A Right to Roam without borders

Description



Celebrating the right to roam â?? whatâ??s the difference between a field in England and a field in Scotland?

On Saturday I was involved in a demonstration organised by the Right to Roam campaign at Scots Dyke, constructed in 1552 to delineate the border between Scotland and England. As one activist straddling the border put it, this foot has a right to be here, the other one doesnâ??t. The differences in access laws between the two countries are unjustifiable from a human rights perspective.

At the event a group of us handed over a draft right to roam bill, based on Scotlandâ??s world-class access legislation, to activists in England. They were keen to learn from our successes. It is over twenty-five years since I was involved in a meeting between recreational organisations from the two countries at Ullswater, in the Lake District. There we failed to persuade our counterparts in England to support the right to roam. Now the ground has shifted and rightly so. While we still have significant access problems in Scotland (as frequently discussed on this blog), they are not about the legal framework or the creation of a statutory right of access, rather the problems stem from failures to implement the law.

Both Channel 4 News (see here) and the Guardian (see here) provided excellent coverage of the event and what it was about.

The English landowners arguments against access

The arguments given by the Country Land and Business Association (the English equivalent of Scottish Land and Estates) to Channel 4 against extending creating a right to roam in England are worth considering as they were so ludicrous:

- First the CLBA claimed England is different because of its much greater population (they claimed nearly 70m but that is an approximation of the UK figure, which includes Scotland, and the actual number is c56m). The implication is that people, by their very existence, are bad for the countryside and should be kept out. This conflicts with the UK Governmentâ??s commitment earlier this year that everyone in England should live within a 15 walk of nature because there are so many people with so few places to go for their physical and mental health.
- The most important argument against this from a legislative perspective, however, is that generally people, even in large numbers, are not a problem. Proof of that is visible in any city park where formal flower beds survive, flourish even, despite the thousands of city dwellers. Often there is not even a â??keep offâ?• sign.
- Despite this, the CLBA spokesperson was much concerned with the implications of access rights for crops and â??food securityâ?•, claiming that Scotlandâ??s rights are not suitable to England because of a greater diversity of crops south of the border. This claim may well be true but, according to the National Farmers Union of Scotland (see here), in 2018 a fair range of fruit and veg was still produced north of the border :

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Fruit and Vegetables

- In 2018, 18,900 hectares of vegetables and 2,100 hectares of soft fruit was grown in Scotland
- Scottish producers produce more than 2900 tonnes of raspberries and 25,000 tonnes of strawberries
- A total of 231,000 tonnes of carrots; 64,000 tonnes of turnips; 34,000 tonnes of peas and 14,000 tonnes

Soft fruit production tends to be concentrated in fertile areas, for example Tayside and Angus.

Other fruits, such as rhubarb are also grown in certain areas.

Field vegetables such as carrots are grown on the very best land.

Other vegetables such as peas, beans and turnips are also grown, sometimes for animal feed and sometim

Some farmers also grow other vegetables such as cabbages, leeks, broccoli, mushrooms, Brussels sprou

A small number of farmers also grown bulbs and flowers.

The list is not exhaustive â?? kale, for example, is not mentioned but perhaps that is imported now?

- Moreover, with less than 9% of the population of the UK, â??more than 12% of the UK cereal area was grown in Scotlandâ?•.
- And as for livestock, according to the NFUS, Scotland has â??almost 30% of the UK herd of breeding cattleâ?• and more than â??20% of the UK breeding flockâ?• of sheep.

Clearly, the existence of the right to roam hasnâ??t stopped Scottish Farmers farming, whether this is growing fruit and veg or keeping livestock. That should not be a surprise to anyone who understands that Scotlandâ??s right to roam is based on the basic principle that you can go almost anywhere (not peopleâ??s gardens etc) so long as you do not cause damage. The converse to that is Scotlandâ??s right to roam did not remove any of the laws that rightly protect farmers and farming so that, if someone

tramples over a crop for example, they are committing a criminal offence. The conclusion is that access rights are quite compatible with farming in Scotland and would be in England too.

- The CLBAâ??s third claim was that a right to roam would be incompatible with the need to plant trees to combat climate change. This is best described as brass neck! The main reasons for the lack of woodland in England and Scotland is the consequence of overgrazing by sheep and deer (a major problem now in England too) and muirburn, all activities managed by landowners and has nothing to do with visitors to the countryside. In fact many visitors, if given the opportunity, would love to plant a tree in the countryside. One suspects the real explanation for the CLBAâ??s stance is they do not want people in woodland because of shooting interests.

Landowner double standards and learning from King Charles

Historically, a number of landowners and farmers have owned land in both countries and there are some interesting cases of landowners tolerating access in Scotland but trying to prevent access in England. A prime example is Alexander Darwall, the very rich man who as I predicted is now appealing the second Dartmoor Judgement (see here). Mr Darwall also owns an estate, Suisgill, in Helmsdale in Sutherland whose website features a graphic referring to the Scottish Outdoor Access Code (SOAC)!

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While the quote on access and deer is selective and taken out of context â?? there is a whole lot more advice on access and deer management (see here) â?? the key point is that in referring to SOAC Mr Darwall appears to be implicitly endorsing ALL the advice in it, including that on camping. So why is he taking such a different approach in England?

The Royal Family are the most influential landowners in the UK and own land north and south of the border. A few days ago there was a story about King Charles (see here), who has been up in Balmoral, meeting some mountain bikers while out for a walk and complaining to them about the midges. One suspects that it was not just the walk but the chance to talk to ordinary people that did him good. The point is, however, that if people can exercise their access rights at Balmoral without threatening the safety of the King (the story does refer to the presence of soldiers) or with his ability to enjoy his property, it can be done anywhere.

Among the Land Reform proposals the Scottish Government is currently considering is a public interest test when it comes to people buying large areas of land (defined as over 3000 hectares). Part of that, I would suggest, should include checks on whether prospective landowners respect Scotlandâ??s access rights. Had Mr Darwall had to make such a commitment before purchasing Suisgill in 2016, the

Dartmoor cases might never have happened.

Ramblers on the run?

Rather than supporting the Right to Roam event, Ramblers staff were banned from attending and the London office issued an extremely negative statement to the Guardian which was reported as follows

â??But there are splits in the English access movement: the Ramblers group believes the English act can be enhanced to include access to watersides (but not on to the water), to woodlands and some downlands. Englandâ??s very large number of rights of way makes Scotlandâ??s model unsuitable and unnecessary, and would undermine the â??trust and consensusâ?• built with landowners, they argue.â?•

This not only sells watersports (swimming, canoeing, sailing) down the river â?? the British Canoe Association supports the right to roam â?? and leaves the position of cyclists and horse-riders unclear, it is incompatible with what the Ramblers own website describes as Scotlandâ??s â??world-classâ?• access rights:

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The Ramblers in England also donâ??t appear to appreciate their position is incompatible with their previous arguments â?? still on their website (see here) â?? for what they call the freedom to roam:

â??The freedom to roam means you can walk in open landscapes without fear of trespassing. You donâ??t have to worry about sticking to paths. You can walk without constraint, setting yourself, and your mind, freeâ?¦â?¦â?¦â?¦â?¦â?¦..An expanded freedom to roam will give more people the chance

to walk in nature close to homeâ?•.

But not, it appears, the right of ramblers in England to step off a right of way through fields to sit under an oak tree or take a closer look at something of interest â??*without fear of trespassing*â??. According to this new doctrine, people should only have the right to enjoy nature from afar. There is no justification for restricting people to paths, whether rights of way or not, and we won all those arguments in Scotland 25 years ago. The crucial point is people should have a right to go anywhere to enjoy nature so long as they donâ??t do damage.

I have been a member of the Ramblers for something like 30 years because I believe that in the long-term they were committed in principle to extending access rights across all land and water on the Scandinavian model (a policy which was adopted at one of their conferences). It is very sad to see their branch office down in England being so out of touch and losing their way so completely.

The makings of a right to roam campaign in Scotland

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I had not attended such an inspirational event about access since the Land Reform Act was passed in 2003. It was not just that people from England wanted to learn from Scotland or that activists from both sides of the border have begun to work closely together â?? something that Andy Wightman remarked has become increasingly rare at the grass roots level â?? or that people were obviously enjoying themselves.

For me, what was really inspirational was the number of people attending from Scotland, a younger generation who really value our right to roam and who are concerned it is being eroded through a mixture of neglect and maladministration. What is more they want to do something to change this for the better, inspired by what the Right to Roam campaign has been doing down in England.

Among the issues we discussed were the closure of the Radical Road in Edinburgh (over five years now), the Cairngorms National Park Authorityâ??s proposal to restrict access in an attempt to save the capercaillie, the Loch Lomond and Trossachs National Park Authorityâ??s camping management byelaws, the proliferation of no camping signs across Scotland, the Pentlands Hill Race (called off this year due to the withdrawal of co-operation by landowners) and charging for access.

There are plenty of other examples of access activists in Scotland banging their heads against a brick law when it comes to having our access rights respected. All this provides plenty of potential and justification for some direct action on the model developed by the Right to Roam campaign in England. I will use parkswatch to do all I can to support that.

Category

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