with commonly agreed values and principles.
- A duty on Government when drafting policy or legislation to ‘local proof’ all proposals to make sure they pass a subsidiarity test.

⁷ <http://conventions.coe.int/Treaty/en/Treaties/Html/122.htm>

Single Police Force for Scotland

On 1 April 2013 Scotland's formerly separate regional police forces and fire and emergency services were merged to form single, national agencies – Police Scotland and the Scottish Fire and Rescue Service. The change implements the Police and Fire Reform (Scotland) Act 2012.⁸ This proposal was included in the SNP's manifesto at the 2011 Parliamentary Elections:

“In order to maintain the increased visible police presence we will reduce the number of police forces in Scotland. However, we will ensure that Scottish policing remains receptive and accountable to the varied and diverse communities that they serve...”⁹

“The SNP believes there is a strong case for a single fire service in Scotland, a view widely shared by those involved in Fire and Rescue, including the Fire Brigades Union. Alternative proposals such as enhanced collaboration, or regional services do not achieve the same financial savings, improved accountability or enhanced service. In order to protect frontline fire services, we will, therefore, move toward a single fire service over the next parliamentary term.”¹⁰

Everyone can agree that improvements to the quality and efficiency of public services are desirable goals. Everyone can also agree that public bodies need to be accountable to the people they serve, and to conduct their operations in response to local wishes and needs.

There has however been some criticism that a nation-wide force has diminished the connection between local communities and their elected representatives, and with the police in particular a 'one-size-fits-all' model has been imposed, with little local consultation or public debate about how the police and the community might work together for the common good.

An issue which has been particularly controversial and high-profile is the regular deployment of officers with firearms for routine and regular patrols in parts of the country such as the Highlands where this kind of policing is very unusual. For many people having armed police is a matter of public concern – though for others it is reassuring. The complaints have arisen because this is a move which has been imposed by what is perceived to be a distant and remote central office and that the ordinary people who are being affected by the decision, and who have an opinion, have not felt that their voice has been heard.

The changed setup has been in operation for around 20 months; the Scottish Parliament Justice Sub-Committee on Policing have published a report into the new operations over the summer.¹¹ The report highlights the particular concern that national standardisation and targets were taking precedence over discretion and flexibility of operational policies at a local level. Evidence from Orkney Islands Council, COSLA and Unison Police Staff Scotland both pointed out that there was a collision of priorities between national and local concerns, and that local needs, views and methods were being downgraded – to the detriment not only of local accountability but also to good policing.¹² Despite this, in giving evidence to the senior officers from Police Scotland said that individual officers continued to have discretion, and that this was fundamental to policing in Scotland.¹³

A separate concern has been the closure or change of opening hours of police counters. The Sub Committee states a worry that because the public consultation over these changes was short (four weeks), there is a perception that the decisions for closures or hours reduction had already been made. Related to this was a fear that by closing counters the policy objective of the 2012 Act to strengthen the connection

⁸ <http://www.legislation.gov.uk/asp/2012/8/contents/enacted>

⁹ http://votesnp.com/campaigns/SNP_Manifesto_2011_lowRes.pdf, p. 18

¹⁰ http://votesnp.com/campaigns/SNP_Manifesto_2011_lowRes.pdf, p. 19

¹¹ http://www.scottish.parliament.uk/s4_JusticeSubCommitteeonPolicing/Reports/jsR-14-01w.pdf

¹² http://www.scottish.parliament.uk/s4_JusticeSubCommitteeonPolicing/Reports/jsR-14-01w.pdf para. 59

¹³ http://www.scottish.parliament.uk/s4_JusticeSubCommitteeonPolicing/Reports/jsR-14-01w.pdf para. 63

with communities could be thwarted.¹⁴ The announcement of closure of control rooms in Dumfries, Glenrothes, Glasgow Pitt Street, Stirling and Govan were also questioned by the Sub-Committee: no public consultation took place and community representatives from Dumfries and Galloway have suggested that such closures would lead to a loss of local knowledge which could hamper police effectiveness.¹⁵

¹⁴ http://www.scottish.parliament.uk/s4_JusticeSubCommitteeonPolicing/Reports/jsR-14-01w.pdf paras. 71-24

¹⁵ http://www.scottish.parliament.uk/s4_JusticeSubCommitteeonPolicing/Reports/jsR-14-01w.pdf paras. 80-81

Community Empowerment

The SNP 2011 Manifesto included a commitment to introduce a Bill for the renewal and empowerment of communities.¹⁶ The Scottish Government introduced the [Community Empowerment \(Scotland\) Bill](#) to the Scottish Parliament on 11 June 2014. The Government says that its Bill will:

- Empower community bodies through the ownership of land and buildings and strengthening their voices in the decisions that matter to them
- Support an increase in the scale and pace of public service reform by cementing the focus on achieving outcomes and improving the process of community planning.

The Bill has been preceded by [two Government consultations](#), in 2012 and 2013. [The Church of Scotland responded](#) to the earlier consultation to set out their views.

The principles which are driving the Government's approach are:

- Subsidiarity, defined as 'local decision-making.'
- Community empowerment, 'a process where people work together to make change happen in their communities by having more power and influence over what matters to them.'
- Human rights, 'people meaningfully participating in decisions that affect their lives.'

The Government says that community empowerment is where communities lead change for themselves, something different to public service providers engaging with communities about decisions related to the design and delivery of services. It complements democratic processes (at a Community Council, Local Authority or national level) as it allows communities to express their views and influence decisions in ways which are appropriate to them.

The Bill has been sent for scrutiny to the [Local Government and Regeneration Committee](#). The Church of Scotland has submitted evidence in response to the Stage One call for evidence. [LINK]

Part 1: National outcomes

The Bill puts the requirement for future Governments to consult on and produce a set of national outcomes for Scotland on a statutory footing, with the requirement for a review at least every 5 years.

The Scottish Government already works to [Scotland Performs](#), which sets out the purpose, strategic objectives and national outcomes of the Government. There are also targets and indicators to measure progress towards the outcomes. All devolved public services in Scotland now take regard of this framework in their own decision-making. The Bill embeds this way of working into primary legislation.

Part 2: Community planning

Part 2 of the Bill puts Community Planning Partnerships on a statutory footing, with defined roles and responsibilities and placing new duties on public sector partners to play a full role in the community planning process and the delivery of local priority outcomes.

The Scottish Government and COSLA agree a statement of ambition for community planning and single outcome agreements in March 2012. It says that: "Effective community planning arrangements will be at the core of public service reform. They will drive the pace of service integration, increase the focus on prevention and secure continuous improvement in public service delivery, in order to achieve better outcomes for communities."

Community Planning Partnerships already exist; there are 32, one for each local authority area. The Government say they would like the Bill to help make the change from community planning as the process

¹⁶ http://votesnp.com/campaigns/SNP_Manifesto_2011_lowRes.pdf, p. 26

by which the planning and provision of public services in an area takes place to becoming a process by which public bodies work together with community bodies to plan for, resource and provide services which improve local outcomes.

Section 5 says that a Community Planning Partnership must consider what other community bodies might be able to contribute to community planning and to ensure that they can participate.

Part 3: Participation requests

In Part 3 of the Bill a new power for community bodies to initiate dialogue with public bodies on their own terms, and to have their views properly considered, is proposed. Where a community body believes it can help improve the outcome of a service, it will be able to make a request to the public body or bodies that deliver the service to take part in a process to improve that outcome.

Part 4: Community right to buy

The effect of Section 27 of the Bill would be to extend the community right to buy to the whole of Scotland; under the previous legislation it was only in rural areas that community groups had the right.

The Bill allows for the self-definition of 'community' to be more diverse and not just by postcode, a point suggested by the Church of Scotland in its consultation response. It makes some other changes to the legal framework for the right-to-buy process; after ten years of the system in operation these changes are designed to improve how it works.

A new power for 'compulsory' community purchase is introduced by Section 48. Community bodies may apply to acquire land without a willing seller where the land is neglected or abandoned and the body has a plan for sustainable development. A Minister would have to approve the community's application, which would be required to pay market value for the land.

Part 5: Asset transfer requests

Where a public authority has an asset, for example land, forests, property, buildings etc., and where they are not being used, the Bill gives a new power for a community body to request that the asset be transferred from the public authority to the community body. The transfer would need to help with what the community is seeking to achieve. It might be transfer of ownership, or management or leasing – whatever is most appropriate. The Bill would mean that community bodies can approach public authorities for detailed information about the property (such as running costs, and energy efficiency) before making a formal request. Once a request has been submitted, the public authority must assess the proposals against the current use or any other proposal. The Bill also sets up a framework for decision-making and appeals.

Part 6: Common good property

"Common good" property refers to assets that were originally acquired by former burghs, and which have been passed down to local authorities through successive rounds of local government reorganisation. It includes moveable items (paintings, regalia, furniture), land and buildings, as well as cash which may have been derived from the use or sale of common good property. Audit Scotland said that at 31 March 2011 the value of common good assets was £219 million. Part 6 of the Bill aims to increase transparency about the existence, use and disposal of common good assets and to increase community involvement in decisions taken about their identification, use and disposal: a new statutory duty is placed on local authorities to establish and maintain a register for all the common good property they hold. Further sections in Part 6 deal with disposal or change of use of common good assets and the publication of relevant guidance.

Part 7: Allotments

This Part of the Bill was a part of the SNP Manifesto promise to update the law relating to allotments, which dates back to the Allotments (Scotland) Act 1892, subsequently amended in 1919, 1922 and 1950. Part 7 repeals all the earlier legislation and replaces it with a new, clear framework for allotment use. It places a duty on local authorities to hold and maintain waiting lists for allotments, and to take reasonable steps to provide more allotments if the waiting list is too long. The Bill prevents local authorities from disposing or changing the use of an allotment site without the consent of Ministers. Local authorities must publish an annual Allotments Report and a food-growing strategy, and make regulations to cover issues such as allocations, rent, maintenance, whether tenants can keep livestock, sell surplus produce etc. The Bill clarifies the management of allotments and the rights of tenants.

Part 8: Non-domestic rates

The Bill introduces a new power for local councils to create rate relief schemes to better reflect local needs and to support communities. Local authorities will be able to grant rate relief to any type of ratepayer, for any reason, as they see fit – so long as the relief is fully funded by that authority (and it does not allow the council to introduce local supplements).

Church interest

Some questions for church groups to consider:

- How well known and useful are the national outcomes? How easy is it for faith bodies to share their aspirations and visions in shaping Government strategies and targets?
- Community planning processes work better in some places than others; will these changes help those places that struggle, and how do churches and community bodies engage?
- The Bill does not propose anything related to strengthening democracy; how can the formal system of government and oversight relate to community empowerment?
- What plans do local and regional church bodies have to engage with the relevant groups once these changes have been implemented?
- The right for community bodies to initiate dialogue with public authorities is likely to be widely welcomed by church groups – but does it suggest that there has been a problem in the past which needs rectifying through primary legislation?

Land Reform in Scotland and the Common Good

Half of Scotland is held by just 608 landowners; eighteen people own 10% of all of Scottish land. To put it another way, “[just] 0.025% of the population owns 67% of the privately owned rural land.”¹⁷ The largest private landowner, the [Duke of Buccleuch](#), has Scottish estates covering more than 260,000 hectares.

In 2014 the Scottish Government [Land Reform Review Group published its final report](#). This briefing paper highlights some of the issues raised in the report in context.

In recent years, various approaches to land reform, such as the expansion of community ownership, have begun to change the pattern of land ownership in Scotland. The move away from fewer wealthy landowners has, however been slow.

Background

In 1998 the General Assembly of the Church of Scotland debated land reform and subsequently called for the creation of a ‘Scottish Land Convention’, in whose work the Church was subsequently closely involved. The Church of Scotland’s Church and Nation committee produced a report which set out the vision of the Church of Scotland:

“If it is to reflect Biblical priorities then land reform needs to be directed towards reversing the treatment of land as a status symbol or a commodity and dispersing the concentration of land ownership. In so far as the Bible recognises the deep interconnection between the justice and health of human society and the health and fertility of the land so land reform needs to reconnect the people and the land and place much greater emphasis on the need for the owners of land to adhere to a land use policy aimed at restoring the biodiversity of the land and directing its use to the benefit of the community as a whole.”¹⁸

The subsequent proposals from the Scottish Government set out in the [Land Reform \(Scotland\) Act 2003](#) did not satisfy this aspiration and the Church and Nation Committee (2002) responded with disappointment: *“Though taking some steps in the right direction, the current proposals do not represent a serious effort to change the most concentrated pattern of land ownership in the world with half of rural Scotland owned by 343 landowners.”*

Developments since the Land Reform (Scotland) Act 2003

[The Land Reform Review Group](#) (LRRG) was set up by the Scottish Government to identify how land reform may:

- “Enable more people in rural and urban Scotland to have a stake in the ownership, governance, management and use of land, which will lead to a greater diversity of land ownership, and ownership types, in Scotland;
- “Assist with the acquisition and management of land (and also land assets) by communities, to make stronger, more resilient and independent communities which have an even greater stake in their development;
- “Generate, support, promote and deliver new relationships between land, people, economy and environment in Scotland.”¹⁹

¹⁷ Warren, C, R. (2002) *Managing Scotland’s Environment*. Edinburgh University Press. Edinburgh

¹⁸ The Church of Scotland, (1998) *Reports to the General Assembly Church and Nation Committee* Section 19/11-19/24. Edinburgh.

¹⁹ <http://www.scotland.gov.uk/About/Review/land-reform>

In 2013, the [LRRG](#) launched a [Call for Evidence](#) where it sought views on how these aspirations may be achieved. Both the [Church of Scotland](#) and Christian think tank [Ekklesia](#) responded. The [LRRG](#) published their final report '[The Land of Scotland and the Common Good](#)' in May 2014.

The Review Group define 'land reform' as "*measures that modify or change the arrangements governing the possession and use of land in Scotland in the public interest, in order to promote the common good²⁰ of the people of Scotland*"²¹.

The Land Reform Review Group have urged wider consideration of the common good for all the people of Scotland when it comes to land.

A number of [recommendations](#) were made in the report to the Scottish Government:

- Given the target of one million acres in community ownership by 2020, the Group recommends that the Scottish Government sets up a short life working group to improve information on the numbers and types of community land owners and the land that they own, and to develop a strategy for achieving this target
- Communities require a wide range of support and advice in seeking to acquire and manage land. The Scottish Government should establish a Community Land Agency, within Government, with a range of powers, particularly in facilitating negotiation between land owners and communities, to promote, support and deliver a significant increase in local community land ownership in Scotland.
- To address housing need and the changing nature of the private rented sector, a change is required in the nature of tenancy arrangements within the sector. The Group recommend that the Scottish Government introduce longer and more secure tenancies in the private rented sector.
- The Government should compile improved information on land ownership and undertake or commission more research into patterns of land ownership
- Significant changes are required to make Scotland's system of land ownership a more efficient and effective system for delivering the public interest. The Scottish Government should have an integrated programme of land reform measures to take forward the changes required to modernise and reform Scotland's system of land ownership.
- There is a need for a single body with responsibility for understanding and monitoring the system governing the ownership and management of Scotland's land, and recommending changes in the public interest.

Looking ahead

This is a critical time for the future of Scotland. Along with the people of Scotland, land is one of our most important resources. How it is owned, managed and used is of fundamental importance to Scotland's future prospects, whatever constitutional direction the country chooses.

²⁰ The term 'common good' describes a comprehensive and complex concept which brings into its embrace questions of social justice, human rights, democracy, citizenship, stewardship and economic development. The Review Group therefore regards the 'common good' as the general outcome which informs and drives land reform.

²¹ Elliot, A., Watt, J., Cook, I., & Tabor, P. (2014). *The Land of Scotland and the Common Good*. The Scottish Government. Available at: <http://www.scotland.gov.uk/Publications/2014/05/2852>

Questions for the Future

Is the principle of subsidiarity the best starting point? Are there other ideas which need to be considered, such as equality of opportunity or promoting democracy and human rights?

Imagining Scotland's Future: Our Vision described a situation where 'there appears to be a disconnection between personal experience of elected politicians and beliefs about the political system.' People think individual politicians might be honourable but the system as a whole is perceived to be flawed. What might be the reasons for this?

Do there need to be more ways in which politicians and public bodies can be both transparent and accountable to the general public? Recall of elected politicians might be one way, for example, to encourage them to stick to manifesto promises.

Will reform – of land, local government, regulation, etc. – really make a difference? And if so, what should be prioritised? If not, what alternative ideas should be considered?

How do we ensure a better culture of communication and co-operation between all groups that have an interest in societal well-being, to avoid the need for Parliament to pass a law to ensure it works?

What are the barriers for citizens and community groups to meaningfully engage with professional services, such as the police, education or health providers? And what are the bridges by which ideas can be shared?

Can you identify a role for the Church in praying, speaking and acting on these issues:

- at a local (congregation / parish) level?
- at an intermediate (regional) level?
- at a national (denominational) level?

How can the different parts of the Church, support and complement one another in the task of striving for the common good?