

LAND OWNERSHIP AND LAND MANAGEMENT POLICIES IN NORWAY AND SCOTLAND

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Policy-makers and the general public argue that the pattern of landownership in Scotland is inequitable and inefficient, since the land (and its associated outputs) is concentrated in only a few, private hands. Critics argue that the scale of private landownership in Scotland maintains historical inequalities and injustices, and that alternative forms of land occupancy and smaller landholdings could lead to more productive land use and associated socio-economic benefits. With its rural political history of decentralization and multifunctional agriculture, Norway provides a fascinating and highly relevant comparison to the history of Scottish landownership and land use policy, due in part to the similar population size, yet significant difference in the proportion of the population with a stake in landownership and management. The so-called “Norwegian model” (i.e. the pattern of land tenure, in tandem with rural and agricultural policies) is heralded as the goal for equitable landownership and sustainable land management that is aspired to by Scottish policy-makers. This comparative case study discusses the Norwegian and Scottish models of landownership and management in an historical perspective, to draw recommendations for the ongoing land reform in Scotland, including the implementation of measures within the Land Reform (Scotland) Act 2016. Reflections on the consequences of change to the Norwegian model are considered in the conclusion.

Introduction: the policy problem in Scotland and its causes

The system of landownership in Scotland is dominated by large-scale private “estates”, with significant power held by the private owner with regard to land use decision-making (McKee *et al.*, 2013). It is reported that 83 percent of rural land is under private ownership, and that 50 percent of this private rural land is held by only 438 owners (Wightman, 2010). The Scottish agricultural census of 2016 indicated an average holding size of 109 hectares (Scottish Government, 2016a). This average is misleading, however, as explained: “the distribution of agricultural area between holdings in Scotland is highly skewed, with a relatively small number of very large holdings accounting for a high proportion of the area” (see Scottish Government, 2016b). This case study explores the question of whether an alternative model of land governance and institutions, namely that found in Norway, can provide insights for the pattern of landownership in Scotland.

The process of displacement and eviction of a large proportion of the Scottish rural population of the Highlands and Islands between 1760 and 1860, the so-called “Highland Clearances”, illustrate the exploitative power once in the hands of private landowners. This era in Scottish history demonstrates a number of the key themes that have shaped negative sentiment towards private landownership and the predominance of “land” as a major Scottish

political issue (cf. Hunter, 2006; Sellar, 2006). Since this event in history, rural power imbalances have persisted due to feudalism (brought to a belated end by the Abolition of Feudal Tenure (Scotland) 2000), absentee landlordism, and rural community disempowerment.

It is argued that the scale and concentration of private landownership in Scotland maintains historical inequalities and injustices, and that alternative models of land occupancy and a greater diversity of landowner type could lead to more productive land use and associated socio-economic benefits (see review by Thomson *et al.*, 2016). Due to the power held by private landowners in Scotland there has been a push for land reform from members of the general public, lobbying organizations, and the current Scottish National Party (SNP) government.

Contemporary land reform in Scotland aims to redress these historical inequalities and injustices and ensure that land ownership and management is in the public (and private) interest. The stated objective of the recent land reform process by the Scottish government is that “Scotland’s land must be an asset that benefits the many, not the few” (Scottish Government, 2014), and that rights to land must promote fairness and social justice.

This case study aims to provide recommendations for Scottish land reform policy through examining the pattern of land tenure, in conjunction with rural and agricultural policies, in Norway. It may be argued that much of what the Scottish government aspires to achieve through land reform processes – in terms of greater equality and transparency in landownership, as well as sustainable and empowered rural communities – already exists in the so-called “Norwegian model” of social democracy in land governance (cf. Bryden *et al.*, 2015).

Policy variables: the “Norwegian model”

Rural Norway is characterized by a pattern of small farms and multifunctional agriculture, with most farms incorporating both privately owned and privately managed “in fields” (“*innmark*”) and communally-managed “out fields” (“*utmark*”, which may be uncultivable or too upland for crops). The so-called “Norwegian model” of agriculture (i.e. the pattern of land tenure, in conjunction with rural and agricultural policies) is often revered internationally, given the small scale of farms in Norway: only 3 percent of the land is suitable for arable cropping, with an average farm size of 23.9 hectares in 2016 (Statistics Norway, 2017a). Agriculture in Norway is supported by a national production subsidy system (differentially allocated according to geography, commodity, and farm size), production and sales cooperatives (who participate in legally guaranteed market regulations), and a regulated land market (Almås, 2004). Norwegian farm structure plays a key role in maintaining communities in remote rural areas: 18.5 percent of the Norwegian population in 2017 live in a rural area, with a decline of 0.8 percent since 2016 (Statistics Norway, 2017b).

It is clear that the system of privately owned, large-scale estates that continues to constitute the majority of Scottish landownership (including agricultural areas and uplands) contrasts with the small-scale, partnership model of land governance demonstrated in Norway (cf. Bryden *et al.*, 2015). Critical disjunctures of history occur with the legal abolition of the aristocracy in Norway in 1821 and with the “absolute right to buy” granted to the “*Husmenn*” (tenant farmers, similar to Scottish crofters in scale) in the 1928 Norwegian Land Act (“*Jordloven*”) (Bryden *et al.*, 2015). Subsequently, the Husmann class was replaced by small, owner-occupier farmers (Almås, 2004) leading to relative farm scale equality.

Comparing this situation to Scotland requires further understanding of the measures in the Land Reform (Scotland) Acts 2003 and 2016, and the key land laws in Norway.

Actions and strategies

The first Land Reform (Scotland) Act, passed in 2003, was one of the primary political objectives of the new Scottish parliament post devolution, and considered by many a pioneering and controversial land law reform for Scotland. The first section grants rights of responsible access to the Scottish countryside, the second provides rural communities a right of pre-emption in the purchase of land entering the market, and the third permits crofting communities the right to compulsory purchase of land (i.e. the landowner is legally required to sell the land to the crofting community) (Sellar, 2006; Munton, 2009; Warren, 2009). Many academics and policy commentators have described and evaluated the different sections of this ground-breaking legislation (see for example: Warren and McKee, 2011; Lovett, 2011; Hoffman, 2013).

Since 2014, the SNP government has undertaken to extend legislative powers to enhance land reform processes. The Community Empowerment (Scotland) Act 2015 extends the community “right-to-buy” to urban communities and allows community bodies to purchase land deemed “abandoned, neglected or causing harm to the environmental wellbeing of the community” (Scottish Government, 2017). Subsequently, the Land Reform (Scotland) Act 2016 has introduced powers of compulsory land sale (i.e. landowner would be legally required to put the land up for sale) to such bodies, if transfer of ownership is assessed as furthering the achievement of sustainable development in relation to land, and where maintaining the status quo is considered to be “harmful” to the local community and public interest. The power of private landowners is further challenged in this latest legislation through increasing rights granted to tenant farmers and requirements for community engagement in land management decision-making, among other measures (Scottish Government, 2016c).

In comparison, landownership and farming in Norway are regulated by three key laws, translated as the Allodial Act, the Concession Act, and the Land Act, most recently adopted in 1995 (Pollock, 2015). First, the “Odel law” (*Odelstrett*), has been in place since the middle ages in Norway, and historically permits the oldest male child to inherit the farm. This historic principle now constitutes the Allodial Act, which granted female children equal rights to male children in 1975. Today it remains that close family members in direct descending line of the landowner have pre-emptive rights of farm purchase. This distinctive legislative instrument maintains land in family ownership and avoids the fragmentation of properties in generational shifts (Almås, 2004; Forbord *et al.*, 2014), thus mirroring Scottish succession law and the impact of primogeniture (cf. Harvie-Clark, 2015). The fundamental principle of the *odel* maintains strong connections to rural areas by much of the population.

In Norway, the owners of farmland must be resident on their landholding (which is not required in Scotland, unless under crofting tenure; Crofting Commission, 2017), and they must undertake “active” farming on the land, which limits farm expansion through land purchase. The Concession Act regulates land purchases by legal persons and gives preference to buyers who state their occupation as farming (Forbord *et al.*, 2014). Finally, the Land Act (“*Jordloven*”) aims to ensure that all land resources are best used for society and farmers, through promoting rural settlement, employment, and agricultural development (Vinge, 2015). This key legislation confirms that it is the landowners’ responsibility that land is “actively farmed” and that land is maintained in good condition. Farmland rental arises as an option for landowners who do not wish to be active farmers. The Land Act controls land renting and requires written ten-year contracts between landowner and tenant, which are submitted to the municipality (Landbruksdirektoratet, 2017).

Policy solutions? The applicability of the Norwegian model in Scotland

The “Norwegian model” can represent a system of equitable landownership and sustainable land management to which Scottish policy-makers and land reform campaigners aspire (Bryden *et al.*, 2015). In Scotland, the variables that have been the focus of change efforts include landownership scale, diversity of landownership types, the public interest in land, and sustainable development. In particular, community involvement in the management and ownership of land is a key feature of the policy landscape, with the current Scottish government seeking to enable “1 million acres” (i.e. 404,686 hectares) of land to be in community ownership by the year 2020 (Scottish Government, 2015). As at June 2017, there was 562,230 acres (i.e. 227,526 hectares) in community ownership (Scottish Government, 2017). Community landownership in both rural and urban Scotland is supported by the land reform legislation (previously outlined), as well as funding support from the Scottish Land Fund, among others, for property purchases. The Scottish Land Commission, a centralized, non-departmental government body, is tasked to oversee the land reform process in Scotland and fulfill the Scottish government’s vision “where the ownership, management and use of land and buildings contributes to the collective benefit of everybody” (Scottish Land Commission, 2017).

In Norway, the question of land reform does not appear to feature in public or political discourse, although there is some consideration of the need for land consolidation due to the distances between rental units managed by “solo farmers” (and resulting environmental impacts, in terms of transport fuel emissions and the abandonment of marginal land). While promoting community landownership is not the intention of Norwegian rural policies, there exists a much greater proportion of the population with access to land, due to the scale of landholdings and extent of close farming connections within family histories. A further critical difference exists in the fact that municipalities in Norway are important landowners; therefore, rural communities are able to directly influence and access land use decision-making at the local scale.

The Norwegian model may be proposed as a suggested policy solution for Scotland. However, in order to achieve this aspiration, several potential changes in Scotland would allow greater alignment with the institutions and governance of land in Norway. These changes may include greater influence of local communities and local authorities in the allocation of land for rent, replicating the role of the municipality in Norway, and seeking to overcome barriers to new agricultural tenancies in Scotland (cf. Scottish Government, 2016c). Scottish policy-makers could review guidance regarding succession and inheritance to promote equality of landownership between claimants on inheritance. Shortall *et al.* (2017) recommend that the cultural practice of passing on large landholdings intact to one son needs to be challenged in Scotland, and that opening up discourses about farm succession and offering access to formal advice could help to enable women to be treated equally on inheritance, as has become a social norm in Norway. Furthermore, it is important that the Scottish policy-makers seek to maintain social networks between members of the local farming community, and between the farming and non-farming rural community, as exists in Norway through strong rural connections and recreational activities (e.g. hunting and skiing clubs).

Evaluation of policy and conclusions

It is too soon for the most recent land reform legislation in Scotland to be evaluated (i.e. the Land Reform (Scotland) Act 2016), as the various measures contained in the Act are only now (at the time of writing) starting to be implemented. Time will tell whether the Act leads to

effective change and fulfillment of the Scottish government’s land reform intentions. Nonetheless, the case study presented illustrates the value of international comparison to gain insights and experiences from alternative perspectives and institutional settings. The following recommendations for the Scottish policy goal of land reform may therefore be derived, with relevance to land governance internationally:

- 1 An ongoing review of policy measures to ensure a balance of private and public rights and interests in land.
- 2 A dialogue regarding the implementation and evaluation of land reform measures, in order to overcome barriers to local community involvement in decisions relating to land (see McKee, 2015; McKee and Roberts, 2016).
- 3 Support for underpinning networks and developing social capital between rural actors (i.e. owners and managers of land, and those who live and work in rural areas).
- 4 Support mechanisms that create opportunities for equality in land access (e.g. beyond succession and inheritance), to avoid competition between land owners and countering trends of farm “cannibalism”, through building cooperation and new business models.

To conclude, this case study also provides a comparative insight into Norwegian land policies, to highlight the consequences of potential future changes to the “Norwegian model”. Similar to Scotland, Norway is not exempt from the pressure of neoliberalism, not least with regard to agricultural policies (Almås and Campbell, 2012), and dramatic increases in areas of rented farmland have been attributed to a shift in Norwegian agricultural and rural policy, towards supporting larger scale and more efficient agricultural production units (Dramstad and Sang, 2010; Forbord *et al.*, 2014). A debate is emerging regarding policy changes intended to increase competitiveness in global production markets (Bryden, 2016). Such legislative reform in Norway would have consequences for land prices, increasing the rate of land sales and land speculation, as well as influencing traditional rural community structures. In this regard, it is opportune for Norwegian policy-makers to consider and reflect on alternative land systems which are governed more directly by market forces, such as in Scotland (cf. Bryden *et al.*, 2015; Bryden, 2016).

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