

Professor Alan Miller
Chair
Scottish Human Rights Commission
4 Melville Street
Edinburgh
EH37NS

Dear Professor Miller,

Scotland's National Action Plan for Human Rights

This letter constitutes a submission to the consultation on the above submitted by Community Land Scotland. The submission perhaps best relates to the section of the consultation regarding 'Where we live'.

Community Land Scotland does not profess any expertise in legal human rights issues but our interests stem from what we regard may be a lack of recognition of community rights in land and where, currently, private rights to enjoy land seem to have greater prominence and protection in our society than community rights to access land to help create a sustainable future for communities.

In property rights, where ownership confers enormous rights and privileges, that ownership is often and substantially protected as a human right, even where it may be argued it is against the interests of the wider community.

The question for us is when individual ownership rights should or should not transcend community rights – basic human rights for a community to be able to be able to provide housing for its people, to access land for the development of economic opportunity, to use its resources in supporting the local economy and social advance for the future of the community and their culture. Issues determined by the community, not the whim of a single owner. All this takes us to the question whose rights should prevail, what value we attach to individual rights, and what to collective, community, rights.

You will be aware that Scotland has a land ownership pattern in which a tiny minority of the population owns the vast majority of the land. This ownership pattern, we believe, limits opportunity for many people and, we believe experience demonstrates, can create the conditions for economic, social and population decline in many, principally rural, communities. In such circumstances the rights, pleasures and privileges enjoyed by generally wealthy and sometimes absentee owners, take precedence over the needs and interests of local people, to the disadvantage of such people.

In exercising comparatively recently granted community rights in relation to land purchase, quite properly, compliance with ECHR was a consideration in the construction of the law by the Scottish Parliament. It is right that ECHR is properly observed. Fundamentally, however, as matters stand what we would regard as rights fundamental to the sustainable future of a community, rights to have access to the resources of the land, need to have greater weight than they currently do. In short there would appear to be a need for a re-balancing of rights over land with the interests of the wider community given greater weight. It may be that in the wider understanding of human rights there are other principles from international obligations that would benefit from

being incorporated into Scottish practice, standing alongside ECHR and its current interpretation in relation to individual rights to enjoy significant property which impacts of community interests.

In developing Scotland's National Action Plan we would urge the Commission to have regard to community land rights, giving community and collective interests greater weight when seen against individual rights.

Community Land Scotland is willing to discuss the issues with the Commission and to assist further consideration of these issues of principle.

Yours sincerely

David Cameron

Chair

Community Land Scotland