Claiming our Natural and Social Commons

Emer O'Siochru 28th September 2016

Human rights are well understood and protected in international and national laws but human rights to the Earth, are not. Right to the beneficial use of the Earth is the most fundamental of human rights—the one on which all others depend—yet it is overlooked. We cannot live without Earth land, water, air and the fertility of the soil and the oceans. These Earth commons are sometimes finite like fossil fuels but most are continually renewing ecosystems such as the atmosphere.

We also cannot live without our social commons, the human culture that generations of our species built over thousands of years. Culture includes language, music, art, the built environment, science, philosophy, political and legal systems, communication systems, market exchanges, money systems and wealth. Climate change, resource depletion and biodiversity destruction is telling us that our stewardship is careless. Increasing inequality, poverty, crime, wars and widespread unhappiness is warning that the social commons is at breaking point. Our natural commons are poorly recognized and protected in the Irish Constitution and the social commons are not mentioned at all. That which is all around us can often be invisible, like water to a fish.

Reclaiming our commons from public and private capture transforms the role of the citizen in governance. She becomes a propertied stakeholder in dialogue with other propertied private and public stakeholders—an equal partner within a very different power relation. This is best described by working through examples of current seemingly intractable problems under commons headings.

Water Commons:

Irish Water was set up by government to invest in the needed upgrading of the water supply and treatment infrastructure in such a way to keep it off-balance-sheet under Eurostat rules. Public borrowing is severely limited by the private bank and property debt that the government was forced to socialize as public debt. Although charging for water use is good environmental practice, people feared that receipts would be diverted or that Irish Water and the national resource it controlled would be privatized to pay what they perceived as an illegitimate debt. Governments ignored calls to change the Irish Constitution to prevent privatization of Irish Water or its assets with the result that water charges are now politically dead as a fiscal measure.

A commons approach would recognize living and future citizens as beneficial owners of Ireland's water resources that could never be privatised. A Water Trust structured around Ireland's 8 natural river basin districts would then replace Irish Water. This recognizes the fundamental importance of protecting surface and ground water by linkage to the wider environmental context. The board of the Water Trust should include representatives of consumers, public authorities and civil society including environmental NGOs. Consumers would be charged for potable water based on the cost of its efficient conservation at source and the running costs of its supply. The charge may vary according to the water resources constraints of the district, giving a cost

advantage to many rural communities compared to Dubliners. The cheapest drinking water treatment is none; New York City drinking water supply system is the largest unfiltered water supply in the United States and is ensured by a watershed protection plan, the New York City Watershed Agreement (MOA) in1997. Capital costs of water treatment infrastructure including wastewater should be recouped instead from property-owners who benefit most from its provision and who generally have more ability to pay than water consumers (see Land Value Commons).

The surplus from charging for the use of our water commons should be given back on an equal per capita basis to the people, its beneficial owners, as part of their Commons Dividend. Because 40% of water in Ireland is consumed by commercial and agricultural users and as capital investment in new and upgrades are excluded, the surplus may be substantial. This structure creates a dynamic to design smart conservation systems, keep running costs low, consumer use low and the water charges high enough to provide a good contribution to the Commons Dividend.

As water charges can be easily managed to represent more than 50% of Water Trust income and as there are no Eurostat rules limiting dividends, the Water Trust can be financed off-balance sheet.

Renewable Energy Commons:

Eddie O'Connor of Mainstream Energy wrote the National Renewable Energy Action Plan (NREAP) by his own account. The Plan favoured wind energy at the expense of all other Renewable Energy Sources (RES) and was agnostic about the ownership and the structure of its development. Not surprisingly, wind energy, now at 20+% grid penetration, is almost entirely owned by high wealth investors. How many are non-national is not known as there are no records or audit of RES asset ownership. Nor are records of the tax paid by these investors on REFIT income but it augers badly that the Panama papers leak listed a number of Irish windfarm developments.

Wind-farm developers turned their attention to solar photovoltaic arrays as local support for turbines evaporated due to their visual, health, and biodiversity and property value impacts. Although there is as yet no REFIT for solar electricity, the best sites and significant grid connection capacity have already been staked out by private commercial developers/investors.

In contrast successful low-carbon nations such as Germany, Denmark and the Netherlands have 50-70% ownership of RE assets held by local individuals, families and community. Their feed-in tariffs favoured 'Prosumer' and local cooperative ownership of solar panels, bioenergy CHP plants and individual wind-turbines over private commercial developers. Proper compensation was paid to locals for unavoidable turbine impacts. Many municipalities in these leading nations own and operate local hot water and electricity grids.

A commons approach would recognize that wind energy does not belong to the landowners over which it blows nor to the investors in turbines that avail of it—but to the people of Ireland. This claim is indirectly recognized in the Commercial Rates that the turbine owners pay to the local authority. The Commercial Rates were set at a time when turbines were a mere .5MW to 1MW in output and a fraction of their current size. As when a corner shop expands to become a supermarket, the rates for a modern 3.5MW, 162m high turbine will be

increased to reflect its increased rental value. This review is now ongoing and as EU competition law insists that the turbine owners cannot be treated differently to any other business it is very likely Commercial Rates on the newer turbines will be tripled. The increase may be in the order of €24k per annum for a 3.5MW capacity turbine. Currently receipts from turbine owners are added to the local authority budget and used for all its activities.

A commons approach would ring-fence the receipts to support community ownership of RES assets and energy efficiency measures in a trust fund held by the local authority. The fund could be capitalized off-balance sheet under Eurostat rules because it is supported by ongoing charges or taxes. A portion of the fund should be used for deep retrofit of the homes of vulnerable people nationwide that can never invest in RE assets. A portion should be used to compensate local people for unavoidable impacts. A substantial portion should be reserved for communities to buy shares in developer-led RES—ensuring at least a 20% shareholding within a 5k radius. But the largest portion should be reserved to fund 100% ownership of RES assets by 'Prosumer' and community-led cooperative RES development.

Were this investment funding channeled through local public banks, as in Germany, the money could be leveraged 8 times over to supercharge Irelands carbon transition. In this regard, please note that Irish Rural Link is hosting a in-depth study of the Sparkassen local public banking model for Ireland as outlined in the current Programme for Government.

This short outline shows how the dynamic of citizen engagement in the transition to a low carbon economy would be positively transformed were they recognized as the beneficial owner of our renewable energy commons of all kinds.

Atmospheric Commons:

Climate change is now undeniable to all but the most close-minded. It is generally accepted that current global and Irish efforts will not meet even the minimum 2℃ target and much tougher mechanisms and higher investment must be made to ensure a livable planet. Most economists agree with eminent climate scientist James Hansen at his COP21 side event when he said that the most effective mechanism to rapidly drive down fossil fuel use is a high carbon price. Where many economists don't necessarily concur is Hansen's further recommendation that the receipts be given back to the people as part of a commons dividend. This idea was developed simultaneously by Feasta in Ireland as 'Cap and Share' and in the US as 'Fee and Dividend'. Dissenting economists do not offer alternative credible proposals.

Cap and Share/Fee and Dividend represent the commons approach to climate change. A carbon price of €30 to €60 per ton is needed to send the right signals and provide the market certainty to make the change. While nation states can introduce the measure unilaterally, it is far more effective to do so globally. Import duties on non-participating countries would be necessary to protect local industries. Feasta's research showed that 2/3rd of the people would net gain; only the wealthiest 1/3rd would pay more in carbon fees than they would receive in their share/dividend.

The carbon price would replace most other taxes, supports and measures such as the failed ETS and CDM carbon trading mechanisms, feed-in tariffs,

grants and subsidies etc. and would underpin regulatory measures such as energy efficiency standards and ratings. A further carbon pricing system is required to reward carbon sequestration and storage in natural systems such as in our biomass cover, bogs and soils—with matching fines for their destruction. A price for the carbon added to soil by regenerative farming such as all grass-fed organic cattle would be very good for Irish farmers (See also Land Value Commons).

A downside is that rural communities would struggle more than urban because of our scattered rural settlement pattern and resultant chart-topping use of cars —Irish car owners drive three times more than US car owners. But this effect is offset by the much lower property taxes rural people pay arising from their locational choices.

Land Value Commons:
Land is a natural commons like every other Earth resource and a fundamental resource that gives access to most other commons resources i.e. water, minerals, wind energy etc. While we may frame the great wilderness areas such as the uninhabited frozen poles, high mountain ranges and deserts as a land commons, it is not a useful concept for inhabited areas. The commons of 'land value' is a better metric because it combines both the value of natural land due to fertile soil and coastal views for instance, as well as the socially created value of land due to the investment and energy of generations of people.

Ireland came close to adopting a Site Value Tax (SVT) in 2013 when Fianna Fail and the Green Party were in government. Fine Gael and Labour party reversed this decision in favour of a conventional Local Property Tax (LPT) that is levied on the site plus the building and excluded residential land and sites without buildings. This decision virtually guaranteed a housing crisis because all historic evidence shows that landowners withhold their land from development until their desired price level is reached. In an economic downturn this can take years, exactly as was predicted in the 'Fair Tax' publication.

A SVT would have been levied on all zoned land and sites whether built upon or not, with deep discounts for homeowners who bought in the boom times. Landowners and other agents with liens on development land and sites, such as NAMA and the banks, would have been forced to develop or to sell to others to develop. With increased supply, rents and house prices would not have risen as they have and there would be far fewer many homeless families.

A Vacant Site Levy (VSL) was included in the Urban Regeneration and Housing Act 2015 set at 3% annually of the capital value but it will not apply until 2019—too late to relieve the current crisis. The Urban Forum recommended the replacement of Commercial Rates with a SVT that extended to cover zoned land and sites. Government did not take up this idea. Heightened resistance to any new or increased taxes has made replacing Commercial Rates or LPT with a SVT a difficult sell for politicians who also think that people will not be able to understand it. Fortunately there is another way to introduce the concept of a land value commons—the Community Land Trust.

60% of zoned and serviced development land in and around Dublin is held by a combination of local authorities, government agencies and NAMA. While some public funds sums are allocated to Local Authorities to build homes, The Action Plan for Housing proposes that the majority of public land will be

developed by Approved Housing Bodies (AHBs) and by private Build-to-Rent developers using off-balance-sheet funding through Special Purpose Vehicles (SPVs). The land will be transferred in exchange for social housing provision in the case of AHBs and affordable rental homes for 15-20 years in the case of Build to Rents. Development contributions will also be waived and cheap funding for onsite infrastructure and services will be made available to developers through the NTMA/ISIF. Apart from small number of 'starter homes' sites that will be allocated for first time buyers, the vast bulk of new homes to be built are to be rental.

Because public lands and public finances are limited, only a single cohort will benefit from the social rented and starter homes, and in the case of leased social and affordable rental properties, only for the contracted period. Therefore this huge investment in land, finance and new agencies is but a stopgap measure: not a fundamental reform.

A commons approach that puts public land in trust makes better use of scarce exchequer funds and ensures that public subsidies deliver affordability in perpetuity including for homeowners. The City of Amsterdam is undertaking the comprehensive redevelopment of its old industrial docklands. In contrast to Dublin, the City of Amsterdam offers 50 years leases—not freeholds—to a range of potential builders and developers and for a range of uses. The City prepares the urban design plans and provides the access roads, services and other infrastructure. In this way, uncertainty and planning risk is reduced and the value of the land is maximized before bids are sought for leases and construction begins. The Georgian landlords built Dublin's emblematic grand streets and squares in a very similar way.

Dublin City Council (DCC) should take their lead from these successful examples and use available Exchequer funds to prepare urban designs and development frameworks by in-house professionals for pilot sites. The current strategy of looking for developers for a small number of very large city plots as currently proposed for the Oscar Trainer site is a mistake. Amsterdam City abandoned a similar policy favouring large-scale professional developers that turned out to be costly and slow in favour of multiple developer/builders that promotes innovation with encouraging results. Urban plans should provide for residential uses comprising 30% social rental, and a mix of 60% cost plus rental and homeownership as determined by consultation and demand. Commercial, service and recreational use plots should also be included to provide a fully featured walkable settlement.

DCC should directly commission the successful bidders under Design-Build contracts, again using their Exchequer funding. Irish banks will provide competitive rates to finance the construction. On completion, Approved Housing bodies (AHBs) will bid for finished buildings comprising social and cost plus rental units with the benefit of a perpetual lease subject to an annual ground rent. AHBs can access off-balance-sheet funding under the Irish Council for Social Housing's SPV at a very competitive rate because the upfront site cost and all development and construction risk is eliminated. It is poor use of exchequer funds for DCC to retain ownership of the completed units. DCC should roll over the funds for the next project and so on. With careful project planning, scarce exchequer funds can be leveraged and DCC could become a major developer in the housing market with all of the secondary benefits that implies.

Private residential investors will also bid for similar leases of completed tailored Build-to-Let buildings. In effect, these rental units will be cost-plus and therefore more affordable than current rents. The investors' return is based on and limited to their investment in the building. Because much of the developer profit and upfront land cost is eliminated, the investors will get a better initial return than they would under the conventional freehold model.

The best thing about the commons model is that self-builders, housing cooperatives, co-housing groups and innovative small builders can easily participate to provide home ownership better suited to today's demographics and lifestyles. Amsterdam City fostered self-build innovators to bring life and excitement into previously blighted areas and so raise land values for everyone's benefit. At least 30% and up to 50% of the site plots should be reserved for homeownership of all varieties. DCC should fund the construction phase for cooperatives and co-housing groups as it does for AHBs and Build-to-Rents in order to control the construction risk and to ensure that building standards are met or exceeded.

Irish Banks will provide competitive finance to speculative builders selling to homebuyers because the upfront cost of the site and planning risk is eliminated and many of the units may be presold. The cost of the urban home is reduced by 30% on average to the buyer, bringing it under the limiting ICB prudential rules 300k thresholds. The new owner will pay a ground rent to the local authority but it will be set at an affordable rate with 5 year reviews linked to the Consumer Price Index. In this way a whole range of affordable home sizes can be built on public lands – not just starter homes.

The local authority as freeholder owner has control over the subsequent resale of the properties to ensure that the leaseholder does not receive the capitalised difference between the CPI controlled ground rent and it's the market rent and that the housing units remain affordable for the same category of people for whom they were originally built. Commercial and private residential investors will pay the open market ground rent.

By taking on the role of developer and retaining the freehold, the local authority retains the immediate 'developer' profit and the long-term social commons land value for the benefit of the community. The local authority land trustee relinquishes the maintenance and management of social housing to third sector not-for-profits, which they do well, but retains key control of subsequent transfers/sales of the property so that AHBs cannot engage in empire building or the risky property development that brought the sector back under government control in the UK.

As discussed under Water Commons, the cost of capital works to upgrade the water and wastewater treatment should be recouped from annual property taxes that fall on property owners --not consumers. All property owners and especially green field development landowners benefit from unearned windfall gains from public investment in infrastructure. Development Contributions used to recover some of that windfall value, but they have been reduced by local authorities since the property crash and virtually eliminated in the Action Plan for Housing.

It is unfair to place the burden of *all* the cost of new infrastructure on new construction in urban areas; existing building owners benefit from upgraded services and access and should contribute too. Annual property taxes such as the

Vacant Site Levy for undeveloped land, Commercial Rates and the LPT for developed land are a fairer and more efficient way to recoup costs—although not as efficient as a single SVT for all use classes. This situation describes the current default reality following the failure of water charges to generate sufficient revenue. The downside is that local authorities cannot borrow off-balance sheet to fund the off-site water and other infrastructure investment. The Action Plan for Housing offers a partial solution in the proposal for a NTMA/ISIF sponsored SPV for funding *on-site infrastructure* that can be off-balance sheet. This could be an opportunity to decentralize both water treatment and energy services and provide them on site in the new developments.

Building owners on Trust land will pay lower property taxes than freeholders because their property will be worth less. They may even pay lower electricity, heat *and* water charges if a local services company provided these services. It is feasible to transition the entire site of say 600 homes to zero carbon if the full suite of renewable energies were employed: solar voltaic panels on roof tops, high tech wind turbines and batteries all supported by an anaerobic digester using food waste and sewage solids or/and pyrolysis reactor using municipal solid waste feeding an electricity and a hot water grid. A vacuum waste transportation system would be required for blackwater and a separate system for greywater for treatment in constructed reedbeds. Even transport could be integrated with electric (eventually self-drive) cars recharged on the local electricity grid.

When the development is complete, DCC might wish to raise further funds to continue its development role and sell the freehold to an independent Community Land Trust (CLT). One advantage of an independent trust is that politicians cannot sell the freeholds to buy votes as they have done for public housing. Tenant purchase of social rental homes (building only) can be positive as long as they are replaced with new social rental homes and as long as the Trust ensures the homes are not sold to investors.

The CLT should be set up with a threefold board representing residents, the local authority and civil society comprising local development groups, charities and NGOS. The local authority can safely capitalize its investment at a good price and use the money to purchase and develop more lands. The CLT will be a very safe inflation proof investment for long-term savings because it has first charge on all the properties that are built on it in perpetuity. The 200 hundred year old Grosvenor Estate current worth €13 billion is proof of that.

Money Commons:

Most people think of money as a thing like gold or other useful material that can be exchanged for other useful things. But that is no longer true, if it ever was. Money is a now a social commons in that it comprises the total of all debts and claims that people have on each other but it has been effectively privatised by banks. Conventional money is backed by the fact that it must be used to pay taxes in the country of issue but it is 95% created by banks when they make loans. When loans are repaid to banks, that money disappears. That is why new borrowing to replace the repaid borrowing is so essential to a growing economy. Without growth in borrowing, or inflation, or net income from exports, it

becomes very difficult if not impossible to repay debt. This is where Ireland, along with many other nations, finds itself today.

Ireland does not have its own currency but uses the Euro, a third party currency arguably managed in the interest of Germany a mercantilist economy and net creditor to many Euro members. Post Keynesian economists exhort the ECB to permit EZ governments to sell bonds i.e. borrow from the financial sector and invest to create growth to repay the loans. As long as growth is higher than the interest on loans this works fine. But where government borrowing is already at record levels, neoliberal and ordoliberal economist say, the government cannot risk more public borrowing but should rely on the private sector to stimulate the economy instead.

The ECB has made money very cheap for the private sector to do this through quantitative easing (QE)—but so far has failed miserably. It appears that cheap QE money never gets to the real economy but is sucked up by banks to rebuild their balance sheets or lent to high net worth individuals and companies to buy existing assets. QE has created bubbles in bonds, shares and has reflated property bubble in some places. In desperation the ECB is now trying negative interest rates to stimulate investment—for investment read borrowing. There is real fear amongst politicians and economists that the whole financial-economic system is on the brink of seizing up as it did in 2008 but this time with many more trillions of debt on public and private balance sheets.

A commons approach that recognizes the co-ownership of the money system by the people offers a way out of this debt stalemate. Because we do not have our own currency this change must happen at EU level, specifically by the ECB. The late economist Richard Douthwaite first suggested in 2008 that instead of 'quantitative easing' the ECB should start 'deficit easing'. This is a distribution of interest free money by the ECB to each Eurozone state based on their population; - starting with €2 trillion and a percentage of GDP thereafter. The FF/GP government and the entire public media ignored his ideas at the time. 8 years later, Douthwaite's prescription looks less outrageous now as more and more economists and commentators call for something very similar. The latest is Eric Lonergan an Irish hedge fund manager working in London calling for QE for the People—otherwise known as 'helicopter money'.

There is no substantial impediment to stop a central bank issuing 'free' money directly without borrowing it from financial agents except fear of inflation and the resistance of the financial sector. The first fear has evaporated as deflation, a far more worrisome beast, has come scratching at the door. Economists' attachment to abstract theories that are thoroughly discredited by evidence, and a complicit media, still protects the financial sector. These bulwarks are crumbling as conventional monetary options run out.

There are two ways to issue debt free money to the people, directly to each citizen as part of a commons dividend and indirectly as part of a major investment programme to address a common crisis. An equal per capita dividend will not serve indebted, low population Ireland and Greece as well as it would highly populated, net creditor Germany. But it is important for German acceptance that 'moral hazard' is not created though a debt jubilee that would reward 'profligate' debtors over the 'prudent'. The direct investment option redresses the imbalanced outcome of the per capita dividend. Indebted economies have public infrastructure shortfalls and more unused industrial and

labour capacity and therefore offer low likelihood of sparking inflation. As long as the money is spent productively on materials and labour that deliver real outcomes and not on white elephants, parasitical financial or insurance services, it will safely reboot the economy. The common threat that this massive direct investment should address is of course, —climate change.

A commons approach to using ECB issued 'free' money for climate change mitigation and adaptation can finance renewable energy and water infrastructure too. For instance, wastewater treatment is the second highest GHG emitter of local authority services—second only to street lighting. The Victorian system of transporting human waste by gravity with potable water to a centralized inefficient and ineffective aerobic treatment could be revised. Vacuum transportation to anaerobic digesters with CHP would generate surplus energy and recover useful nutrients for agriculture. This is the kind of game-changing outcomes we could expect with a money commons approach.

Universal Basic Income:

The idea of a Universal Basic Income (UBI) has been gaining momentum recently from the Right and the Left of the political spectrum. Others have outlined the case for UBI better than I can do here. What the commons approach offers to the UBI is a

a) Funding mechanism that does not disincentive enterprise and hard work

b) Control mechanism that ensures that the UBI is not eroded by private rents and tolls

Everybody net gains from the money dividend; 2/3rds net gain from the Carbon dividend; similarly for water but the absolute value will be less. The renewable energy dividend will be negligible until the shift from fossil fuels is more complete. The ownership of renewable energy assets such as solar panels will become more widespread but will probably not reach to the poorest of society.

Therefore, the adoption of a land value tax is essential for to the final transition to a commons based UBI. As the benefits of paying a ground rent--equivalent to SVT--becomes apparent to residents of land trusts, demand will rise for a SVT to replace Commercial Rates and LPT everywhere. When that happens, property owners will pay no tax on their buildings and all on the site element--unless they live in a land trust. In that case, the land trust will pay the SVT to the local authority discounted by receipts that are already recycled to support social and community services in the area.

When the SVT is well established for urban land, a Land Vale Tax (LVT) can be extended to farm and forestry and other natural land--in part replacement of income taxes. This LVT should recognize the value of the carbon stored in the soil and biomass, the biodiversity hosted and the water quality linked to the land in a positive land value payment.

SVT and LVT remove the incentive to property owners to raise rents to capture the increased spending power of renters and buyers from the UBI. As the market price and rents rise, the SVT will rise to negate any unearned benefit for the property owners. Other tolls arising for monopolistic businesses will arise no doubt and the community and their elected representatives should move to eliminate them in the same way as the LVT.

When public debt is at acceptable levels and the Eurstat rules are redundant, it should be possible to fund all infrastructure with public money. In that case, virtually 100% of receipts from charges for use of the natural and social commons should be distributed as a Commons Dividend/UBI. Progressive income and wealth taxes would then be levied to raise funding for the capital and running costs of the water, waste, energy, transport, housing infrastructure etc. This would address the objections by some Left politicians and commentators who insist that all charges and taxes must be based on ability to pay.