Scottish land reform and indigenous peoples’ rights: self-determination and historical reversibility

This article highlights the dominance of the trope of historical inevitability which – whether in its neoliberal, liberal or Marxist forms – seeks to claim that there is no alternative to globalising capitalism and state power. In contrast, the article argues that by analysing historical processes of appropriation and resistance, and by analysing parallels between ongoing struggles for self-determination in the global north and south, anthropological practice can refuse to contribute to a paralysing cultural relativism or coercive colonialism, but can instead reassert the existence of multiple alternatives, and multiple strategies for maintaining them.

**Key words** indigenous people, Scotland, land reform, self-determination, commons

**Introduction: coercion, negotiation and power**

Coercion and negotiation work hand in hand in the terrain of governmentality, with the former delivering the ‘target’ populations to the domain of the latter. (Ghosh 2006: 526)

Michael Asch points out that the governmentality through which globalising structures of inequality assert their inevitability involves peoples first being conquered by force and then having their supposed complicity asserted by the way the histories of conquest are retold (Asch 2007). Histories of resistance are replaced by stories of gratitude for conquest. Struggles to retain control of land and autonomy – in the face of massacres, eviction and forced education – are replaced by stories of a ‘natural’ desire for wage labour and consumer goods, which supposedly trumps all other wishes (Asch 2007; Pratt 2007). Once conquest is asserted as irreversible, then coercion takes the form of negotiation (Blaser 2004; Feit 2004). In such negotiations, radically different histories and social possibilities are shrunk to the single story and coercive options that modernity allows – modernity itself is not on the negotiating table.

These negotiations are based on a rewriting of modernity’s history in terms of its story of rupture, where an imaginary social contract was constructed between people who (it is imagined) previously did not live in human society, or lived in such a qualitatively inferior human society that its transformation, or absorption, into the forerunners...
of the modern legal state was what enabled people to have the chance to be fully human negotiators of their own destiny. Whether suffering the enclosures in England, the clearances in Scotland, the potato famine in Ireland, or colonialism the world over, getting these peoples into the frameworks of modernity is seen in terms of transforming such peoples from a blank slate ‘pre-modern’ condition (a human form of terra nullius) into a coming of age as fully modern actors within modernity’s frame of reference (Feit 2004).

In this ongoing and intensifying process of colonisation, the politics of dislocation endlessly repeats the coercive enclosure of the commons. This involves negotiating society into a denial of relatedness and into the pursuit of the unattainable utopia of progress, a utopia that destroys the relations that constitute the places where life is lived (Rose 2009; Shiva 2005).

This article sets out to establish a framework for analysing, on the one hand, this dynamic of coercion and negotiation and, on the other, peoples’ attempts to maintain or reassert autonomy in relation to global processes of appropriation (Nonini 2006). The article also sets out to establish the potential of anthropology to challenge these processes of coercion and of negotiation, and to thereby remake itself as a relational egalitarian field with its own distinct reality-making potential, through its ability to work with and support interlinking nodes of resistance. Such an anthropology, it is argued, can help to challenge social science’s complicity in the ongoing colonial project of coercion and negotiation, partly by enabling us to recognise and move between two fundamentally different registers of power:

- **Power as coercion** by a particular collective process of alienation: an understanding that recognises the all-encompassing impact of governmentality, and the sense of self and reality engendered by this that permeates social experience, including academic disciplines and
- **Power as relational**, as emerging out of (and recognising the primacy of) particular relations: an understanding that recognises the generative power of our agency and our ability to call on and so help engender others’ awareness of their agency.

The power of anthropology arises from its ability to address the full range of human possibilities and thereby to envision alternatives to current social arrangements (Graeber 2001: viii; Carrithers 2005). It is a process that inevitably challenges ‘the development of hierarchy between people’ (Lewis 2008: 305) by highlighting the way in which hierarchies are continually socially constructed not naturally given. However, the more anthropology challenges dominant notions, the stronger the response from within and outside the discipline that says, in effect, that there is no alternative to current dominant human arrangements. The argument over indigenous peoples’ rights is a case in point.

**Part one: Resisting historical inevitability**

*Indigenous peoples’ rights: a product of globalising modernity, or an expression of connecting histories?*

In *The politics of egalitarianism*, Jacqueline Solway argues that anthropologists who seek to support indigenous peoples are responding not to some supposed essential
otherness but to minorities within newly emerged nation-states, minorities who experience ‘encapsulation, marginalization, disempowerment, [and] cultural and livelihood difference from the dominant society’ (2006: 8). She writes that: ‘Amongst the San, as depicted by Lee, one finds no “noble savage” occupying an original utopia, but rather a group of people who actively resist the rise of inequality’ (emphasis added, 2006: 6).

In a similar way, indigenous forest people in Central Africa identify themselves and are identified by their neighbours as indigenous. Identifying the processes through which egalitarian indigenous peoples proactively ‘resist the rise of inequality’ – whether among themselves or in relation to their more dominant neighbours – usefully highlights the ways people seek to differentiate themselves from the dominant unequalising forms of exploitation, and the ways they can seek to retain a sense of locatedness in a dislocating world. One of the key ways of retaining this political space is to refuse to be defined by one’s supposed place in an overarching transnational grid of mutually exclusive (although supposedly forever hybridised) categories, and to instead analyse how particular histories of connectedness and dislocation work themselves out in particular locations.

For this reason focusing on indigenous peoples’ rights as transnational discourse, or focusing on seeking ‘the origins of indigenism’ in international fora in the last few decades – as analysts such as Ronald Niezen (2003) and, to a certain extent, Francesca Merlan (2009) do – can mean missing not only the historical depth of such peoples’ struggles, but also missing parallel ongoing struggles within settlers’ societies of origin (see below in relation to Scottish Land Reform). In this larger context, formerly disparate struggles realise their connectedness, as people in both the Global South and the Global North respond to capitalism pushing beyond ecological and social limits (Nonini 2006: 170–1) as it tears ever further into the local relations of sustenance that constitute the Global commons.

Don Kalb is one analyst who sets the supposedly scientific accuracy of the transnational perspective against the strategic usefulness of people insisting on their cultural alterity as they seek to defend local livelihoods. He writes:

> While the transnational perspective appears analytically more persuasive to me, the ‘local alterity’ approach may be strategically more eloquent in helping to forge the political and juridical tools for carving out some sheltered space in the tracks of neo-liberal globalization and empire. (Kalb 2006: vi–vii)

This is a highly problematic account in which we (social scientists) are supposed to be able to be analytically accurate in recognising the primacy of transnational global processes in shaping local struggles and identities, but at the same time we are supposed to respect (more marginalised) others’ right to fabricate ‘cultural alterity’ in their attempts to resist a neo-liberal globalisation.

Yet the power of such globalising logics rests in large part on our accepting their definition of people as self-interested rational economic actors. From this perspective, any other way of defining ourselves – in terms of what from the outside might be described as local identity or cultural alterity – is seen as bound to give way to the rational economic truth of who we really are, or these self-definitions are seen as being used strategically to further those self-interested political economic strategies that ‘modern’ society liberates us from having to conceal (see also Graeber 2001: 28). This assumption that “objective” or “scientific” analysis means trying to cut through...
to the level on which you can say people are being selfish’ permeates the social sciences as much as any other field (Graeber 2001: 29), and it is based on a cynical assumption concerning human nature: that no one ever does anything primarily out of concern for others. Graeber points out that: ‘There is no area of human life, anywhere, where one cannot find self-interested calculation. But neither is there anywhere one cannot find kindness or adherence to idealistic principles: the point is why one, and not the other, is posed as “objective” reality’ (2001: 29).

The literature on indigenous peoples highlights the inadequacy of economistic ways of analysing their social relations, whether these are framed in terms of Neoliberal ‘rational economic man’ or in terms of a Marxist teleology. Furthermore, this literature also calls into doubt such economistic ways of analysing social relations in the societies that have given rise to the social sciences (Ingold 2000; Solway 2006).

**Historical inevitability: Marxism, pipelines and the ‘pre-modern’**

Both the classic Marxist and Neoliberal analyses of ‘historical inevitability’ share the fundamental belief that current economic relations are necessary to attaining a future free of scarcity, whether through state or market control of production. This was driven home to me when evaluating a World Bank social science team’s consultations with Bagyeli forest peoples in Cameroon. The consultations determined the form of compensation the Bagyeli received for the damage caused to their forests by the construction of the Exxon Chad–Cameroon oil pipeline.

What was striking was that the compensation decided on involved agricultural training and some roadside development projects, despite the fact that the Bagyeli claimed that such roadside projects would be dominated by their more powerful farming neighbours, and that the agricultural training would simply put them in a position where their labour could be better exploited by their neighbours. What they had wanted instead was for their rights to the forest and to their agricultural land to be recognised and secured, and to be supported in securing identity cards so that they could not simply be dismissed as non-persons when they sought to defend themselves in customary and civil courts. What the Bagyeli in general wanted was to maintain the ground so that they could negotiate when and how they engaged with other economic and political actors. What the World Bank did was take the ground from under them and give them compensation that would integrate them as dispossessed labourers. Both the initial coercion and dispossession and the subsequent negotiation and compensation destroyed their grounds for shaping their lives.

The form of compensation decided on became understandable in the light of the fact that some of the key Cameroonian social scientists involved belonged to the more powerful farming groups who benefited from their dominance over the Bagyeli. What was at first more surprising to me was that the French social scientist overseeing the World Bank research was a Marxist, who, when challenged about the contradiction between the compensation measures put in place and those the Bagyeli had wanted, simply stated that the Bagyeli could only secure their future by becoming part of the Cameroonian working class and becoming modern.

This expressed very clearly the assumption that people such as the Bagyeli are ‘pre-modern’. This term carries all the assumptions of a unilinear direction to history – whether in its Neoliberal or Marxist guise. It is a term that can leave unexamined all...
the actual historical processes of power that crush non-capitalist or non-state forms of social relations, since they are not seen as the contestable outcome of particular power strategies, but as the hidden hand of history.

_The historical possibility thesis and the Ethnological Notebooks_

The all-pervasive ‘economic’ logic that requires a move from supposedly pre-modern to modern production methods and society reappears in the Marxist historical possibility thesis. Erik Olin Wright, in his superb ‘Foundations of a neo-Marxist class analysis’, claims that, although capitalism ‘creates institutions and power relations that block the actual achievement of egalitarianism’, ‘one of the great achievements of capitalism is to develop human productive capacity to such an extent that it makes the radical egalitarianism needed for human flourishing materially feasible’ (Wright 2005: 3). As evidenced by the actions of the Marxist in Cameroon, this represents a belief in the necessity of capitalism.

Christine Gailey (2006) forcefully points out that the later Marx is far more sympathetic to an anthropological understanding of non-capitalist social formations. Marx’s earlier argument that the history of all hitherto existing society is the history of class struggles – and that the only route out of this is through the final clash between the exploited and the capitalist class – appears to be directly and dramatically contradicted by this later analysis. To reconcile these apparent or real contradictions, Marx writes that his earlier argument ‘expressly limited the “historical inevitability” of this process to countries of Western Europe’ (1881: 1; see also Wheen 2006). Countries that he described as having already moved from common property regimes to private property, and on to capitalist private property based on the expropriation of the labour of others.

His earlier forceful claim notwithstanding, rather than focusing on the seizure of the state and the inevitable trajectory of human history, the later Marx ‘stressed struggle between communities and the state over control of resources and labour’ and Gailey goes on to write of ‘Marx’s abiding scorn for the state as a vehicle for human emancipation’ (2006: 48). Marx famously argued in 1871 that ‘the working class cannot simply lay hold on the ready-made state-machinery and wield it for their own purpose. The political instrument of their enslavement cannot serve as the political instrument of their emancipation’ (in Gailey 2006: 45). Furthermore, in his later writings Marx argues that the capitalist state of periodic disasters and ‘state of crisis . . . will end only when the social system is eliminated through the return of modern societies to the “achaic” type of communal property’ (in Gailey 2006: 41).

In a telling passage in his draft letter to Vera Zasulich, Marx points out that those in power criticise those living more egalitarian forms, by asserting that their suffering is due to their innate backwardness rather than to the exploitation and disregard of the same forces that are blaming them. He writes that:

> At the same time as the commune is bled dry and tortured, its land rendered barren and poor, [those in power] ironically depict the wounds inflicted on it as so many symptoms of its spontaneous decrepitude. They allege that it is dying a natural death and that they would be doing a good job by shortening its agony. (1881: 10)
Such attempts to blame the victim for their own suffering, for seeing the supposed ‘pre-modern’ as inevitably disintegrating in the face of a supposed ‘modernity’, is all-pervasive in attitudes to indigenous people world-wide. This is evident in Patrick Brantlinger’s grim exploration of Victorian and post-Victorian discourse on the inevitability of European ‘civilisation’, and on the inevitable extinction of the ‘primitive races’. Brantlinger (2003) argues that this extinction was seen as an inevitable result of the selfexterminating savagery of such ‘primitives’, a process that European expansion and success simply accelerated.

As Gailey points out, Marx’s focus in the *Ethnological Notebooks* is not on some supposed historical inevitability, but on the real struggle between communities and the state. She argues that this ‘lends itself better to an anthropology concerned with human liberation . . . What this tradition in anthropology includes is advocacy for the efforts of indigenous peoples in their efforts to defend a way of life that is structurally and in practice deeply opposed to capitalism’ (2006: 43).

Clearly such an anthropology is up against those who see their positions of power as dependent on denying the existence and potential of others’ ways of understanding and experiencing. When Ghosh writes that ‘coercion and negotiation work hand in hand in the terrain of governmentality, with the former delivering the “target” populations to the domain of the latter’ (2006: 526), he makes the connection very clearly between people only being accepted as negotiating partners once they have been forced to abandon ways of life and ways of thinking that do not conform to the economistic model.

If, instead, we wish to create the intellectual and political space to enable others’ ways of knowing and the relationships that embody these to continue, then we need to counteract the forceful closing down of this space by rethinking and deploying a very different notion and practice of power itself.

**Part two: Asserting historical reversibility**

*Theoretical re-orientation: indigenous peoples’ rights and Scottish land reform*

In turning from a critique of the ‘historical inevitability’ thesis to examining the potential of a ‘historical reversibility’ thesis, I begin by exploring some parallels between the struggle of indigenous peoples such as the Cree and the movement for land reform in Scotland.

In contrast to the arguments of Adam Kuper (2003, 2006) and others, these struggles and movements are not predominantly based on drawing a sharp contrast between essentialised categories of insiders and outsiders, but are predominantly based on a process of returning local control to local people.

This self-determination or relocalisation process is evident among the indigenous peoples I have worked with in Africa, among those who have successfully brought their land back under community ownership on the west coast of Scotland, and in the Transition movement (Kenrick 2009a) that is spreading fast throughout the British Isles and elsewhere. There are two aspects to it. Firstly, it involves attempting to exclude those processes that appropriate, exploit and divide people from each other and secondly it involves attempting to include those who seek to establish good relationships that are
perceived as strengthening the sustainability of the locality (Kenrick and Lewis 2004; Kenrick 2009b). In a sense, this should not be big news: we all do this. We can all become caught in power relations through thinking that a higher position in a hierarchy will increase our agency; and we can also all resist becoming caught in such relations through prioritising the need to establish relationships of equality with others (Kenrick 2005).

Turning from a focus on deconstructing ‘historical inevitability’, this article now seeks to sketch the parallels between contemporary attempts by crofting communities to claim land rights in Scotland and attempts by indigenous peoples to claim land rights in former European colonies. In doing so, it seeks to analyse ways of describing the supposed ‘other’ that permeate the arguments against indigenous peoples’ rights and against land reform in Scotland.

After establishing the theoretical orientation that underpins this analysis, the article will examine the political and historical context within which the movement for land reform in Scotland has been happening, and will make some tentative suggestions concerning the way the processes outlined earlier work themselves out in practice. In the process, the article will seek to highlight the reasons why Kuper’s criticism of the indigenous peoples’ rights movement is superficially attractive and accurate, but fundamentally misses the point; it critiques both those who ridicule and those who romanticise the Scottish land reform and worldwide indigenous peoples’ movements; and it argues that what is happening has important implications for our understanding of class and collective social action.

Understanding the nature of the indigenous peoples’ rights movement is increasingly relevant to our understanding of the political contexts and potential strategies of communities in both the ‘developing’ and ‘developed’ world who are seeking to reclaim local control over resources in a wide variety of ‘life projects’ (Blaser 2004). Mario Blaser argues that such ‘life projects’ ‘present a stark challenge to existing inequitable property regimes . . . They are the very action of maintaining open-endedness as a politics of resilience’ (2004: 40).

Clearly there are direct parallels between the debates over indigenous peoples’ rights and debates over land reform in Scotland today. In both cases marginalised minority groups use shared public notions of their having been historically dispossessed by incoming powerful land owners, and of their seeking to persist with socially and ecologically sustainable practices, to secure support for their attempts to reclaim community control over land and over their political processes. Campaigns by crofting communities ended in successful community buy-outs (e.g. at Assynt in 1992, on Eigg in 1997) and subsequently led to the Land Reform (Scotland) Act in 2003, which created the political space for many more crofting communities to take back control of their land from large and often absent land owners. In both cases (in the case of indigenous peoples, see Ronald Niezen 2003), such movements have been analysed as opportunistic strategies pursued by self-interested collections of individuals strategically presenting themselves in the appropriate way to achieve individual benefit. Although individuals certainly can act in this way, when they do so this is seen as being against the grain of a movement that has emerged from local action; local action that has mobilised public sympathy and so created the political space and legislative changes in which it can flourish. The emergence of the Scottish land reform movement preceded legislative changes in the Scottish Parliament, rather than the reverse. However, one regularly hears claims in the Scottish media that community buy-outs have been the consequence of the Land Reform Act in 2003, rather than the cause of it.

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In a similar way, Niezen’s mistaken argument in relation to indigenous peoples more generally has been taken up by many other theorists. For example, Renee Sylvain writes that:

As Niezen notes, indigenous identity developed within the institutional framework of successful nationalisms: ‘International legislative bodies of states have provided the conceptual origins and practical focus of indigenous identity (2000: 121)’. (Sylvain 2005: 357)

It is understandable that those wedded to a picture of the world as consisting of atomised nations would interpret indigenous peoples’ struggles in terms of a weak form of nationalism, but from the point of view of most indigenous peoples this is a breathtakingly misrepresentation.

What is happening here is nothing new; it is the endless repetition of the trope that the active superior realm (e.g. the legislature) creates opportunities for those in the inferior realm (e.g. the locality) to succeed in developing within the frameworks the superior has created. In this trope the feckless poor, the wanton child, the wayward African state, is regrettably admonished for abusing these frameworks that have been created for the common good in order to further its own self-interest.

Gayatri Spivak (1988) has of course pointed out that if people resist their oppression by mobilising around identities, then these can become repressive identities themselves as they are appropriated by the powerful outside or within such movements. The purpose of political action by people in the indigenous peoples’ movements I have worked with, and by the crofting community I am familiar with, is not to preserve some isolated identity over and against others, but to ensure that the space stops closing down around them (literally and politically in terms of the alienation of their lands). Having their collective forms of land tenure recognised, and put on equal footing with dominant forms, is a simple request, however threatening it may seem to those voicing the dominant trope that claims that there can be no alternative to its own.

The movements for indigenous peoples’ rights and for Scottish land reform challenge this dominant trope and seek to redress historical processes in which the powerful have used violence to enclose and appropriate the community-managed commons (Wightman 2010). In addition to this, just as indigenous peoples have sought to build alliances with neighbouring communities to resist exploitative processes that impact on them all (Kenrick 2009a, 2009b), so there is now a growing movement in Scotland pushing to extend the community right-to-buy legislation to cover urban land reform as well. Urban communities are calling for rural communities’ rights to be extended to their own right to buy urban land and buildings that developers see as a means to their profits and that local people see as essential to their well-being (Ross 2006b; Wightman 2007, 2009).

In this light it is clear that the land reform movement in Scotland is not driven by ‘racist’ distinctions between insiders and outsiders, but is an attempt to return local control to local people, primarily through acknowledging histories of dispossession, and through challenging the ‘special privileges’ powerful interests have accrued through the violent histories of (internal and external) colonial expansion. For many crofters (as for Central African hunter-gatherers and many other indigenous people), the predominant understanding of their rights to land are not based on the ‘blood and soil’ understanding of descent as involving domination and exclusion. This is a metaphor
wheeled out by those who seek to portray such movements as similar to those of European fascists. European fascism certainly employs such a linkage between ‘blood and soil’, but the philosophy of the British National Party (BNP) reinventing itself as – among other things – an environmental pressure group seeking to protect British ‘locality’ against foreign others is entirely contrary to the egalitarian philosophy of land reform movements or indigenous peoples’ movements ‘including in’ those who wish to join them through establishing ‘good relationships’ based on egalitarianism (e.g. van den Berg and Biesbrouck 2000: 35–6; Lewis 2005: 63, Kenrick 2005: 125; contra Sylvain 2005: 357). If indigenous peoples’ movements can be compared to European movements, it should not be to the xenophobic European racism (see Kuper 2003: 390) that they oppose, but rather to the land reform movements such as those in Scotland.

Where the Scottish campaign for rural land reform might be seen as having been grounded in a discourse that has involved essentialising crofters as some romantic other, in fact it has created a potent space to resist neo-liberalism (witness the 2006 struggles in the Scottish Parliament to defeat the then Government’s attempts to introduce ‘free’ market principles into the crofting system). This is now creating further space to resist in urban areas too, through the campaign for urban land reform. In other words, rather than breaking the world into dualistic and essentialist categories (indigenous, non-indigenous), such campaigns implicitly argue that we are all indigenous, in the sense that we all suffer from a dominant and destructive economic system external to local communities (Milton 2002: 134–5, 150–1). In these hands the argument that we are all indigenous is not an excuse to ignore the plight of those denied rights to land by the dominant system, it is a reason for taking their struggles as one of the many starting points for seeking to right an exploitative system which (in the liberal democracies) seeks to defuse any alternative social and economic arrangements by seeking to ‘benevolently’ include those still caught in ‘backward’ and ‘restrictive’ land ownership practices.

To put the matter bluntly: in the egalitarian indigenous communities studied by anthropologists in Central Africa and elsewhere, being indigenous is not established in opposition to others who are non-indigenous (e.g. Lewis 2005; Feit 2004). That is the logic used by dominating groups and by those internationally who define the indigenous as those who existed in a land before colonisation by a dominant other. Instead, in indigenous communities, non-members are not excluded, since there is a presumption that all who need to can use the resources of the land, that there is enough to go round as long as the land is treated respectfully (see, for example, Feit 2004). If the term ‘indigenous’ can rightly be employed in the way Kuper identifies, as a tool for some to seek to exclude others, it is not to exclude non-blood members but rather to exclude external extractive forces exploiting local communities.

**Political re-orientation: internal colonialism and Scottish land reform**

In 2006 the Scottish Government [then called the Scottish Executive] came under great pressure from crofting communities objecting to those parts of the Crofting Reform Bill that were seen as legitimising free market values in crofting tenancies. Alasdair Morrison, Member of the Scottish Parliament (MSP) for the Western Isles, said that the Scottish Executive must ‘make absolutely clear that the freemarket principle is not
acceptable’ (Morrison 2006). Bill MacAskill, from the community of Assynt that had successfully regained control of its land well before the 2003 Land reform legislation, argued that if the Bill became law it:

will create a demographic imbalance that can never be reversed where the sons and daughters of crofting (and other young people) will be, like their forefathers, locked out of the land market with their birthright going to the wealthy. (MacAskill, in Jardine 2006)

MacAskill made his point about the destructive effects of introducing a ‘free market’ in tenancies through employing language that highlights kin-based belonging, thereby linking ‘blood’ (birthright) and ‘soil’ (land). However, he uses the metaphor of kinship not to denote some fascist domination of those weaker than oneself, but to denote the desire to protect relationships of intimacy, care and belonging from powerful extractive forces. Above all, this metaphor is used to denote responsibility in a two-way relationship with other members of the community, most transparently manifest in people’s ways of treating the land (see also Bird-David 1992).

In the same piece, Bill MacAskill also accused SEERAD [the ‘Scottish Executive’s Environment and Rural Affairs Department’ who conducted public consultations with crofters to inform the legislation] of ‘the falsifying of public consultation exercises where widespread concern over the “free market” sections were excluded from the civil servants’ report to ministers’ (MacAskill, in Jardine 2006). This latter point echoes the process involved in the drafting of the Land Reform (Scotland) Act in 2003, when civil servants watered down all the elements in the bill which most powerfully asserted communities’ rights to buy, and these elements had to be reinstated by campaigning MSPs once the bill reached the Scottish Parliament.

The logic behind the civil servants watering down of the earlier Act, and behind SEERAD excluding people’s objection to the push for a free market in crofting tenancies in this latest bill, is made evident in the argument put forward by John Blundell, the Director General of the Institute of Economic Affairs (the IEA describes itself as ‘the UK’s original free-market think-tank’). Blundell echoes the arguments against indigenous peoples’ rights by claiming that we patronise crofters by seeking to ghettoise them in a world where they are diminished by being excluded from the free market and so are unable to acknowledge and engage in the modern world as equals. He argues that:

Crofting legislation currently before the wee parliament is criticised as likely to let the crofting families buy and sell their fields unencumbered by bureaucrats. Sounds good to me. . . There are 12,000 crofters in Scotland. Honourable as they may be, it is a hopeless way of life. They either all have real jobs or abandon their shielings for sensible roles far from their ancestral cabbage patches. Crofting is not uniquely daft. Most countries have a soft spot for romantic bucolic past ways of earning a hard living on difficult soils. . . Crofting is a system of servility. It is about compromising tenants’ rights. It is about status. Dr James Hunter, a leading mischief-maker in the Highlands, comments that the Crofting Commission should be helping the ‘local, the younger and those of less financial means’. Why not just have a market? Let whoever wants to sell, sell to whoever wants to buy? Consenting adults? Not in Gaeldom, perhaps.

Blundell concludes that:
Highlanders are just like the rest of us, just damper and poorer. We can’t do much about the weather. But we can make them richer – set them free to buy and sell their plots. (Blundell 2006: np)

This political perspective equates freedom with the free market, and appears to ignore or condone the coercive appropriation, and consequent inequality, that inevitably accompanies the state’s enforcement of unequal property rights based on histories of violent appropriation. Nonini (2006) and Shiva (2005) argue that this process is now being acted out through the violence of the market rather than of the gunboat, but that ultimately the effectiveness of the former rests on the threat of the latter.

On the other hand, people like Catriona Drew, formerly of Glasgow University’s Department of Public International Law, state that:

A strong argument can be made that crofters are an indigenous people, because their people have always been on the land, they have a distinct culture and, in some places, the distinct Gaelic language. . . . The distinctiveness of the Highland way of life has been recognised by Government in the various provisions made in crofting law itself. Given the experience of other indigenous peoples, in Australia, New Zealand, Canada and the United States, this would give the indigenous people of the Highlands and Islands the absolute right to have their land returned, and for compensation to be paid for being deprived of their rights. (Drew, quoted in Cramb 1996: np)

However, there is an element of truth in Blundell’s statement that ‘crofting is a system of servility’, a truth about structural power that can easily be concealed by the emphasis on culture evident in Drew’s analysis. Nevertheless, when John MacKintosh, of the Scottish Crofters Federation, argues that ‘the original [Land Reform] Act was a unique piece of indigenous people’s legislation’ (2005), this should not be understood in terms of a return to a Victorian vision of the essentialised crofting idyll, but in terms of recognising and redressing historical and ongoing injustice.

The point being that crofting is very different to the common ownership systems that pre-dated it, systems that are evident archeologically in settlements in which houses are grouped together and share fields and grazings that spread out from the settlement. These settlements contrast sharply with the crofting township pattern in which crofts typically are strips of land stretching from the sea up to the hills. This more recent crofting system was the creation of the clearances and resulted from the destruction of the old crofting system by the clearances. Families were uprooted from their land to make way for sheep and then for the large sporting estates, and they were often moved to small coastal settlements where they were given small strips of land to survive on, ‘many of them later emigrated to escape the harsh, poverty-stricken conditions of their new life’ (Watson 2006: np), and although many of these emigrants formed relationships with indigenous peoples elsewhere, collectively their own dispossession led to the dispossession of indigenous peoples throughout that kleptocracy often referred to as ‘empire’.

Osbert Lancaster and Alastair McIntosh summarise the historical process that led to the passing of the 1886 Crofters Act as follows:

Crofting is a form of feudal agricultural smallholding whereby, in law, the crofter is ‘vassal’ to a ‘feudal superior’. It has roots in both traditional usufructural
(i.e. overlapping rights to usage) resource use systems of the pre-seventeenth-to-eighteenth century clan (family) systems, and in the processes of effective land enclosure which intensified following the breaking of the power of the Highland chiefs in the 1746 Battle of Culloden. ... In the 1880s growing indigenous land rights awareness lead to riots and rent strikes, resulting in gunboats, police and troops being sent to such places as Skye and Lewis to suppress communities protesting the usurpment of their traditional land usage rights, lack of secure tenure, summary evictions and a history of ruthless clearances to the newly industrialised cities and colonies abroad. (1995: 73–4)

The crofters organised politically – through such bodies as the Highland Land League – and as a consequence, in 1886, the British government passed the Crofters Act, which effectively gave crofters their own native reservations, but did not give them back the land they had been formerly dispossessed of (Lancaster and McIntosh 1995).

The crofting debate and the history of crofting have clear parallels with the debates over indigenous peoples’ rights. There are parallel histories of dispossession, and parallel processes of containment designed to deflect attention away from this dispossession. On the one hand James Hunter stresses the way in which the ‘1886 Crofters Act, introduced after the Highland clearances, safeguarded crofting from market forces’ (in Ross 2006a: np), on the other hand there are those like John Blundell who see crofting as an anachronism and who see market forces as the nature of the ‘real world’ to which we all have to become accustomed.

What is at stake is the definition of ‘just government’, ‘hegemony’ and ‘expropriation’. While indigenous peoples’ and land reform movements claim that they have been unjustly dispossessed by a small hegemonic elite, this elite reverses the argument by presenting itself as the victim of ‘policies of expropriation (progressive income tax) and deliberate confiscatory inflation (resulting from central bank monetary devaluations)’ and that ‘simple majority rule results in a tyranny of the majority’. For them, the only just way out of this hegemonic tyranny can be obtained from the ‘taxpayers casting one vote for every pound of tax they pay; you have more say, the more you pay’ (Walmsey 2006: 2–4). The language of protection from threats to appropriate one’s wealth may seem uncannily similar to the language used by communities seeking to protect themselves from the ravages of privatisation policies the world over; but where the bankers seek to protect wealth they have already extracted from others, crofters seeking land reform and indigenous peoples seeking land rights are trying to curb that very process of exploitation.

Conclusion: collective action, crofting and class

Thus, although crofters’ rights or indigenous peoples’ rights are often challenged on the supposedly universalistic grounds that granting these rights may privilege particular groups over and against other peoples, in fact those who seek to challenge crofters’ or indigenous peoples’ rights seem to be those who (explicitly or inadvertently) privilege those with wealth over those who have been impoverished by the processes on which such wealth is built, and those who privilege the ‘free market’ as if it was a ‘natural’ state of affairs rather than a particular exploitative socio-economic formation.
It is presumably for this reason that places that have successfully pursued land reform (‘life projects’ in Blaser’s understanding [2004], those resisting colonialism in Asch’s understanding [2001, 2007]) are seen as such potent threats. Communities in Scotland pursuing land reform involve very small numbers of people and relatively small areas of land. Meanwhile, the mainstream media would appear to be playing its gatekeeping role of maintaining the status quo by either ridiculing or romanticising such movements, thus ignoring the implications, the successes and the difficulties involved in pursuing such endeavours.

One of the major difficulties encountered by such communities appears to be the very definition of indigenous that people like Adam Kuper criticise. Ironically enough, those most keen to advertise their ‘indigenous’ status can be those who seek to use this status to claim the right to sell their crofts to the highest bidder without any concern for the community as a whole, and without any concern for the affordability of the locality to local people. Those who seek to establish indigenous identity as an essential attribute inherited through bloodlines (the definition Kuper uses and condemns) are often the very people who seek to use this identity to wield influence through the media to undermine any notion of responsibility to future generations and to others. In opposition to this, those working day in and out to make such collectively run efforts work would appear to define who is indigenous in a way that is very much at odds with the romanticised and ridiculed definition of both Adam Kuper and some organisations who see their mandate as supporting indigenous peoples, and that is far closer to that of the actually existing relations amongst egalitarian indigenous peoples documented the world over. For them, being indigenous – having the right to belong and to have a say – is established through demonstrating an ability to care for one’s interests in a way that sustains rather than harms others. As Iain MacKinnon of the Scottish Crofting Federation notes, ‘This is in accordance with Highland tradition – as the Gaelic proverb puts it: “The bonds of milk [nurture/culture] are stronger than the bonds of blood [nature/race]”’ (2008: 2). Here, the term ‘indigenous’ is used not as a category to oppose one’s interests to those of others, but to refer to a process of ‘including in’ those who seek to establish relationships based on a recognition of mutual dependence and fundamental equality.

There are therefore interesting parallels between the concept of the working class and of indigenous peoples. Both can best be understood – not as some essentialised naturalised identity or category – but as the consequence of relationships of structural inequality. Those who benefit from structures of inequality claim they wish to solve the ‘problem’ of the working class or of the indigenous people by dispensing with them, by absorbing them and thereby ensuring equality. Yet as long as structures of inequality persist, the name may change (peasant to proletariat, indigenous to labourer), but the ‘problem’ persists, since the problem was never the dispossessed group, but was always the system of dispossession. Thus, although indigeneity has destructive potentials when used as a rhetoric of exclusion and control, in its egalitarian forms it can have huge generative potential far beyond any particular struggle (Pratt 2007: 304).

There is a stark contrast between systems whose centre of gravity is inequality, and egalitarian indigenous peoples’ struggles to continually rebuild relationships around a centre of gravity that pulls people towards a recognition of our mutual dependence and fundamental equality.

If such peoples – whether crofters in Scotland or forest peoples in Central Africa – are persuaded (and able) to abandon their egalitarian enterprise and become part of
those processes of discrimination that seek to exploit such networks of relationships, then this simply further discriminates against them.

Locally motivated processes of land reform, like indigenous peoples’ struggles the world over, are threatening to the status quo, not simply because they highlight the ongoing histories of violent appropriation on which the power of the wealthy is built, but because they have the ever-precarious potent potential of demonstrating that other more egalitarian social and economic arrangements are perfectly possible.

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