



Land Reform: Could the Scottish Model Work in Kenya's Northern Rangelands?

By Emma Redfern



Sometimes when I see an acacia tree, if the location is just right, I am transported back to my first home. For a moment, despite the heat and the dust, I see another scene, a rocky hillside brown with heather and a different kind of tree, a Scots Pine. My two homes, the highlands of Scotland, where I grew up, and the place where I now live, the dusty acacia plains of northern Kenya, are very different; one is cold and wet the other hot and dry. Yet there are similarities that go far beyond the obvious differences.

The Scottish highlands are a beautiful but harsh land. Comprising most of the north and western part of Scotland, an area bigger than some European countries (Holland and Belgium are both smaller), the land is made of mountains and glens, lochs and moors. It is deeply incised by sea lochs along its jagged coastline and includes a mass of island, large and small, spreading out from the mainland coast into the Atlantic Ocean. Despite the wild beauty, it has never been an easy place to make a life. Long winters and short, cold and wet summers combine with poor soil to make eking out a livelihood hard work. People who live off this land do so today much as they have always done, with hardy livestock and by growing seasonal crops when the weather allows.

During colonisation, the British took the best of the pastoralist lands of central and

northern Kenya and placed the rest under lockdown – akin to martial law – to restrain the “heathen savages” in the Northern Frontier District. Much the same had happened in the highlands of Scotland centuries before.

The fundamentals of surviving a harsh environment in land on the margins of productivity are similar in the Scottish highlands and in the semi-arid areas of northern Kenya. To live in either place requires a tough kind of people who place a high value on community – because working together is essential to surviving the hard times. Both places have been largely ignored by successive governments and often left to the mercy of those that would take anything of value for themselves. This has resulted in a lingering sense of injustice that has, over the years, been the instigator of violence and a deep-seated resentment.

Historical injustices

During colonisation, the British took the best of the pastoralist lands of central and northern Kenya and placed the rest under lockdown – akin to martial law – to restrain the “heathen savages” in the Northern Frontier District. Much the same had happened in the highlands of Scotland centuries before. Horrified by the persistent resistance to British rule by highland clans, the highlanders were subjected to one draconian measure after another, all aimed at reducing the power of the clan system and eradicating their culture, language and social cohesion. The culmination of this was the Highland Clearances of the late 18th century.

Then, as now, most of Scotland was owned by relatively few individuals, this being particularly true of the highlands. The Highland Clearances were a widespread action by landowners to move the people off their lands to make way for sheep. Land that had been worked and grazed by the local people was to be cleared of their homes, crop fields and livestock and given over exclusively to sheep farming, managed on a large scale. Landowners believed that there would be great profits to be made from sheep farming and were happy to enrich themselves at the expense of the local population, who were made homeless and destitute as a result. The landowners were supported by the British establishment, which was glad to be finally rid of a people who had so doggedly refused to be subjugated. There are those who see the Highland Clearances as little more than an exercise in ethnic cleansing.

Even now the highlands of Scotland are one of the least developed parts of Europe and have the lowest life expectancy in the region. The land is still carved up into huge estates owned by a few individuals and, until recently, little had been done to address past injustices or to acknowledge present ones. In this, as in the harsh beauty of the landscape, or the tough friendless of the people, I see many similarities between the Scottish highlands and the rangelands of the northern half of Kenya.

My father-in-law (a Laikipia Maasai) will tell you that, in the run up to independence, the Maasai believed that as soon as the country was handed back to Kenyans, they would get their Laikipia land back. All the land that had been taken over by colonialists, and made into farms and ranches, would be theirs again to graze their livestock. However, when the time came, Jomo Kenyatta said “*hakuna cha bure; lazima watu wafanye kazi*” (there is nothing for free; you must work for it). My father-in-law says that when, after independence, they tried to take their cattle onto the ranches they were chased off by men on horses. Abruptly their optimism about independence came to an end. For them nothing had really changed, except that now, instead of being told that they could not graze on their land by a colonial government, they were hearing it from a Kenyan government.

If the story of the highlands tells us anything, it is that time will not, on its own, make feelings of injustice go away; if 300 years is not enough time in Scotland, we can't expect little more than 50 years to do the trick in Kenya.

The land issue in Laikipia was further complicated by the Kenyatta's government when it resettled Kikuyus there, some of whom were displaced from other areas. The lands they were settled on were mostly lands that were given up at independence and sold back to the government. Many of these plots are the small- to medium-sized farms of the people who make up Laikipia's Kikuyu population today.

However, according to the Laikipia Unity and Land Initiative, there are approximately 230,000 acres of land that still largely remain unsettled by their 85,000 owners. This land has since been squatted on by small-scale farmers or makes up much of what is today's open pasture land. Over the years since independence, much of the best land in Laikipia found its way into the hands of politicians and their supporters. Some was retained, some sold on. Many plots in Laikipia have been accumulated in recent years to form the large agricultural farms whose white plastic tunnels now fill vast acres. Kenyan companies own some of these businesses but many belong to foreign businesses or large multinationals.

Despite all the changes that come with time, historical injustices tend to fester and breach trust in modern societies long after they were perpetrated. They should not be ignored. However, we cannot just wipe out hundreds of years of history, or all the people who have lived through them, and reset things to some point in the past. For a start, which point in the past would you choose? The problem with land rights based on historical occupation is that, if you go back far enough, you can always find someone who was there before you.

The laws of the land

Modern Laikipia has a wide range of land uses and a diversity of people. There are small plots producing a few vegetables for sale and large farms that are part of international businesses; there is traditional pastoralism and modern cattle ranches, ranches dedicated to tourism, privately-owned conservation areas and multi-use group ranches owned by communities. The inhabitants are Kenyan, European, American and Asian. The Kenyans you meet will tell you they are Kikuyu, Meru, Maasai, Turkana, Samburu, Pokot, Somali and White (is that a Kenyan tribe now too?). Just as the background to the land issues in Laikipia are complex, so are the backgrounds and livelihoods of its population.

Land ownership today, in places like Laikipia or the Scottish highlands, however, it might have started out, is now based on laws agreed upon by the people's representatives of the country. They have not been forced upon us by outsiders. In Kenya, even if the laws originated in colonial times, they have been continued by Kenyans. Whether we agree with them or not they are now Kenyan laws, passed or adopted by Kenyan legislators. The dream of grabbing land owned by white ranchers, or anyone else, in Laikipia or elsewhere, is not restitution. It is an act against the laws of this country and, therefore, against the collective will of the people that the laws are meant to represent. It is not a question of whether land issues exist or whether they should be resolved. Rather, it is a question of how that is to be done.

Accepting that most current land holdings in Laikipia are legally owned doesn't mean that a few people owning huge tracts of land is in the best interests of society. Especially when inequality is shown time and again to have a greater negative impact than poverty. It doesn't mean we should simply ignore problems we have inherited from past governments, colonial or post-colonial. We must

tackle them, but we should do so from within today's legal framework, including, if necessary, using the systems in place to change laws that are not in the best interest of the society they are intended to serve.

The scars of past injustices have left a mark on highland society that can be felt even now, so many years later. In part this is because to this day the majority of the highlands is still owned by relatively few individuals. While in other parts of the United Kingdom and Europe large aristocratic lands have been broken up, and those that live on the land have come, in different ways, to be not just vassals or tenants but owners, this did not happen in Scotland.

Research by Andy Wightman (a prominent land reform campaigner and author of *Who Owns Scotland*) has shown that half of Scotland is still owned by no more than 500 people. Some of the large estates have passed from one generation to another, and others have been sold on, but they remain intact. Which, according to academic and land reformer Jim Hunter, equates to "the most concentrated pattern of land ownership in the developed world". The highlands have been for many years a rich man's playground. Often the owners are absentee landlords with little interest in the welfare of their tenants, just turning up for a week or two each year to shoot some wildlife and then leave again.

With control over how the county budget is allocated, and with the ability to establish local and international partnerships that benefit their constituents, devolved counties could make community land ownership a realistic option.

If the story of the highlands tells us anything, it is that time will not, on its own, make feelings of injustice go away; if 300 years is not enough time in Scotland, we can't expect little more than 50 years to do the trick in Kenya. The only thing that will make feelings of injustice go away is to deal with them.

Devolution and partnerships

Scottish devolution has been the impetus for people in the highlands to start addressing past injustices, and to deal with the current inequitable land distribution. Since the mid-1990s there has been a movement in the Scottish highlands for communities to buy out large landowners. Driven initially by communities where the landowner's extreme neglect and mismanagement put the livelihood of the whole community at risk, it became a beacon of hope as a way to address this deeply rooted problem.

In 1997 a referendum on devolution gave Scotland its own government. While still part of the United Kingdom, the Scottish government has taken over responsibility for the day-to-day running of Scotland, including, among other things, the economy, education, transport, health, taxation and justice. With devolution came an extensive review of Scottish land laws and an acknowledgement of the land issues facing many Scots.

The Highlands and Islands Council led the initial push to provide government support for community buy-outs. Councils in Scotland are local authorities run by elected councillors and are responsible for providing a range of public services. Councillors can have a strong influence on their local area as they have a large say in how public resources are managed. The Highlands and Islands Council set up a land unit to provide technical advice and financial support to communities that wanted to embark on community land ownership. Technical and legal advice was important, but money was the biggest problem for communities wanting to buy out landowners. The Assynt community, which completed its buy-out in 1993, received a relatively modest donation from the Highlands and Islands

Council of £10,000. The rest of the £300,000 came mostly from private donations. By 2002, when the Gigha community bought out their island for £4 million, they had a Scottish Land Fund grant of £3.5 million (£1 million of which had to be repaid within two years) and a £0.5 million grant from Highlands and Islands Enterprise (the economic development agency for the area). For several years the Scottish Land Fund was supported charitably by the National Lottery Fund but in 2012 the Scottish government established a fund offering government finance as well.

Without providing support for land management, education and funding for development, community buy-outs would do little to improve the lives of pastoralists.

The Scottish Land Fund states that its objectives are “to support communities to become more resilient and sustainable through the ownership and management of land, buildings and associated assets”. The Fund has a budget of £10 million a year to do this and provides extensive support to help communities build the capacity they need to deal with their many challenges.

The Scottish example shows us different ways in which a community can own land. Communities have taken ownership of land as trusts, limited companies or partnerships. The definition of community has also varied; in some cases the community is established as being only tenants of the land, in others it has been all the people living in the area. Some buy-outs have been undertaken in conjunction with the local government, or organisations such as conservation or wildlife bodies. In one case, a community purchased a 22,228-hectare hunting estate in partnership with a businessman who purchased the high value assets – a castle and salmon fishing rights.

In most cases, support from outside the community has been vitally important in making the purchase happen. This is a way in which the government, other organisations, or even individuals, can help to restore balance to societies affected by past and present land injustice. It is also important to state that these are not forced land sales. When a community wishes to undertake a buy-out, it informs the government and, if the proposal complies with the regulations (2003 Land Reform (Scotland) Act), the government will inform the landowner and a prohibition is put on the sale or disposal of the land. Effectively, this means that if the landowner wishes to sell or dispose of the land, the community has the right to buy it. The price is established by the government at market value.

The Northern Rangeland Trust (NRT) offers a framework where communities on public land can start to get involved with managing the land that they live on. This has been so effective in many cases that people tend to forget that neither NRT nor the community actually own the land.

The results of such community land purchases in Kenya could look a lot like current group ranch ownership. Many of these group ranches have partnered with individuals or businesses to develop tourism on the ranch and, in the case of a community buy-out, could help to provide some of the funding. Devolved county governments could also set up initiatives to support communities similar to those initiated by the Highland Council. With control over how the county budget is allocated, and with the ability to establish local and international partnerships that benefit their constituents, devolved counties could make community land ownership a realistic option.

Land reform and management

The Northern Rangeland Trust (NRT) offers a framework where communities on public land can

start to get involved with managing the land that they live on. This has been so effective in many cases that people tend to forget that neither NRT nor the community actually own the land. The legal status of the land has not changed; it is still public land held in trust by the county and, as such, still at the mercy of political ambition, corruption or simply the tragedy of the commons.

Which brings us to another important point. Land reform in Kenya must be accompanied by support for land management. The ranch invasions in Laikipia are at least in part due to the severe and widespread degradation of the vast rangelands of northern Kenya. The public lands of northern Kenya dwarf the private ranches in Laikipia, and though parts of Laikipia have been for generations an important dry season resource, they are by no means the only ones. Other dry season resources have been so over-grazed that every year now looks like a drought year. Without providing support for land management, education and funding for development, community buy-outs would do little to improve the lives of pastoralists.

It is often said that before colonisation, or the arrival of neo-colonial aid and conservation bodies, pastoralists and other indigenous people were excellent custodians of the land. What is generally forgotten is that in those days there were far fewer people and the effect they had on the environment, for good or bad, was a lot less significant. With the massive increase in population in Kenya, especially in the north, as well as the effects of climate change, traditional practices can no longer be counted on to be beneficial or harmless. Established group ranches are witnessing this first-hand. What, at the time of formation, was a vast land is now overcrowded, without enough resources to support the ever-increasing community. New management methods for land and livestock are essential.

We do not lack the knowledge or the skills to tackle the issues left by past, or even current, land injustices. Neither do we lack the knowledge or skills to check the destruction of the rangelands that so many people rely on. We even know how to bring them back to past glories and to develop a livestock industry that can be so much more profitable and productive than our present one. We can make these things happen. We can change our own practices and improve our land, we can work together as communities to deal with grazing issues and we can put pressure on our political representatives to help us address land injustices and inequality.

There is no reason why we should not set up a Kenyan Land Fund to help communities buy out large ranches in Laikipia, or elsewhere, when they come on the market, or enable communities in other parts of Kenya to take ownership of the land they live on. There are environmental bodies ready to help with sustainable land use and others to support improved crop and livestock production. All we are lacking is the political will and commitment. The elephant in the land reform room is corruption in politics itself, but every five years we get a chance to do something about that too.

Further Reading:

[Community Land Scotland](#)

[Right to Buy Land under the Land Reform \(Scotland\) Act 2003](#)

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