

Global learnings for land reform in Scotland: Towards more radical solutions

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Key points

- Land inequality in Scotland is some of the most extreme in the world, due to the country's unique trajectory of agrarian transition which saw an evolution from lineage based to feudal, and then capitalist, private property regimes.
- Community ownership should remain an important element of land reform in Scotland – and is critical to support more dynamic and equitable pattern of rural growth and to ensure rents and revenue from economic activity goes back into the community.
- The problem with current reforms is not the type of ownership, but the mechanisms through which land is appropriated from absentee landlords and concentration dismantled.
- Current funds for community buy outs are miniscule when set against the vast sums of money against which estates are changing hands.
- Successful land reform in Scotland must move away from the 'willing seller, willing buyer' principle, which has been shown to be unsuccessful in many parts of the world. Achieving genuine change in the concentration of holdings, requires some level of compulsion whereby landlords are obliged to sell or part with their holdings with the interest of communities in mind.
- Most large 20th century land reforms which have transformed agrarian economies across Asia, Europe and Latin America involved ceilings on land – whereby concentration of ownership was considered economically, morally and politically unacceptable. Ceilings should be part of any genuine debate on land reform.

Scotland has long been one of the most unequal countries in the world in terms of land ownership – yet interestingly, it is also a global outlier when it comes to genuine land reform. A seminal moment was the 2003 Land Reform (Scotland) Act, and in early 2024 the Scottish government introduced a new round of legislation which aims to strengthening provisions of the earlier Act. While community tenure offers a valuable solution which offers lessons globally, when it comes to achieving change in the actual distribution of land, Scotland's land reforms are weak when compared to the historic experience of many other countries globally. They fall far short of any genuine structural change – and treat the property rights of landlords as sacrosanct. It is therefore critical to look at land reform questions in Scotland from a global perspective – both to better understand the history of land tenure in the country, and the potential solutions from a perspective of redistributive justice.

The history of landlordism in Scotland from a global perspective

The consolidation of feudalism

The history of land inequality in Scotland has many global parallels and is linked fundamentally with feudalism. Feudalism emerged from states and empires using the

distribution of various privileges connected to land, to consolidate their suzerainty across large geographical areas. It evolved into an economic formation whereby land was concentrated in the hands of a hereditary landed class with varying levels of autonomy, while surplus was shared between the landlord and monarchy, and diverted into elite consumption or maintenance of an army, rather than growth-oriented investment (Tilzey and Sugden, 2023).

Feudalism has been most well documented in early empires and states in Europe, East and Southeast Asia and parts of Latin America². The regional diversity in feudal formations is shaped by both the agro-ecological context as well as the pre-existing agrarian formation upon which it was built. In some locales such as lowland Europe and the Gangetic Plains of South Asia of which had long been hierarchical social formations with a distinct surplus appropriating class, feudalism was built upon very old foundations³. In others such as in the Adivasi belt of South Asia⁴ or upland Southeast Asia, feudalism was imposed more recently from outside, often upon a pre-existing tribal system. Scotland, unlike much of Europe, more closely fits the latter pattern, with feudalism emerging from the implantation of feudal institutions within a clan-based society.

The tax collection office in an indigenous Tharu village of Morang, Nepal. This was a classic example of feudal institutions being imposed on a tribal society.



Under the old Celtic society in Scotland, as in Ireland⁵, land was bestowed to a lineage rather than an individual – and members of the clan would have a right to use this land for agriculture or transhumant agro-pastoralism. However, very roughly between the 12th and 18th century – this economic and social system underwent subjugation to feudalism through a combination of state legal and military interventions and the creation of an indigenous functionary/landlord class which transformed how surplus and land was distributed⁶. An important moment was the 12th century introduction of Norman Law and associated feudal

tenure⁷ under David I who was heavily influenced by the Anglo-Norman worldview⁸. Under feudal tenure, lands would be granted by royal charter to individuals rather than lineages. Local clan chiefs who showed loyalty to the King had titles in their name confirmed and were bestowed administrative/judicial powers. Importantly however, English, Flemish and Norman nobles were also offered titles to land and associated privileges, particularly in the arable lowlands in the south and on the coastal fringes of the eastern highlands, in return for military service and various other forms of tribute to the monarch⁹. This group went on to become some of the most politically powerful families (and landowners) in the medieval Scottish kingdom, and this process of feudalisation, which went side by side with the Anglicisation of the nobility, continued throughout the Middle Ages (Barrow, 2015).

The ruins of Duffus castle in Moray which was the seat of Freskin, a Flemish knight given fertile estates on the coastal plain by David I



However, the process was geographically uneven. The lower lying arable belt of the lower Clyde and Forth valleys, and the eastern coastal lowlands stretching very approximately from the river Tweed to the Dornoch firth, emerged into a classic feudal agrarian formation closer to England between the 13th and 18th century, with a landowning aristocracy (which included the Church) at the apex and tenants and sub-tenants at the base (Davidson, 2004) with their control over property backed up by the state's legal and administrative apparatus (Wightman, 2013). Various other processes contributed to the growing concentration of property, including the 1695 Division of Commonities Act which offered landowners the authority to divide and allocate common lands (for grazing and other purposes) in parishes and the appropriation of Church lands by the nobility following the Reformation (Ibid).

However, in much of the Highlands or Gàidhealtachd, and parts of the Southern Uplands¹⁰, the economic formation on the ground was notably different. The confirmation of feudal titles to clan chiefs in some locales were helpful for the central state in ensuring loyalty, yet society continued to be integrated into a more collective agrarian formation oriented around lineages or clans¹¹. While the chief was often the legal title holder with 'feudal' rights and membership of the clan was fluid, there was a strong collective ethos and understanding that land was the joint heritage of the clan (known as *dùthchas*). There was a cultural understanding that the chief would provide lands to its subjects according to their economic needs in return for loyalty, and there were clear horizontal as well as vertical bonds between chief and peasant, including the redistribution of surplus at times of scarcity (Dodgshon, 2019, Devine, 2018). This socially and culturally embedded rather than legalised relationship with the land, is

prevalent in many lineage-based societies in human history (Rai, 2015), and is commonly associated with so called 'customary tenure' (Pottier, 2005).

Nevertheless, this social and agrarian system was undermined in waves throughout the late Middle Ages and early modern period as the Scottish and later British state sought to consolidate its authority and undermine the autonomy held by the clans, driving a transition from a lineage to feudal agrarian formation¹². These included not only the infamous 1609 Statutes of Iona, which imposed curbs on Gaelic culture and language and supported the Anglicization of the upper echelons of clan society. There were also however, connected attempts by the state to replace in-kind tribute to clan chiefs with cash rents (Dodgshon, 2019). This contributed to monetisation, and the spread of market values, while encouraging accumulation of wealth by chiefs and a culture of conspicuous consumption (and debt)¹³. By the time that clan authority was finally dismantled following Culloden, chiefs saw themselves more as landlords, while viewing their clansmen as tenants (Devine, 2018). Those chiefs whose estates weren't forfeited became de facto landed aristocracy loyal to the British state¹⁴.

Early land reforms, clearances and agrarian capitalism

Just as the landlordism was establishing itself across Scotland in the 18th century, various parts of Europe were experiencing disruption to feudalism in the wake of the so-called Enlightenment with a recognition of how land concentration was blocking agrarian growth. Countries such as Denmark, where around 800 estates made up 75 percent of the land, saw reforms to land tenure between the late 18th and early 19th century which supported many tenants in becoming independent landowners (Baack, 1977). The French Revolution saw the abolition of the feudal system with serfs becoming owners, and a redistribution of ecclesiastical lands (Finley et al., 2021, Jones, 2012). Eastern Europe also saw notable reforms to land distribution and tenure some decades later. In Russia, the Emancipation Act of 1861 freed serfs (up 1/3 of the population) who were bonded to landlords and provided allotments of land (Zenkovsky, 1961). In Bulgaria in 1880, sharecroppers and wage workers who had cultivated a plot for a decade received titles for these lands (Popek, 2023).

This century of rural reforms bypassed Britain entirely, and in Scotland, given that the old Highland chieftaincies covered large geographical territories¹⁵, the landed estates which emerged out of the dissolution of the clan system were unusually large – particularly when compared to the arable estates of the lowlands and England. Alongside the well-established feudal pattern of landownership in the lowlands, Scotland had at the dawn of the industrial revolution, one of the most unequal land ownership structures in Europe. 'Enlightenment', meanwhile, had a different outcome in Scotland, and was intertwined with so called agricultural improvement, which from the 18th century opened a new chapter in land ownership through the so-called Clearances¹⁶.

The Act of Union, and the final dissolution of the clan system in the Highlands coincided with the emergence of agrarian capitalism. In European countries which had experienced land reforms, or settler colonies such as in North America, agrarian capitalism emerged through gradual differentiation whereby larger proprietors edged out weaker producers, with the former becoming capitalists and the latter becoming farm or factory workers. England and Scotland by contrast, differed from many countries in Europe given that agrarian capitalism emerged *without* abolishing the landlord class (Tilzey et al., 2023)¹⁷. The landlords themselves became the capitalists. While this was a gradual process in England, in Scotland it unleashed one of the largest episodes of forced dispossession and proletarianisation in global agrarian history.

As feudal surplus appropriation had reached its limit, landlords in both the lowlands and highlands who were experiencing financial distress in a changing macro-economic context,

were driven increasingly by profit and an ideology of improvement. In an very well documented process¹⁸, they proceeded to evict a large share of the peasantry to make way for commercial farming, particularly of sheep in the highlands and arable crops in the lowlands. Others were compelled to leave by growing agrarian distress. The so-called Clearances occurred first in the lowlands and Argyll in the 18th century, before reaching its peak in the 19th century in the north and west. This period saw rising transactions for land within the British elite, including rising purchase of land by a new class of outside landlords, particularly as insolvent clan chiefs sold off their estates (Devine, 2018). Wealth from colonialism, and particularly Caribbean slavery (and post abolition compensation) was also used to expand estates new landlords, who enthusiastically participated in evicting the peasantry (MacKinnon and Mackillop, 2020)¹⁹. Transfers of land to English or lowland neo-elites continued into the late 19th century, by which time it was estimated that ‘outsider’ landlords owned up to 70% of the mainland parishes of Argyll, Inverness and Ross (Devine, 2018).

Abandoned sheilings, or seasonal herders huts on the watershed between Glen Lyon and Loch Tay. The 19th century saw the complete demise of the transhumant pastoralism in the Highlands which had been central to the way of life, with agriculture restricted to a crofting townships on the coast.



While a portion of the dispossessed peasantry migrated – initially to emerging urban centres (with emigration to become more common as one moved into the mid-19th century) (Devine, 1983), a large number of tenants were resettled on the coast and were allotted small plots – the origins of the crofting system. They acted as a captive labour force for the kelp and fishing industry and their plots helped to keep wages down (Hunter, 2018). This system whereby small plots ‘subsidise’ capitalist wages was widespread globally during the transition to capitalist society, particularly in Latin America whereby workers on commercialised latifundia estates would hold allotments to lower the labour cost (de Janvry, 1981). The provision of allotments for workers also existed in the tea garden economy of Bengal (Ray, 2002) (which the same Scottish elite had heavily invested in), or the Apartheid era ‘reserves’ of South Africa which were used to lower the cost of racialised industrial labour (Wolpe, 1979).

A collapse in wool prices in the late 19th century led to the shift in the purpose of estates towards shooting and other pursuits of the upper classes, causing growing rural under employment (Hoffman, 2013). Following waves of rural unrest in the context of tenure insecurity and unemployment, the Crofters Act of 1886 (the mandate of which was restricted to the north and west highlands) guaranteed those smallholders who had been resettled on the coast, protection from eviction, a fair rent, ownership of any improvements made on their

crofts, and through a later amendment, rights to communal grazing land (Devine, 2018, Hunter, 2018). This was the closest Scotland had come up until then to any land reform, but it only partially ameliorated the situation of the peasantry, particularly after the collapse of the kelp industry. The situation of cottars, who did not have any formal access to land failed to improve (Hoffman, 2013). It also was restricted to the so-called crofting counties, and left out large areas of Scotland where smallholder agriculture was predominant, including highland Aberdeenshire and Perthshire, Moray and the isles of Arran and Bute (Moisley, 1962), an omission which caused considerable hardship (Aitchison and Cassell, 2012).

Land reforms in the post-colonial, post-war world order: Scotland as a global outlier

Scotland entered the 20th century as one among handful of countries still experiencing severe inequality in the distribution of land. Its agrarian structure arguably had more in common with regions such as South Asia, China and parts of Russia and Southern Italy, and Latin America than with the regions of western Europe discussed above which had already experienced some kind of redistribution.

As states sought to rebuild from the turbulence of the 20th century, including two world wars and the wave of decolonisation and peasant unrest – addressing the land question remained a critical political issue. The first wave of land reform took place in the aftermath of WW1. This included most notably the radical reforms which took place in the wake of the Russian Revolution which nationalised land and introduced collective farming, and early reforms in Latin American countries such as Mexico in the 1920s-30s, a country where 11,000 landed estates made up 57% of the national territory (Thiesenhusen, 1996). Plan de Ayala in aftermath of Mexican revolution, stated that 1/3 of lands owned by large landholders would be redistributed to landless peasants and grouped into *ejidos* or collective holdings (Lewis, 2002).

The second wave took place in the aftermath of WW2, set against the context of decolonisation and post-war reconstruction²⁰. While varying in terms of how ‘radical’ they were, they all sought genuine redistribution of land to support rural transformation. Japan (McDonald, 1997) and Korea (Shin, 1976) for instance set ceilings on what could be owned, forcing landlords to sell at a fixed price. In Italy, land reforms in the 1950s saw large estates, particularly in the south, be expropriated by state-created agencies (29% of the farmland in the country was redistributed) alongside technical assistance to farmers to unleash the productive potential of the soil (Bonanno, 1988).

Latin America experienced a new wave of reforms. Peru and Chile for instance, undertook reforms in the 1960s, which imposed ceilings on holdings and successfully contributed to the breakup of *Latifundia* estates (Tilzey and Sugden, 2023, Saleth, 1991, De Janvry et al., 1998). India followed suit in the 1950s – with an abolition of the feudal *Zamindari* system which had been upheld by the British colonial regime, and protection of tenants from eviction (Banerjee et al., 2002) Later, state governments implemented redistributive reforms with ceilings on holdings, but success varied by region – and Kerala and West Bengal emerged as the most successful. Nepal also implemented the 1964 Lands Act aimed to change existing agrarian relations by redistributing excess land, and diverting unproductive capital and surplus human resources from agriculture to support the development of the non-agricultural sector (Regmi, 1976). Ceilings were imposed on holdings, depending on the location, rents were regulated, and tenants were offered protection from eviction and a claim to the land.

While not all the examples above were successful in changing agrarian relations, where Scotland stood apart as a global outlier, was that there were no genuine comprehensive reforms at all in the 20th century. There were not even ‘attempted’ reforms. There was recognition for the importance of reform from as early as the 1920s, in light of the growing acknowledgement that the Crofters Act was insufficient to meet the economic needs of smallholders (Hoffman, 2013). Why these concerns were not acted upon is a puzzle. In part, this may be down to the fact that a large share of the peasantry had already been alienated from their land during the Clearances, and with the exception of the crofting regions, they had been absorbed into the settler colonies of North America or the Central Belt urban working class. The political imperative for change was thus less pressing than in regions such as South Asia which were further behind in the transition to capitalism, and where a large share of the peasantry were still tied to the land and dependent upon feudal landlords for their subsistence in the wake of independence (Sugden, 2017). However, the centuries old and enduring links between land and political power in Scotland must also be acknowledged – whereby landed interests were well represented within the state apparatus – and this continues to be a barrier to genuine change (Wightman, 2013).

The plains of West Bengal. Operation Barga in 1977 which reformed tenancy and redistributed holdings unleashed an agricultural transformation in the state. It is today dominated by smallholder agriculture.



While the implications of land concentration are indeed different in Scotland when compared to somewhere such as South Asia, land is not the sole means of subsistence, there are still clear negative impacts on rural development. Concentration of land means there are few incentives for tenant investments, particularly as landlords tend to capture the benefits (Hoffman, 2013). However, an equally significant issue is perhaps the concentration of political power that comes with the ability for single individuals to have control over landscapes, including investments and infrastructure and the planning process which should be carried out by local bodies accountable to local people. Furthermore, at a time when depopulation is high (with the associated cultural loss) and large tracts of land are being used as sporting estates with limited economic benefits for communities in terms of employment – then it is clear that land reform remains a critical unresolved development challenge for Scotland.

21st Century Land reforms in Scotland

A land reform policy group was finally formed in 1997, which paved the way for the Land Reform (Scotland) Act of 2003. This was not in fact a land reform comparable with those discussed above, with redistribution of estates. Nevertheless, it brought forward some valuable measures to address the social and economic concerns of communities – most notably through promoting community ownership, building upon the precedent set by Isle of Eigg Heritage Trust which purchased its island from an absentee landlord in 1997 (McIntosh, 1997)²¹. Part 2 of the Land Reform (Scotland) Act 2003, legislates for and sets out the ‘Community Right to Buy’ process. Under this legislation, Community Bodies can register an interest in purchasing an estate or holding. A temporary prohibition is placed on the landowner which stops them from transferring the land, and they must give the right of first refusal to the Community Body. In other words, if and when they decide to sell, the seller must first offer the land to the community, before selling on the open market.

However, the Act has arguably had limited impact on the actual distribution of land. While the strengthening of community ownership set a valuable precedent, it is a drop in the ocean. At present 211,998 hectares of land (or just 2.6% of the total land area of Scotland) is under community ownership. Meanwhile, concentration of land continues to increase. According to [Who Owns Scotland](#), 433 landowners possess 50% of the privately-owned rural land in 2024 compared to 440 in 2012.

A further round of land reforms has been proposed with the 2024 Land Reform (Scotland) Bill²². Part 1 of the bill deals with the issues surrounding large land holdings and are most relevant from a perspective of redistributive justice. New provisions included in part 1 including an obligation of landowners of large holdings to produce Land Management Plans and to engage with local communities in the process (Section 1). Large holdings are defined as <3,000ha, or land of at least 1,000ha that accounts for more than 25% of a permanently inhabited island. Plans must adhere to a [Land Rights and Responsibilities Statement](#), and encompass details on the long term plans for the holding including future sale, compliance with the outdoor access and deer management code, and measures the owner will take to sustain biodiversity and achieve net zero. It must also consider requests from Community Bodies to lease land. Failure to adhere to the plan can be reported to a new Lands and Communities Commissioner and they could face fines or become ineligible for subsidies.

Another change in Section 2, aims to strengthen the right to buy, whereby prior to the sale or transfer of large landholdings, landlords must notify the government to allow time for interest to be registered by Community Bodies (even if no community body has previously registered an interest in purchasing the holding)²³.

Part 1 (Section 4) of the bill also includes some provisions to support the breakup of larger holdings. Prior to the sale of large landholdings (<1000ha or 50ha if the total area to be sold amounts to 1000ha), landlords must first apply to Ministers for a decision as to whether the holding should be broken up into lots. The breakup of estates and sale of lots to different purchasers will be mandated if Ministers believe it will have a positive impact on the local community and sustainability. The assessment will consider current levels of concentration in the surrounding community and how often such land is open for purchase on the local market. No single individual will be allowed purchase more than one of the lots and landlords can be compensated for any ‘losses’ incurred in complying with these regulations.

Global learnings for land reform in Scotland

Community ownership through market based reforms or genuine redistribution

The 2003 Act and 2024 Bill is of course a welcome development, following a century of inaction. Community ownership as a model which was strengthened in these legislations is itself a unique aspect of the Scottish land reform experience, as with the exception of the communist states (where land reforms were tied to collectivisation), most land reforms have been grounded in the principle of distributing land to individual farmers (Hoffman, 2013). Community ownership builds upon the centuries old history of communal land management, particularly in the Highlands, and has the potential to support innovation and enterprise in communities, including generation of employment and the design of appropriate plans which will encourage repopulation (Danson and Burnett, 2021). It also allows a reinvestment of rents from crofts or other farms locally and ensures that revenue from renewable energy remains in the community, while also supporting the provision of affordable housing (Hoffman, 2013). Given that the average croft does not meet family subsistence needs (and indeed they were designed not to do so to maintain an captive labour force) – then any interventions which encourage a more diverse and dynamic rural economy are welcome. There is also scope to use community ownership to explore more radical mechanisms of organising agricultural production, including the pooling of land, labour and capital through various forms of cooperative agriculture, which are offering economies of scale for smallholders in some regions such as South Asia and Eastern Europe²⁴.

Balnakeilly forest on the Isle of Bute, which was purchased by the community in 2010. It is a small part of an island which is almost entirely owned by the same family whose ancestors received it as a feudal charter in the 14th century.



Community ownership should remain an important element of land reform in Scotland, and could go alongside other forms of tenure. However, the fundamental problem of the Lands 2003 act and 2024 bill is not the form of ownership per se, but the process through which land is redistributed back to communities from the hands of absentee landlords. To bring up global comparisons, the *ejido* system, which has been argued to have some similarities to community

ownership in Scotland (Morran et al., 2020) was an outcome of the land reforms in Mexico in the 1930s which saw redistribution of 20 million ha (Lewis, 2002). Such reforms were the consequence of the *compulsory seizure* of lands and were not dependent upon the will of the landlord. The primary problem with the land reforms in Scotland is its commitment to the market principle and the fact that it takes the property rights of big landlords as given.

Any redistribution within Scotland's post-2003 Land Reforms are based upon the principle of 'willing buyer, willing seller' (WBWS) which has been promoted by the World Bank in low- and middle-income countries in the 2000s. Unlike the more radical reforms of the 20th century, the WBWS approach offers a seemingly easy 'fix' in the context of hostility by politically influential landlords, and is thoroughly wedded to neoliberalism. In South Africa, which piloted the approach it was found to have resulted in very limited transfers of property, with most land being poor quality (Lahiff, 2013). In Colombia, few larger landholders sold land through the reforms and redistribution was negligible, causing the World Bank to abandon the approach (Pereira, 2021). In Nepal, where WBWS has been pushed by the government and donors via a 'land bank, it has been critiqued for its protection of the interests of landlords (CSRC, 2021).

There are two fundamental problems with market-based reforms:

(i) The costs: Experiences from South Africa and Colombia have shown that few buyers who need the land have the resources to purchase land at prevailing market rates and government funding was inadequate (Akinola, 2020, Pereira, 2021). Community buy-outs in Scotland are covered by the Scottish Land Fund which for 2021-25 has an annual budget of £10m per year, with possible increments in the years ahead. The normal maximum is £1m a year yet this may be increased in exceptional circumstances such as the purchase of Ulva at £4.4m (MacPherson et al., 2022). Community bodies have to recourse to other sources such as charitable donations, philanthropy, crowdfunding, or loans. Estates are frequently sold for far in excess of £5 million pounds and to give an insight into the amounts of money being transferred, the estate agent Savills put up 246,496 acres [for sale](#) in 2022, with a total estimated value of £347.05m – with many transactions being made behind closed doors, without even being advertised. Set against this context, it is clear that far greater sums must be freed up for community buy outs to achieve widespread success in changing the landownership map of Scotland.

(ii) Creating 'willing sellers' without compulsion and ceilings: A genuine land reform does not depend on the goodwill or business imperatives of landlords to sell. The reality is that in every successful land reform in history, there has been a degree of compulsion on the side of landlords to part with their estates. Without this, genuine reform will be meaningless. Most 20th century land reforms outlined above, are based upon a ceiling whereby it is considered politically, economically and morally unacceptable for a single individual to own a considerable area of land. Furthermore, the economic case has historically been clear cut. As states emerged out of the colonial era and sought reconstruction at the end of WW2, land concentration was considered an aberration which perpetuated poverty while even operating against the interests of either capitalist or socialist led growth models. This moral and economic framework is entirely absent from both current and proposed legislation.

The recommendations by the Scottish Land Commission (SLC) (2019) make the case clear when they note that *"The current pattern of scale and concentration, combined with a relatively low turnover in transactions, mean that without proactive intervention, the pattern of ownership is unlikely to change significantly and opportunities for most people to acquire land will remain limited"* (p6). While they fall short of recommending ceilings, they do suggest public interest test prior to significant land transfers, with power lying with local

authorities (rather centrally with Ministers), and also point to measures such as land value taxation (LVT)²⁵ to undermine concentrated ownership. While these are positive recommendations, it is absent from the current bill which places no actual restriction on who buys the land and whether it is in the public interest.

The Land Rights and Responsibilities Statement states that *“There should be a more diverse pattern of land ownership and tenure, with more opportunities for citizens to own, lease and have access to land”* and *“More local communities should have the opportunity to own, lease or use buildings and land which can contribute to their community’s wellbeing and future development.”* This statement is meaningless without actually setting a quantitative limit as to what can be owned privately to achieve a target for either individual or community ownership. Based upon the global experience, it is clear that local authorities in Scotland should have the power to intervene to break up holdings exceeding a set ceiling or acquire them through compulsory sale orders to meet the needs of local communities.

This raises the question of ‘compensation’ for landlords – which has been a long standing bone of contention for land reforms globally. Lahiff (2005) for instance, with regards to South Africa suggests that landlords are paid the lower productive value (based upon productivity of the land) rather than the often over-inflated market value, with considerations on the basis of what the land is used for and how it was acquired. The latter point raises further moral questions. In countries such as South Africa where the land ownership structure is a consequence of colonial dispossession and a racialised distribution of resources by a white supremacist regime, then it is unsurprising that land appropriation without compensation is now being actively debated (Akinola, 2020). In Indian states such as West Bengal, compensation was provided, but it was generally below market value (Hanstad and Brown, 2003). The Scottish situation is of course different from both of the above examples, but it reminds one that an important debate is needed over the rights of landlords to receive their holdings at market value, given the long history of coercive dispossession and ties to inherited wealth.

Implementation challenges

A final lesson for Scotland from other parts of the world relates to the implementation challenges. In countries with a history of feudalism landlords have been integrated into the state-bureaucratic alliance – and this has been one of the primary reasons for land reform failure in countries such as Nepal and India²⁶ where politically powerful landlords were able to exploit loopholes to avoid ceilings, or directly influence the implementing agencies. In Nepal for instance, landlords used their knowledge of bureaucratic processes to prepare in advance before the implementation and were able to register land in the name of extended family members to avoid ceilings²⁷.

One of the two successful land reforms in India, that of West Bengal in 1977, was only a success as it went alongside a concerted grassroots political movement which ensured it was comprehensive. Importantly, it was designed around the closure of loopholes of earlier national land reform legislation which allowed landlords to use ‘personal cultivation’ exemptions to retain their estates (Banerjee et al., 2002) or to use word of mouth (rather than legal) contracts with tenants to prevent them claiming their share of the land. The 1977 Act closed most of the loopholes and was implemented through a large village to village mass campaign to ensure tenant registration. As of 2005, 445,503ha of agricultural land had been successfully redistributed in the state (Bakshi, 2008).

This offers important lessons for Scotland as well, given the long history of a land-political nexus, and the ability of landlords to mobilise political influence and the legal apparatus to work in their favour when it comes to land affairs. Future land reforms need to be comprehensive and need to be backed up by a genuine grassroots movement for change, which

ensure their implementation on the ground. They also require thorough scrutiny by experts to close legal loopholes, and need to be implemented in a manner which does not allow landed interests to prepare in advance, through for example, transferring holdings to other companies or individuals.

Concluding remarks

Scotland is one among a handful of countries today with extreme disparity in land distribution. This is a consequence of the country's unique agrarian transition, and the way in which Anglo-Norman feudalism was imposed on the complex clan-based land ownership system of the Scottish periphery, creating the foundations for the violent capitalist enclosure which defined the 18th and 19th century. However, the country stands apart as being one of the few countries with a history of feudalism which did not undergo any form of genuine reform in the 19th or 20th century, either with regards to the redistribution of land or emancipation of tenants.

In this context, land reform is not just a necessity to support rural development and transformation in increasingly depopulated rural communities – it raises important questions, following centuries of dispossession, around how much land is morally, economically and politically acceptable for a single entity or individual to own. In this context, land reform must move away from the market based, 'willing seller, willing buyer' principle, which has been discredited in many parts of the world. Achieving genuine structural change requires some level of compulsion whereby landlords are obliged to sell or part with their holdings to serve the needs of communities. This was the dominant approach in most 20th century land reforms across Asia, Europe and Latin America – with strict ceilings on land. In this context, a paradigm shift in the conversation on land reform towards much more radical structural solutions, is long overdue.

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²See Tilzey and Sugden (2023) for an in depth analysis of feudalism and where it sits within the global history of the peasantry.

³ See Sharma (1985) for a discussion on how Indian feudalism differed from European feudalism.

⁴ See for instance Singh (2007) and Sugden (2013) on the Adivasi belt of South Asia.

⁵See Richards (1980) on the indigenous Irish land tenure system, elements of which were likely brought into Scotland during the early migration of the Gaels.

⁶ This agrarian transition particularly is described in Tilzey and Sugden (2023).

⁷ See Wightman's (2013) analysis of the Scottish importation of feudalism.

⁸ Although Davidson (2004) suggests that feudal ideologies around land were already present in Scotland.

⁹ This phenomena of 'importing' landlords with experience of feudal administration was widespread process of empire building, particularly in South Asia as states sought to extend the reach of feudalism and sedentary cultivation, such as the use migrant Rajputs in the formation of medieval Himalayan principalities (Stiller, 1975).

¹⁰See for instance McCulloch (2010) on Dumfries and Galloway which were like the Highlands, late to be feudalised.

¹¹ See Dodgshon (2019) for an analysis of the social relations within clan society.

¹² See Wightman (2013), Devine (2018) and Dodgshon (2019) on the feudalisation of the clan system.

¹³ See Thiess (2006) and Devine (2018) on indebtedness of clan chiefs.

¹⁴ See MacKinnon (2017) and Hunter (2018) on forfeited estates. This has close parallels with other regions of the world – the consolidation of the Gorkha empire in the Himalayas for instance around the same period, also involved significant transfers of land from disloyal to loyal nobles (Stiller, 1975).

¹⁵ Dodgshon (2019) noted that highland estates were exceptionally large compared to the lowlands due to the non-intensive nature of agriculture and nature of a clan based society, which sought to continuously expand to provide new lands to its members or branches.

¹⁶ see discussion by MacKinnon (2017) on how the "enlightenment" served to justify the drive to modernise the Gaels through agricultural 'improvement'.

¹⁷ Marx referred to this as the 'English path' to capitalism, noting though that Scotland represented the extreme manifestation of this process (Marx, 1974).

¹⁸See Davidson (2004) for an analysis of the larger national context, Hunter (2018) and Devine (2018) for in depth accounts of the clearances in the Highlands, and for the lowlands see Aitchison and Cassell (2012).

¹⁹ MacKinnon and Mackillop (2020) estimate that the estates acquired by beneficiaries of slavery made up a substantial 1,144,395 acres.

²⁰ Ironically, they were pursued by both left leaning governments under the slogan of 'Land to the Tiller' as well as being promoted by the USA as it sought to offset the spread of Communism.

²¹ See Alastair McIntosh's and his extensive compiled papers on the Eigg community buyout https://www.alastairmcintosh.com/articles/1991_eigg_address.htm

²² <https://www.gov.scot/news/land-reform-bill/>

²³ How large landholdings are defined is vague, defined as "land that is held by one person (or by several persons where there is one person with the controlling interest) and that extends to more than 1,000 hectares in area". Notably, there is only 40 days within which ministers are able to intervene, and sales will only be halted where there is a likelihood that an eligible community body will register an application under the right to buy legislation.

²⁴These include initiatives in South Asia (Agarwal, 2010, Sugden et al., 2021) and Romania (Agarwal et al., 2021).

²⁵ LVT could be an alternative ‘mid-way’ solution if more radical reforms are unpalatable.

²⁶ See analysis by Sugden (2017) and Sugden and Gurung(2012)

²⁷ Japan was able to avoid this problem by enforcing the act in October 1946 with retrospective effect from November 1945 – with all transfer of ownerships taking place in the intervening period ruled as void (Shrestha, 1967).