



SCOTTISH LAND COMMISSION
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International Experience of Community, Communal, and Municipal Ownership

In November 2018 the Scottish Land Commission published a review into the effectiveness of community ownership mechanisms.¹ One of the overarching recommendations of this review was to support the normalisation of community ownership. To help do this we commissioned research to understand how other countries and jurisdictions support community ownership, and explore whether there is such a concept as ‘normal’ community ownership.²

Drawing on a series of in-depth international case studies, this research raises new ideas and thinking – not just about community ownership, but our wider approach to the governance of land ownership, use, and rights in Scotland.

¹ landcommission.gov.scot/downloads/5dd698fa2e391_1-Community-Ownership-Mechanisms-SRUC-Final-Report-For-Publication.pdf

² landcommission.gov.scot/our-work/ownership/community-ownership

Is there such a concept as 'normal' community ownership?

The short answer is no. Community ownership as understood in Scotland has no clear parallels internationally and in many places would be considered another form of private ownership given the legal structure, membership, and remit.

However, there are numerous examples of land ownership, management, and use that aim towards – and achieve – similar outcomes as community ownership in Scotland. Many of these models share similar characteristics:

- Strong local governance
- Transparent decision making
- Clear democratic accountability
- Focus on local priorities
- High levels of public engagement

Although these models may not be labelled as 'community ownership,' they can be considered 'community tenure' and often deliver similar outcomes and share similar traits. [\[see page 3\]](#)

As well as highlighting that there are problems defining 'community ownership,' the research also demonstrated that the way we think about land ownership, use, and management in Scotland is often fundamentally different.

Fundamental differences

There are three key differences in the way we (in Scotland) think about land compared to most other countries or jurisdictions.

Firstly, we tend to think of land ownership as an inseparable bundle of rights. It is normal here for an incoming landowner not just to purchase the title to land, but every right and resource that goes with it – forestry, agriculture, sporting, etc. There are a few arguable exceptions where sitting tenants may have rights to resources, but in the majority of cases the landowner would expect to own everything.

In Scotland we also tend to draw clear distinctions between different categories of landownership, with land being regarded as either private, public, or community owned. Outwith Scotland hybrid ownership structures are widespread, and this neat parcelling into distinct categories is much less common or relevant.

Finally, the role of local, regional, or municipal governance in land ownership, use, and management is very different. Although Scotland has local authorities, they bear little resemblance to the municipalities found elsewhere, particularly in Europe, which usually serve significantly smaller geographical areas and populations, and have far greater powers and autonomy.

Categories of Community Tenure – Broad definitions arising from the research

Collective properties and commons

Includes examples where the rights of the legal owners are restricted and other people hold beneficial use rights over land and resources. Covers a broad set of related terminologies, but largely property rights owned or exercised by a group according to specific rules and regulations. Security of tenure is variable, encompassing a very broad range of arrangements. There is generally a high degree of local control, but this may be constrained by long term agreements and/or regulations (in terms of change).

Third sector and Community Land Trusts

Includes examples where a community controlled non-profit organisation owns and manages land and other assets in perpetuity for social, economic, and environmental interests of a local community. CLTs generally follow an open democratic structure, and the organisational board commonly includes community members, service users, and stakeholders. This gives a high level of security of tenure for communities in perpetuity, and a high level of community control – although this can be variable at larger scales and/or where CLT establishment has been led by the state/wider stakeholders rather than the community.

Municipal ownership and commonage

Includes examples where local government authorities own and manage land in the public interest, and where land is co-owned by the state and community with varying degrees of community input. Effectively this is a form of public landownership occurring at different scales (i.e. regional/local authorities or local/municipal territories) with communities exercising owner powers (e.g. developmental decisions). Potentially high level of long term security, but the community is vulnerable to policy shifts. Community control is therefore variable, although in practice many municipal ownership formats exhibit a high level of community input to decision making.

Customary tenure and indigenous groups

Includes examples where land is owned/managed by indigenous people. Can be considered a sub-category of communal property. May also relate to specific resource rights (e.g. fishing, grazing, timber). Access to resources is guaranteed by community social norms and values, land rights are a pillar of social relationships and as seen as inclusive rather than exclusive. Often provides a low level of security (quasi-legal), with customary laws not binding beyond community or 'delegated management'. Often a high degree of localised control over specific land rights, but dependent on sufficient degree of local organisation. Long term security/control less certain in many cases.

Key lessons for Scotland

The report suggests six key areas that Scotland could learn from:

- Mixed governance models
- The role of regional umbrella bodies
- Local governance reform and closer public-community relationships
- Hybrid ownership models
- Collective private ownership
- Changing cultural perceptions.

Mixed governance models occur where a wider group of individuals is involved in the decision making. For example, while most Scottish community landowners will have a board of directors elected by the membership, a mixed model would also include reserved seats for public authorities and service users. A typical Community Land Trust in the USA, for example, would include directly elected seats on the board for community members – but would also include seats for service users (in this case affordable housing tenants), and the local authority or other appropriate public agencies. This tripartite model ensures that community and residents voices are heard, but also ensures the local public sector is fully engaged and directly shares responsibility for the success of the organisation.

In many areas **regional umbrella organisations** play a critical role in bringing together community asset owners to share experience, work in partnership, and provide a strong regional voice and identity. Although Scotland has strong national networks and representative organisations, compared to elsewhere the research indicates that there are a lack of effective regional support

organisations to bring together community asset owners and build on otherwise strong regional identities.

Given the fundamental role of municipalities in other jurisdictions, there is a persuasive argument for **local governance reform** in Scotland, at least as it relates to land. As well as having greater powers over land use, planning, and taxation, many European municipalities are significant landowners in their own right. As well as being the democratically elected and accountable local government, because of their size and structure, decision making is generally more inclusive, public engagement is high, and local priorities take precedence.

Hybrid ownership models rely on the concept that property is a bundle of rights, and that those rights can be separated. These models allow different owners to exercise rights to specific resources, allowing individuals or businesses to focus on their interests and objectives and cooperate in the management of the same piece of land. This separation is commonplace elsewhere in the world but (with the possible exception of crofter's grazing rights) is largely unknown in Scotland.

Collective private ownership, usually in the form of cooperatives, is present in other sectors of the Scottish economy – notably agricultural services and retail – but not in landownership. Elsewhere cooperative land ownership is common, particularly forestry. This allows multiple small landowners to work together through a collective structure to achieve economies of scale, and landscape scale management. Such structures provide each member an equal voice, and are often incentivised and supported by the public sector. In some examples such cooperatives can

have hundreds of members and exercise a significant amount of influence on local, or even national, policy and decision making.

However, beyond all the models and experiences, the final lesson is about **changing cultural perceptions** of land. In the same way the drive for and growth in community ownership in Scotland has come from a specific combination of history, geography, and culture, so too do the models of land ownership, use, and management in other countries and jurisdictions. This also has much to do with how we think about land ownership, in particular the *“prevailing emphasis on private, exclusive property ownership. Addressing these factors requires greater awareness of the existence and value of alternatives (both within and beyond Scotland).”*³

Next Steps

By looking at the relationship between land and people elsewhere in the world, and the structures used to govern this relationship, this research shows clearly that there is no such thing as ‘normal.’

How land is owned, used, and managed is a product of prevailing cultural circumstances. It is neither natural, inevitable, nor fixed – so if cultural expectations change, then so can the models we use to deliver these expectations.

And it’s clear that cultural expectations about the relationship between Scotland’s people and its land are changing. There is a strong appetite to think more creatively about the structures we use to frame land ownership and use, and how the rights associated with landownership are distributed.

This research offers a snapshot of the possibilities, challenges, and opportunities for thinking differently about land ownership in Scotland. It also poses some questions that go beyond the usual debate about land reform. We hope this will help stimulate fresh thinking and discussion about the governance of land ownership, use, and rights.

Over the coming months we will continue to lead this discussion, engaging widely with landowners, community groups, individuals, and other interested stakeholders to explore how these ideas might further shape land reform in Scotland.

If you would like to be part of this conversation, please get in touch.

³landcommission.gov.scot/our-work/ownership/community-ownership



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