

Frode Flemsæter

# Geography, Law and the Emotions of Property

Property Enactment on Norwegian Smallholdings

Thesis for the degree of Philosophiae Doctor

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Norwegian University of Science and Technology  
Faculty of Social Sciences and Technology Management  
Department of Geography



**NTNU**

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## **Abstract**

This PhD study addresses property enactment on Norwegian smallholdings. It argues that socio-spatial relationships between people and property might be more important in owners' decision-making than often assumed in legal arrangements.

The study takes the recent amendments to the Norwegian Concession Act as its entry point. Prior to these amendments, carried out in two stages in 2001 and 2003 respectively, only owners of properties with less than 0.5 ha were free to sell their properties at market price, whereas today, owners of properties of less than 10 ha are able to do so, on condition that no more than 2 ha are fully cultivated. The change in the area limit was part of the policy to reduce the population decrease in rural areas of Norway: it was assumed that eliminating price control on these properties would encourage owners who used their smallholdings as second homes or left them empty to sell to someone who was interested in living there permanently. The difference between the 'estimated agricultural value' and the market price may be huge, especially in certain (central) parts of the country where there is a high demand for such properties. Hence, as a result of these legal amendments the potential economic profit for property owners has increased significantly in most cases. However, it appears that many property owners are not willing to sell, and those who do sell seem to do so very reluctantly. The present study investigates reasons for this 'unwillingness' to sell smallholdings.

In much contemporary research in geography, issues of property and ownership have been given relatively little attention as the signification of these concepts often seems to be taken for granted. However, within the realm of legal geography, studies of property have been received with increasing interest; in a recent article in *Progress in Human Geography* Nicholas Blomley urged geographers to take property seriously: 'there are real costs in forgetting property, for property has not forgotten us'. Norwegian smallholdings have certainly 'not forgotten us', since they are vital parts of rural landscapes and they play significant demographic roles for many local communities. The present study seeks to respond to Blomley's request, and takes property seriously by examining property enactment on Norwegian smallholdings. In line with much (critical) legal geography literature, the study questions the hegemonic liberal view of ownership which assumes objectified properties with a single owner enacting his or her property based on economic rationality. Whilst the amendments to the Concession Act are based on a liberal view of ownership, the present study argues that owners have a propensity to enact their properties

according to a much more complex, relational and contextually defined view of ownership evoked by the ‘emotions of property’.

The empirical investigation examines properties affected by the amendments to the Concession Act, and a qualitative study has been carried out among owners and former owners of these properties. Three journal articles presented in Part II are written based on this empirical investigation. The study has identified kinship (Article 1) and attachment to home (Article 2) as key factors in property owners’ decision-making. Kinship and a sense of home are closely related to property, and the two articles demonstrate that kinship and home also *shape* property. The third article conveys some of the emotional dilemmas which owners face in their property enactment, and focuses in particular on emotional dilemmas arising as a result of a conversion of permanent homes into second homes.

The overall argument of the study is that property is about social and emotional relations with regard to a physical object, and not only about one-to-one relations between one owner and her or his property. Due to the emotional and social aspects of property, owners of Norwegian smallholdings tend not to be influenced by the amendments to the Concession Act to the same degree as expected by the authorities. For this reason, the study thus examines the tensions between the formally represented property (as a legal object) and the lived spaces of Norwegian smallholdings, and it demonstrates significant incoherencies between how property is represented in the recent amendments of the Concession Act and how property is actually ‘lived’ by the owners. A key lesson from this PhD project pertaining to the legal geographies of Norwegian smallholdings is that the degree of coherence between formally represented and lived spaces of property is vital for the successfulness of policy instruments designed to influence enactments of property.

## **Sammendrag**

Denne avhandlingen tar for seg praktiseringen av eierskap til norske småbruk. Utgangspunktet for studien er endringene i arealgrensen i konsesjonsloven som ble utført i to steg i 2001 og 2003. Før endringene var kun eiendommer mindre enn 5 dekar fritatt fra konsesjonsplikten, mens etter 2003 ble eiendommer med mer enn 20 dekar fulldyrket jord eller mer enn 100 dekar totalt konsesjonsbelagt. Det eksisterer priskontroll, såkalt landbrukstakst, på eiendommer som er konsesjonsbelagt, og eiendommene kan dermed ikke omsettes til markedspris. Ved å øke arealgrensen ble det fra landbruksmyndighetenes side forventet at flere eiendommer som før var underlagt priskontroll, men som nå kunne omsettes til markedspris, ble lagt ut for salg. Dette var et politisk virkemiddel som ble iverksatt for å øke omsetningen av småbruk, og dermed legge til rette for at småbruk som var fraflytta og/eller brukt som fritidsboliger skulle få nye eiere som ville bosette seg der permanent, og dermed styrke lokalsamfunn i distriktene. Differansen mellom landbrukstakst og markedstakst på småbruk er ofte svært høy, og den potensielle økonomiske gevinsten for eiere av småbrukene som ble påvirket av endringene i konsesjonsloven er derfor betydelig. Likevel er det mye som tyder på at eiere av småbruk fremdeles i stor grad vegrer seg for å legge eiendommene sine ut for salg. Avhandlingen har undersøkt og diskutert denne "uviljen" til å selge norske småbruk.

Geografisk forskning har viet relativt lite oppmerksomhet til eiendom og eierskap, og betydningen av disse begrepene ser ofte ut til å bli tatt for gitt. Likevel, innenfor det som kan kalles "rettsgeografi" har eiendomsstudier fått økt oppmerksomhet de siste tiårene. Nicholas Blomley har vært en av frontfigurene i denne sammenhengen, og han har oppfordret geografer til å vie mer oppmerksomhet til eiendomsrelaterte spørsmål siden eiendom og eierskap har en betydelig innvirkning på hvordan samfunnet (re)konstrueres. Norske småbruk har for eksempel stor påvirkning på det rurale landskapet, så vel som på den demografiske utviklingen i mange lokalsamfunn.

På linje med mye forskning innenfor rettsgeografien stiller avhandlingen kritiske spørsmål ved det liberale synet på eiendom. Dette synet på eiendom og eierskap forutsetter eiendommen som et objekt som en enkelt eier har all makt over, og der beslutninger er basert på økonomisk rasjonalitet. Endringene i konsesjonsloven var basert på et slik eiendomssyn, mens det her argumenteres for at eiere praktiserer eierskapet sitt ut fra et atskillig mer nyansert og kontekstuellet definert syn på eiendom og eierskap basert på sosiale og emosjonelle relasjoner.

Den empiriske undersøkelsen tar for seg eiendommer som er påvirket av endringene i arealgrensen i konsesjonsloven, og det er gjort en kvalitativ studie der et utvalg av eiere og selgere av slike eiendommer er de viktigste datakildene. Tre vitenskaplige artikler er skrevet på bakgrunn av studiet. Den første artikkelen viser at *slekt* er en svært viktig faktor som styrer folk sine beslutninger, mens den andre artikkelen viser at *hjemmet*, og den tilhørigheten man føler til hjemmet, også er svært viktig når store avgjørelser skal tas. Disse to artiklene viser også hvordan henholdsvis *slekt* og *hjem* skaper og befester eiendom. Den tredje artikkelen tar for seg følelsesmessige dilemmaer som oppstår når småbruk konverteres fra permanente hjem til fritidsboliger.

Hovedargumentet i studiet er at eiendom handler vel så mye om sosiale og emosjonelle relasjoner i forhold til et fysisk objekt, som en-til-en-relasjoner mellom en eier og hans/hennes fysiske eiendom. På grunn av de sosiale og emosjonelle aspektene ved det å eie småbruk, ser ikke eiere ut til å bli påvirket av endringene i konsesjonsloven i den grad myndighetene hadde forventet. Studiet diskuterer spenningen mellom hvordan eiendommer er formelt representert gjennom juridiske forordninger, og hvordan eiendommer faktisk er "levd" og opplevd av den enkelte eier. Det synes å være uoverensstemmelse mellom hvordan eierskap er forventet å fungere ut fra et formelt, juridisk perspektiv, og hvordan eierskap *faktisk* oppleves og praktiseres av den enkelte eier av norske småbruk. Videre argumenteres det for at graden av overensstemmelse mellom den formelt representerte eiendommen og den "levde" eiendommen er avgjørende med tanke på effekten av politiske og juridiske virkemidler

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## **PART I**

### ***1. Introduction***

In 1870 my great-great-grandfather bought a small farm on Flemsetra, on the outskirts of Flemma, a small community located next to a fjord in the county of Møre og Romsdal, on the west coast of Norway. Jørus, as he was called, adopted his surname after the place he moved to, as was common at that time, and introduced the family name Flemsæter. Jørus married Randi in 1875, and they built a small house with a barn and cowshed, and started to cultivate the land. They called their small farm Vollan (the grassy hills), which described the landscape on which they built their farm. Jørus and Randi had five children, who all probably worked hard to help their parents build up the farm. The last decades of the 19th century was a period when many Norwegians, in common with people from many other European countries, emigrated and sought their fortune in the United States. Jørus and Randi's oldest son Bersvein and his sister Beret were among the migrants. While Beret settled and lived in the US for the remainder of her life, Bersvein had spent six years in Wisconsin when in 1908 he received a letter from home informing that Jørus was ill and that he had to return to Vollan and take over the farm, which he did.

Bersvein married Gjertrud and they continued cultivating the land and improving the buildings at Vollan. After some years they managed to buy a horse, which made the work radically easier. They had three children, and Johan, their only son, gradually took over the farm as Bersvein became ill and died in 1947. Johan, my grandfather, was a very cautious man. His father borrowed a considerable amount of money during and after his trip to the United States, and this loan was hard to pay back as he could only rely on the income from the small farm. This, together with the effects of World War II, was probably the reason why Johan and his wife Agnes did not develop the farm further at the same speed and to the same extent as many of the neighbours did. They continued to cultivate new land, but still only using horse power and manual labour. In 1960 there were approximately 4 ha of fully cultivated land on the farm. By then, the barn was very old and out of date. My father, born in 1938 and the oldest of three siblings, still lived at home when Johan decided to build a new barn and cowshed. This was completed in the early 1960s, and in the following years my father finally managed to persuade his father to buy a tractor. Just a few years later, in 1975, my grandfather died suddenly at the age of 65. In the same year the Parliament decided that

the annual income of a farmer should be equivalent to the average income of an industrial worker within a period of three years, and this decision caused a drastic shift in Norwegian agricultural policy. Norway saw a general optimism in the 1970s, not least because of the major income from the developing oil industry. The government financed what might be said to be a revolution in Norwegian agriculture and regional development. Hence, the recently built barn became outdated very quickly. There was never really a choice for my father whether or not to take over the farm, so he and my mother built a new house close to my grandmother's old house and became part-time farmers.



**Figure 1: Display of family photos in the old house at Vollan**

(Photo: Michael Aeberhardt)

My brother and I, both born in the early 1970s, grew up with our grandmother living next door, and even though the farm was small there was a lot of work that we had to take part in. Agnes, my grandmother, died in 1997, and since then her house has remained unoccupied. Every summer we carry out some maintenance work, and every summer we discuss what we should do with the house – whether to sell it, let it to someone, use it more ourselves, or eventually demolish it. My parents still live on the farm, but they do not have animals or harvest the land any longer. The neighbouring farmer harvests our 5 ha of cultivated land – currently for free. In my grandmother's old house there is a display of pictures of all the people mentioned in this account, and several others (Figure 1). In my parents' house there are numerous pictures of my ancestors in albums or on display, often in working situations (Figure 2).



**Figure 2: Mowing season at Vollan in 1937. My grandmother Agnes in the front middle, my great-grandfather Bersvein to the left and Gjertrud, my great-grandmother in the front right.**

(Photo: Unknown. Owner: Fylkesfotoarkivet in Møre og Romsdal/Inger Flemmen)

The prospects for Vollan are uncertain. With each month and each year that passes the time for making some major decisions draws nearer. Neither my older brother nor I plan to move to Vollan, but we are strongly attached to the place; hence, for the time being, both selling it and abandoning it are out of the question. I do not reject that it might be possible to sell the property or parts of it in the future, but that is not a very pleasant thought. Legally, it is my brother who is entitled to take over the property, but in practice it is a decision we will make together, yet we both avoid such discussions.

The farm I come from is slightly bigger than those investigated in this study, but there are clear parallels between my own story and the stories told by the informants in the present study. Kinship, attachment to home and emotional dilemmas are key factors when decisions on property are made. This is my own experience, but also, as this study will demonstrate, the experience of many other present and former owners of Norwegian smallholdings.

### **1.1 Background to the thesis**

This PhD study addresses property enactment on Norwegian smallholdings. It argues that when properties become enacted, socio-spatial relationships between people and property might be more important in owners' decision-making than often assumed in legal arrangements: ownership is just as much about social relations as about one-to-one relations between an owner and his or her property. In much contemporary research in geography,

issues of property and ownership have been given relatively little attention as the signification of these concepts often seems to be taken for granted. However, within the realm of legal geography, studies of property have been subject of increasing interest; Blomley (2005b, 127) urges geographers to take property seriously: ‘there are real costs in forgetting property, for property has not forgotten us’. Norwegian smallholdings have certainly ‘not forgotten us’, as they are vital parts of rural landscapes and they play significant demographic roles for many local communities. The present study responds to Blomley’s request, and takes property seriously by examining property enactment on Norwegian smallholdings.

In Norwegian society ‘the rural way of living’ has been the hegemonic norm for ‘quality of life’, and rural values have played a significant part in how Norwegians live their lives, or perhaps more precisely, how they *want* to live their lives (Haugen & Lysgård 2006). This has become important for regional and rural policies as well as research. Since the 1970s, and through changing governments, Norwegian authorities have maintained a pronounced goal to ensure equal living conditions for people in all parts of the country and to sustain the existing dispersed settlement pattern (e.g. NOU 2004:19). Even though various policy instruments have been applied to fulfil this ‘settlement goal’, its main content has been stable for several decades. Underpinning the goal is a close connection between regional and agricultural policies. Therefore, agricultural support schemes and agricultural property legislation have played vital parts in Norwegian regional policy, and thus providing for activity on numerous smallholdings located widespread throughout the country is high on the policy agenda. This is, however, challenging as rural restructuring also takes place in Norway, and smallholdings as means for *production* have been de-emphasised in recent decades.

In a recent White Paper (St.meld. nr. 25 (2008-2009)) it is stated that the Government wants to sustain the main features of the settlement pattern in order to pursue and develop the historical and cultural diversity which it carries. There have been established many local and regional projects which aim at attracting people to settle permanently in areas of the country vulnerable to depopulation and where agriculture still plays an important role for the viability of local communities. These efforts do not necessarily encourage people to take up farming, but these projects, which are most often government-led, want to see ‘light in all the windows’ in as many smallholdings as possible.<sup>1</sup> Figures show that 21% of all built-on

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<sup>1</sup> ‘Light in all the windows’ (*Lys i alle glas*) is the name of an initiative in Buskerud County, which is one of several local and regional projects aimed at attracting people to settle permanently in areas vulnerable to depopulation and at the same time encouraging people to sell properties where no one lives permanently. See also Article 1.



agricultural properties in Norway are uninhabited (SSB 2006), which amounts to *c.*34,000 properties (out of 160,000 built-on agricultural properties in total). As a consequence of the ‘settlement goal’ there is a pronounced political ambition to reduce the number of uninhabited agricultural properties, and as a means to achieve this ambition a number of amendments have recently been made to the Norwegian Act Relating to Concession in the Acquisition of Real Property (Concession Act) (Konsesjonsloven 2003), which among other things regulates the ownership of smallholdings. This PhD project takes the recent amendments to the Concession Act as a starting point.

The Concession Act was first passed in 1974, and has since been an important legal instrument in Norwegian agricultural and regional policy.<sup>2</sup> The Concession Act is based on the presumption that land is a scarce commodity which is important to use and distribute in a way that benefits society as a whole. Section 1 in the Act states:

The purpose of the Act is to regulate and control the sale of real property in order to achieve an effective protection of agricultural production areas and such conditions of ownership and utilization as are most beneficial to society.

There are two factors which the Concession Act regulates that are of vital importance for the present study. First, Section 3 states that a condition for granting a concession to acquire farm holdings includes the obligation to live on the property and cultivate the land. The obligation to live on the property is personal, whilst the obligation of cultivating the land may be fulfilled by renting it out to other farmers. Second, Section 9 states that the agreed price of agricultural properties should provide for a ‘socially justifiable price development’, which means that price setting is controlled by the agricultural authorities, and hence agricultural properties cannot be sold at market price.

Crucial to my investigation of Norwegian smallholdings are the exceptions to the requirement of obtaining a concession based on the character of the property, which is provided for in Section 4 of the Act. One of the exceptions is that a concession is not necessary for the acquisition of built-on property not exceeding a certain ‘area limit’. When the Act was first passed in 1974 the area limit was set at 0.5 ha in total. This limit prevailed

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<sup>2</sup> Legal rules requiring a concession for acquiring real estate in Norway were first introduced in 1888 for foreigners wanting to acquire property in Norway. In 1909 extensive concession laws were passed regarding the purchase of waterfall rights by foreign interests. Later Concession Acts extended the requirement to Norwegians (Knoph et al. 2009).

until 2001, when it was increased to 2 ha in total. A new revision in 2003 increased the area limit to the present-day level, which is 10 ha, where not more than 2 ha of the area are fully cultivated. The amendments to the area limit were made due to rural restructuring processes that have caused smaller farms to become less significant and relevant as income sources. Prior to these amendments, carried out in two stages in 2001 and 2003, only owners of properties less than 0.5 ha were free to sell their properties at the market price, whilst today, owners of properties less than 10 ha are able to do so, on condition that no more than 2 ha are fully cultivated. Thus, in practical terms, the change in the area limit was part of the policy to reduce the population decrease in rural areas of Norway. It was assumed that eliminating price control on such properties would encourage owners who used their smallholdings as second homes or left them empty to sell to someone who was interested in living there permanently. The difference between the 'estimated agricultural value' and the market price may be huge, especially in certain parts of the country where there is a particular high demand for such properties. Hence, as a result of these legal amendments the potential economic profit for property owners has increased significantly in most cases.

On a more abstract level, the amendments to the Concession Act aim at influencing the relation between subjects (property owners) and objects (properties), and the main logic behind the amendments was the belief that increased potential sales prices would result in increased sales of smallholdings, and hence enhanced viability for many local communities. However, what is stated and taken-for-granted in legal arrangements does not necessarily correspond to property owners' everyday experiences, practices and performances. Throughout the thesis I analyse and question the subject-object relationships in property ownership. The empirical investigation examines properties affected by the amendments to the Concession Act, i.e. agricultural properties more than 0.5 ha but less than 10 ha in total and with less than 2 ha of fully cultivated land. 'Smallholdings' referred to in the present thesis are agricultural properties limited to this particular area category.

As a result of investigating property relations concerning Norwegian smallholdings, it emerged that another legal instrument became important, and should therefore be mentioned here – the Allodial Act (Odelslova 1974). This Act is crucial in regulating agricultural property ownership, and its roots can be traced back at least to the Middle Ages. The long-standing commitment to allodial rights in Norway has reinforced the strong relations between land and family. The Allodial Act aims at ensuring that agricultural property over a certain size remains in landowning families, but it has been frequently subject to criticism, and the

future of allodial rights in Norway is debated (Gjerdåker 2001). Allodial rights and the land-kin bond have proved important for the present study.

## **1.2 Relevance of the thesis**

There are two principal reasons why I have found property enactment on Norwegian smallholdings particularly interesting to study. One is based on recent theoretical trends within social sciences, whilst the other is founded on on-going political debates in Norway.

First, in contemporary research in social sciences a post-structuralist trend which tends to question taken-for-granted and established 'truths', and rather encourage researchers to study how things are actually 'done' in practice is discernable (Harrison 2006; Wylie 2006). Within this trend a body of research termed legal geography has emerged, which addresses the interrelationships of law and geography. These studies, which have mainly developed during the past two decades, take a critical stance to those who treat law and space as static structures and disregard their dynamic interrelationships and contextualities (e.g. Blomley 1994b; Blomley et al. 2001; Holder & Harrison 2003b). Property has been a major area of research in legal geography, and one major issue within this branch of studies has been a critique of the liberal ownership model, which is the hegemonic view of ownership in the 'Western' world. There are some fundamental assumptions in this model: ownership is individual and rights to private property are exclusive; owners tend to maximise productivity and profit; properties are spatialised objects; and property is apolitical and amoral (Singer 2000a; Blomley 2004c). Singer (2000a, 7) claims:

Scholars, lawyers and judges all revert to the [liberal] ownership model with surprising frequency. This is a problem, because ownership is flawed as a description of both social practice and the legal structure of property systems. As a concept, it has its uses, but more often than not it misdescribes the ideals that underlie the institution of private property, as well as the legal rules that define the basic structure of property rights. ... When we consider the actual practices of our legal system, and the norms that justify property rights, we see that we face tensions within the concept of property itself.

The present study addresses and discusses the tensions within the concept of property between legal practices regarding amendments to the Concession Act and social norms and practices tied to property enactment on smallholdings.

Due to the fairly recent emergence of legal geography, there are several connections between legal geography and other disciplines and sub-fields which remain unexplored. The present investigation of property enactment on Norwegian smallholdings is theoretically founded within legal geography, but in the three articles which constitute Part II of the thesis, I endeavour to extend this body of literature by exploring some lines of connection between legal geography and other research fields: in Article 1, legal geography, kinship and ‘geographies of relatedness’ (Nash 2005) are addressed; in Article 2, legal geography and ‘geographies of home’ (Blunt & Dowling 2006) are examined; and in Article 3, legal geography and theories of property enactment are used to inform contemporary debates on second homes. Using legal geography to enlighten other debates and theoretical perspectives, and vice versa, has proved both interesting and challenging, and a main motivation for conducting this research.

Second, smallholdings and their role in local communities are high on the policy agenda in Norway, and this is reflected in numerous policy documents as well as reports and articles in the media. As mentioned, Norwegian authorities have since the 1970s maintained a settlement goal, and this goal has been repeated in various forms in many policy documents throughout the years. Legal instruments have been used as a means to achieve the goal, and both before and after new legal or policy instruments have been adopted or changed, there have been intense political debates. The role of smallholdings in relation to the settlement goal was particularly discussed in the period of the amendments to the Concession Act. Numerous newspaper reports have highlighted smallholdings as places to live without necessarily maintaining any farming functions (e.g. *Nationen* 2005a; *Aftenposten* 2006, 2009a; *Adresseavisen* 2007; *Dagens Næringsliv* 2008), the role of smallholdings in cultural landscapes (e.g. *Nationen* 2003), and the difficulties potential buyers encounter when trying to obtain smallholdings (e.g. *Nationen* 2005b; *Aftenposten* 2009b). The current interest in the role of smallholdings in Norway, the temperature of the debates, and the often taken-for-granted assumptions about the relationships between owners and properties among participants in the debates have triggered my interest in and motivation for examining property enactment and grounds for decision-making on Norwegian smallholdings.

Throughout the thesis, including in the three articles, it is argued that emotions and emotional dilemmas based on how people live and experience their lives and properties are not necessarily in conformity with how property and ownership are represented in legal frameworks. Accordingly, a main theme in this study is to examine relationships and potential tensions between what Lefebvre (1991) terms ‘represented’ and ‘lived’ spaces. These

relationships will be thoroughly accounted for and discussed in later chapters, but mentioned here since the fundament of the study is to discuss how smallholdings are represented in legislation in relation to how they are lived and experienced in people's everyday lives.

### **1.3 Purpose of the thesis**

This PhD study discusses the legal geographies of Norwegian smallholdings and examines the tensions between the represented and lived spaces of property. The study aims to demonstrate how socio-spatial relationships relating to owners and their properties affect how properties are enacted within current legal frameworks. Drawing upon empirical research conducted in four Norwegian local authority districts, I discuss owners' motivations and grounds for decisions when properties become enacted. The objectives are to study the following:

- I. Relationships between legal arrangements and property enactment on Norwegian smallholdings. Are the legislative authorities' assumptions regarding ownership of smallholdings coherent with how smallholdings are in fact enacted? To what extent are owners of smallholdings influenced by amendments to the Concession Act in their decision-making?
- II. Key factors in property enactment on Norwegian smallholdings. What are the main considerations when owners make decisions about the future of their properties? How do these key factors influence how properties become enacted?

These two objectives are wide-ranging since they open up for studying a range of factors influencing property enactment on Norwegian smallholdings. My aim is to identify and study key factors, and the identification of the key factors resulted from qualitative interviews conducted with present and former owners. By adopting an institutional ethnographic approach, which will be accounted for in Chapter 3, I revealed and pursued three crucial factors in owners' decision-making. Hence, the interview process resulted in three detailed research questions, upon which the three articles presented in Part II are based:

- i) How do relationships between kinship, law and property enactment influence how decisions over properties are made? (Article 1)
- ii) What characterises smallholdings as homes, and how do the workings and dynamics of home influence property enactment on Norwegian smallholdings? (Article 2)
- iii) In what ways do property owners experience emotional dilemmas when smallholdings are converted from permanent to second homes, and how do these emotional dilemmas affect how properties become enacted? (Article 3)

#### **1.4 Outline of the thesis**

This thesis consists of three parts. Part I contains four chapters: Chapter 1 provides a brief background to the study by introducing the research field and research questions; Chapter 2 presents a review and discussion of the legal geography literature, and emphasis is placed on the part of this literature that deals with property, ownership and enactment. The chapter also situates property and property enactment in a wider spatial context by developing a tripartite model of ‘the spaces of property’; Chapter 3 presents the methodological strategies and highlights two main approaches: institutional ethnography and visual methodology; and Chapter 4 elaborates on the historical and political background to Norwegian smallholdings as a property regime, which is important for understanding the emotional dilemmas which current owners are facing. Part II contains three chapters which, after a short introduction, presents the three journal articles in their entirety. Part III consists of one chapter: Chapter 8 discusses the empirical findings relating to property enactment on Norwegian smallholdings in light of the model presented in Chapter 4, and further highlights the contradictions between how authorities view ownership and how ownership is practised by owners of Norwegian smallholdings.

## **2. Legal Geography: Revisiting Property**

Where is law? This question is raised in the preface to *The Legal Geographies Reader* (Blomley et al. 2001), and forms the starting point from which geographers study the relations between geography and law. Legal geography, also sometimes referred to as ‘the geography of law’, has developed as an academic sub-field since c.1990, but its historical roots in more general studies of law and society can be retraced back to the end of the 19th century. Contemporary legal geography, in line with other post-structuralist thinking, is characterised by a profound suspicion of bald statements and taken-for-granted explanations, and challenges the ‘obvious’ and ‘natural’ by revealing gaps and tensions in old stabilities (Delaney et al. 2001; Wylie 2006). ‘Property’ is one such entity where meaning and content are often taken for granted, and ‘property is one of the, if not *the*, primary currencies through which conversations between Law and Geography have been, and continue to be, conducted’ (Whatmore 2003, 211).

After providing an overview of selected literature within legal geography, this chapter will particularly address issues of property, ownership and enactment, which are key theoretical and empirical elements in the present study. The chapter is brought to a conclusion by the development of a tripartite model illuminating what I term ‘spaces of property’. I will do this by drawing on Lefebvre’s (1991) influential work on the ‘production of space’, in which he develops a ‘conceptual triad’ of spatiality emphasising the relationships between the realms of the perceived, conceived and lived.

### **2.1 The emergence of legal geography**

Law and society have been the subject of systematic research since the end of the 19th century, and conceptions of space have mattered from the very beginning. Based on studies of how different interpretations and enforcements of laws developed in the Southern Slavian areas of the Austrian–Hungarian Empire, Eugene Ehrlich endeavoured in 1913 to build a theory of legal sociology<sup>3</sup> (Stjernquist & Widerberg 1989). Geography mattered in Ehrlich’s early studies of law and society, and geography matters today – not only in what has been termed legal geography, but the interest in law and geography is also visible through a recent focus on space in both legal sociology and legal anthropology.<sup>4</sup>

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<sup>3</sup> *Grundlegung der Soziologie des Rechts* (Ehrlich 1913).

<sup>4</sup> At the Onati International Institute for the Sociology of Law, space has been given considerable attention, both through courses in the geography of law, and through books and articles published by the institute, such as *The*

Broadly, three different directions within law and geography studies can be distinguished (Blomley 1994b). First, there is an older tradition of writing which can be placed within regional geography, i.e. how space affects law. Here, the regional diversity of law is studied. This tradition can be traced as far back as the 16th century when the jurist Jean Bodin sought a systematic appraisal of law and legislation in terms of regionalisation. Another important contribution within this tradition is the *Formative Influences of Legal Development* (Kocourek & Wigmore 1918), which includes papers by geographers and sociologists dealing with the importance of natural environment in explaining regional differences in legal development. Second, a more recent literature takes up a reverse, and systematic, approach to law and geography, i.e. impact analysis – how does law affect space? Here, law is studied as a modifying factor to space, and authorities' power to change physical and social environments, and people's perceptions of these environments, are key issues. In 1935, Derwent Whittlesey challenged the regional school in an influential article which explored 'The impress of effective central authority upon the landscape' (Whittlesey 1935). Whittlesey's work prefigured more contemporary debates; there were for example studies in the 1980s that aimed to track the impacts of certain laws on spatial structures, and these analyses tended to treat space as a realm upon which law as an external instrument impacts (Blomley 1994b). Both regional and impact analysis have been criticised for assuming an analytical separation of law, space and society (e.g. Blomley & Bakan 1992; Blomley 1994b).

Both approaches treat law and space as two separate realms, where each realm affects the other. How law and space interrelate, however, seems to be disregarded. This critique has paved the way for a third approach, which seeks to explore the interrelationships between law, space and society. This branch of studies, which the present study draws upon and which this chapter addresses, has been termed 'legal geography' and it investigates the complicated, overlapping and contextually established worlds when it comes to supposedly determinate and stable representations of space, which, for example, often are found in law. Henri Lefebvre (1991) distinguishes between what he terms 'representations of space' and 'spaces of representation', and reminds us that there is a risk that we buy into the claim that formal

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*Geography of Law – Landscape, Identity and Regulation* (Taylor 2006). The book is a collection of essays written by sociologists, landscape architects, geographers, and jurists, and focuses on individual identity and autonomy in relation to law and governance. Another example of how space literally is taken seriously within the sociology of law is Issachar Rosen-Zvi's book *Taking Space Seriously* (Rosen-Zvi 2004). From an anthropological perspective, Franz and Keebet von Benda-Beckmann, amongst others, have broached space (and time) in the law and anthropology discourse (Benda-Beckmann & Benda-Beckmann 1991; Benda-Beckmann 1999; 2001; Benda-Beckmann et al. 2009).



representations of space are objective, and hence miss their implication in social practice and lived experiences (Blomley 1994b). I will return to Lefebvre's work towards the end of this chapter, but at this point I will note that, in common with Lefebvre, many legal geographers also challenge the dominance of formalised representations of space.

In line with what Blomley has argued, the first sentence in Jane Holder and Carolyn Harrison's anthology *Law and Geography*, published in 2003, reads '[c]ontext is everything' (Holder & Harrison 2003b). In the book, which is one of the outcomes of what probably was the first formal colloquium on law and geography, Holder and Harrison argue that law only can be understood by reference to its place in, and relationship to, social, political, economic, and ecological systems, and further that 'This conjures up a powerful challenge to approaches to law which idealize law's separateness, rationality, and reflexivity, and which portray law as deaf to material, physical, spatial, and cultural influences' (Holder & Harrison 2003a, 3). Furthermore, in the introductory chapter, the editors argue that the chapters in the book identify how law and geography bear upon each other, and the taken-for-granted distinctions between the social and the material, the human and the non-human, are challenged. This is also representative of the body of literature on legal geography that has been growing over the last two decades.

From the mid-1980s to the early 1990s articles on law and geography gradually appeared in journals (e.g. Blacksell et al. 1986; Blomley & Clark 1990; Pue 1990; Blomley & Bakan 1992). Some of these articles were published in the journal *Urban Geography*, which from 1990 onwards included a number of critical articles in the field. In *New Models of Geography* (1989), Gordon Clark wrote on 'The geography of law' as a new field of interest in future studies in Geography, and in 1994 the definition 'Law, Geography of' (Blomley 1994a) appeared for the first time in *The Dictionary of Human Geography*. Blomley, who wrote this entry, was to become a key contributor to the legal geography field. His book *Law, Space and the Geographies of Power* (1994b) is the first book that entirely and systematically deals with legal geography, and in it he explores the political significance of the relationship between law and geography.

In the mid-1990s the field of study thus began to take shape as an academic sub-field. In 1996, *Stanford Law Review* published a special issue on legal geography, and in 2000, a special issue of the annual journal *Historical Geography* was devoted to 'Geography, Law and Legal Geographies'. Guest Editor Benjamin Forest defined himself as a legal geographer in his introductory article 'Placing the law in geography' (Forest 2000). Legal geography was further situated as an academic field when Blomley, together with other key scholars, edited

*The Legal Geographies Reader* in 2001 (Blomley et al. 2001). This is an anthology of articles, the majority of which had been published in different journals during the 1990s. In 2003, the same year as Holder and Harrison's anthology was published, the Amherst Series in Law, Jurisprudence and Social Thought presented the book *The Place of Law* (Sarat et al. 2003).

In recent years there has been a growing interest in legal geography among landscape geographers in Northern Europe, especially in the Nordic countries. The most prominent scholar in this respect has been Michael Jones, who together with Tiina Peil edited the book *Landscape, Law and Justice*, published in 2005 (Peil & Jones 2005). The book contains 31 papers dealing with different aspects of law and landscape relations. The papers are based on presentations held at a conference titled 'Landscape, Law and Justice', arranged by an international research group with the same name, and held at the Norwegian Academy of Science and Letters in 2003. Jones has resumed his work on legal geography almost thirty years after he, as certainly one of the first, introduced the term 'legal geography' in an unpublished lecture in 1973 (Jones 2005).<sup>5</sup> Jones was also the editor of a special issue of *Norsk Geografisk Tidsskrift–Norwegian Journal of Geography* in 2006, titled *Essays in Landscape, Law and Justice*, and this publication marked the formal conclusion of the work of the research group.<sup>6</sup> The interest in law and landscape is also represented in a theme issue of *Landscape Research* from 2005, *Landscape, Justice, Morality and the Law of the Land*, edited by Kenneth R. Olwig. In addition to the literature mentioned above, a range of independent articles on issues related to legal geography has been published in different scientific journals.<sup>7</sup>

As aforementioned, property has been at the centre of attention in conversations between geography and law. In these conversations a key element has been to 'refuse to take either the letter of law or the boundaries it inscribes as self-evident configurations of justice or space' (Whatmore 2007, 86). The remainder of this chapter will be devoted to property.

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<sup>5</sup> Michael Jones published his first journal article dealing with the two-way interaction between land legislation and spatial patterns in 1970 (Jones 1970).

<sup>6</sup> For a thorough presentation of the discussions in the *Landscape, Law and Justice* research group, see Jones' editorial introduction to the special issue of *Norsk Geografisk Tidsskrift–Norwegian Journal of Geography* in 2006 (Jones 2006).

<sup>7</sup> It should be mentioned that law and geography issues to a certain extent also have been treated in what can broadly be termed 'development studies'. To address this is, however, beyond the scope of the present thesis.

## 2.2 The liberal ownership model and its critics

Property, and the ways property work, often seem to be taken for granted. Yet, property ‘plays a profound role in mediating how people can engage land, with fundamental material implications’ (Brown 2007b, 508), and it delineates access and control of particular spaces, and thus, the (re)production of those spaces (Blomley 2005b). In consequence,

The meaning of property is not constant. The actual institution, and the way people see it, and hence the meaning they give to the word, all change over time. ... The changes are related to changes in the purposes which society or the dominant classes in society expect the institution of property to serve. When these expectations change, property becomes a controversial subject: there is not only argument about what property ought to be, there is also dispute about what it is. (Macpherson 1978, 1)

The way people understand and add meaning to property not only changes over time, it also changes through space. Hence, what property really *is*, and what it actually means to *own* property, are questions one may expect a variety of answers to, depending on when, to whom, and in what context the questions are raised.

Minogue (1980, 10) describes property as an iceberg, and claims that property is ‘more complicated than it looks, as much of its significance is submerged’. On the surface, i.e. the top of the iceberg, the idea of property seems fairly straightforward: materialised through land, demarcated by boundaries, regulated by a legal apparatus, and recognised through individual forms of ownership. However, the largest part of an iceberg is underneath the surface: the invisible social structures on which boundaries, the legal apparatus and individual property rights rest. When studying literature, policy documents and everyday practices, different ways of understanding property can be observed – from focusing only on the top of the iceberg, to centring the attention only on the hidden part, to attempts to view the structure as a whole. Along this continuum, understandings of property have been extracted and explored by a number of scholars representing the humanities, and social and legal sciences (e.g. Macpherson 1978; Waldron 1988; Ellickson 1993; Christman 1994; Rose 1994; Geisler & Daneker 2000; Singer 2000b; Freyfogle 2003; Blomley 2004b).

The different ways property ownership is looked upon, in terms of what privileges, rights and duties property ownership entails may be termed *ownership models* (cf. Christman 1994; Rose 1994; Singer 2000a; 2006; Blomley 2004c). Decisions taken over property, whether they are political decisions or individual decisions in peoples’ everyday lives, can

have major material and social impacts. Hence, understanding the nature of different ownership models and how they are, or might be, applied in society is crucial for analysing and explaining a range of spatial matters and developments. Through history and space different ownership models can be found, e.g. state-owned land in communist countries, commons,crofting systems, feudalism, and various constructions for maintaining indigenous people's rights within a liberal ownership model found in most Western countries. The liberal ownership model – often referred to as *the* ownership model due to its dominant position – is at the centre of attention in this study.

When looking at maps drawn of the countryside in any Western country, it is apparent that the whole area is almost exclusively covered by properties, neatly fixed by boundaries. Furthermore, when looking at databases with attributes attached to this grid of properties, it can be seen that each property has specific individual owners, that they have a calculated and absolute area, and that there is information about which legal documents define and delineate rights connected to a given property, and further, it might also be possible to see or gain an impression of the economic value of the property in question and its resources. It is implied that the owner holds all power over the property, including the use of land, the right to exclude or include others' access to the property, and the power to transfer title and gain economic profit from the resources (Singer 2000a). According to Blomley, this way of seeing property assumes

a unitary, solitary, and identifiable owner, separated from others by boundaries that protect him or her from non-owners and grant the owner the power to exclude. The actions of the owner are imagined as self-regarding: they concern only him or her and the things owned. (Blomley 2004c, 2)

Consequently, when ownership rights are limited, as they sometimes are in terms of, for example, protecting the environment, preserving agricultural landscapes, controlling urban development or prohibiting discrimination, 'we imagine those limits to be exceptions to the general rule that owners can do whatever they want with their property' (Singer 2000a, 3). And as Blomley holds: 'The rights of the private owner are [thus] seen as legitimately trumping those of the collective, and are deemed both anterior and superior' (Blomley 2004c, 4). Sharp distinctions are thus drawn between the public and the private sphere (Varley 2002; Mitchell 2003; Blomley 2005a). The cultural and legal reinforcement of the importance of private landownership has even been termed an 'idolatry of land' (Poindexter 2003). Property

rights and government regulations are thus seen as opposites, and defenders of this liberal and, in the Western world, dominant ownership model argue that it promotes individual liberty, political stability and economic prosperity. This way of seeing property has been embraced by a number of academic scholars, including Newman (1972) writing on social control and crime prevention and de Soto (2000) writing on poverty prevention in developing countries. The liberal ownership model dominates political as well as economic discourses, and thus permeates most legal systems in the Western world and remains a determinate force in developing property law (Singer 1996; Blomley 2004c).

However, it can be argued that a more complicated picture exists than maps and their attributes are able to communicate. Despite the dominance of the liberal ownership model, a wide range of recent studies of property – across disciplines – have criticised the model for overlooking the indeterminacy and situatedness of private property (e.g. Christman 1994; Rose 1994; Singer 2000a; Freyfogle 2003; Jackson & Wightman 2003; Blomley 2004c; Brown 2007b). Already early last century, Cohen (1927, 11) aptly pointed out that property ‘denotes not material things but certain rights’, and further that ‘we must recognize that a property right is a relation not between the owner and a thing, but between the owner and other individuals in reference to things. A right is always against one or more individuals’. This notion is pursued by Singer (2000a, 6), who states that the ‘recognition and exercise of property rights affects the interests of others, including owners and nonowners. When we recognize that this is so, it becomes much harder to define what ownership means’.

In his study of urban property relations in Vancouver, Blomley (2002; 2004a; 2004b; 2005a) concludes that property appears in more heterogeneous, hybrid and contextually defined ways than the liberal ownership model, and hence law, acknowledges. Considering that relations between the owner and the things owned are dependent on relations between the owner and other persons, questions concerning morality and normative behaviour arise. Brown (2007b) conceptualises property relations within the entanglements of morality, materiality and property. Based on an investigation of common grazings in Scotland, she demonstrates the significance of moral assumptions about how rural land ought to be used when property rights are negotiated. Real property is managed by ‘real’ people, and stewardship thus depends on owners’ normative standards and dialogues about moral spaces (Gray & Symes 1981; Gray & Gray 2008). As the present thesis demonstrates, and especially accounted for in the three articles and in Chapter 6, the liberal ownership model is also inadequate for forming the basis of legal instruments aiming at changing owners’ behaviour relating to Norwegian smallholdings.

Despite its critics, the degree to which scholars have suggested concrete and defined models to replace the dominant ownership model is limited. Models and maps are never equal to reality, and hence it is perhaps more important to understand their limitations and degree of usefulness (or lack of it) than necessarily trying to find new models and maps which fit better. For example, Jackson and Wightman (2003) have developed an alternative to the liberal ownership model, which they term 'the contextual interests model', reflecting flexibility in property relations based on reciprocity. However, 'the contextual interests model can be seen, perhaps has to be seen, as a focus on exceptions and limits to absolute ownership rather than as an offer of a commensurable competing paradigm' (Jackson & Wightman 2003, 59). Researchers concerned with environmental perspectives on property law have suggested similar diversified and 'hybrid' property regimes based on sustainability principles (e.g. Cole 2002; Rodgers 2003). From a philosophical perspective, and of particular interest within the context of this thesis, an alternative model of ownership was developed by Christman (1994), arguing 'towards an egalitarian theory of ownership'. In conformity with the critique addressed above, Christman (1994, 23) suggests that 'ownership is essentially a relation among variables which find different extensions in different contexts', and that property is, indeed, social. Christman's main contention is to make a clear distinction between 'control rights' and 'income rights'. The right to use, control and possess resources for one's own purposes should be strictly separated – juridically, politically and socially – from the questions of what one should be allowed to transfer, rent or share for the sake of gaining income. As will be demonstrated in Chapter 8, this distinction is recognisable in assessments that owners of Norwegian smallholdings make about their properties and their relations to them.

### **2.3 Enacting property**

The way property rights are (re)claimed and decisions over property are made, carried out, and justified, is referred to as the *enactment* of property, which Blomley (2004c, 22) suggests 'entails various forms of continuing persuasive practice designed to legislate what property actually is and what it ought to be'. *Just* decisions and *justified* behaviour might be understood and practised differently in a legal context than in an everyday life context. As stated above, property is not static and pre-given, it depends on continual 'doing' (Rose 1994), yet according to Blomley (2004c, 28) the liberal ownership model 'denies the ongoing enactments that sustain property'. This point has been well taken by legal geographers, and it informs a recent analytical trend in social sciences which sees space in terms of activity,

practice and performance rather than static, pre-given structures (e.g. Gregson & Rose 2000; Szerszynski et al. 2003; Edensor 2006). However, it has been noted that legal geographers have paid too little attention ‘to the “things”, constituted as stable entities, exploitable resources and transactable goods’ (Whatmore 2007, 86), and that material objects shape people’s performances just as much as performances shape the material and/or transactable (Strathern 1999). The trend of seeing space in terms of practice and activity has been referred to as a ‘performative turn’ in social sciences (Szerszynski et al. 2003). Gregson and Rose (2000, 434) suggest that the motivation for this turn seems ‘to be that to see social identities as performed is to imply that identities are in some sense constructed in and through social action, rather than existing anterior to social processes’. This is in line with post-structuralist, anti-essentialist thinking where meaning and identity are effects rather than causes (Harrison 2006). Gregson and Rose (2000, 434) further argue that space also has to be ‘thought of as brought into being through performance and as a performative articulation of power’. They also insist on the complexity and uncertainty of performed spaces.

One aspect that Lefebvre (1991) has highlighted, which is vital in the production of spaces of property, is the degree of (un)consciousness in people’s social practices and everyday life. Scholars have distinguished between performance, i.e. what individual subjects deliberately say and do, and performativity, i.e. customary practices which situate and reproduce discourses (Butler 1993; Gregson & Rose 2000; Thrift & Dewsbury 2000; Edensor 2006). Whilst the former are reflexive and self-conscious processes, the latter are unreflexive and habitual. It is argued that these two principles are intrinsically connected (Gregson & Rose 2000) and that distinguishing between the two is ‘unfortunate’ (Edensor 2006). Edensor argues that performance should be ‘understood as both deliberately devised and habitual’, and that ‘this should be grasped as an interweaving of conscious and unaware modalities, part of the flow of ongoing existence’ (2006, 485).

Viewing society in terms of performance, practice and enactment challenges taken-for-granted assumptions and understandings about more or less static structures in a variety of research fields, including theories of property and property ownership. Taken-for-granted assumptions need to be questioned by asking precisely who is making claims over space, how claims are maintained and justified, and on what grounds (Mitchell 2003). Behaviour, Lewin (1936) suggested, is a function of the person and his or her environment, and recent studies have shown that people tend to behave and act in accordance with the normative standards of their local environments: ‘Everyday habitual performances are constituted by ... practical, embodied codes which guide what to do in particular settings. ... [T]hey help to achieve a

working consensus about what are appropriate and inappropriate enactments ... which consolidate ways of inhabiting the rural' (Edensor 2006, 493); Setten (2004) argues that farmers often measure their interactions with the environment against local moral standards of 'appropriate behaviour'; and Burton et al. (2008) draw on Bourdieu's notions of cultural, economic and symbolic capital, and explore farmers' cultural resistance to voluntary agri-environmental schemes, arguing that farmers' decisions are driven just as much by cultural and social motives as by economic ones. Similar conclusions are found in a number of other studies from the rural realm, particularly in agri-environmental and conservation studies (Gasson 1973; Finch & Mason 2000; Goodale & Sky 2001; Busck 2002; Higgins & Lockie 2002). Common to most of these qualitative studies of how things are actually 'done' is that motivations and decisions, in addition to being influenced by legal regulations, rely on some kind of moral assumptions of what is 'good' and what is 'bad' behaviour in relation to their immediate surroundings or, in Lewin's terms, their environment. This is in line with Brown's (2006; 2007a; 2007b) findings in her study of property enactment among crofters in rural Scotland. Brown (2007b, 509) claims that 'property relations encompass deeds and titles, commodities and benefit streams, as well as moral notions of entitlements', and that these three elements are dynamically entwined when properties become enacted. She further argues that property enactment is 'often a site of contestation and struggle incorporating a multiplicity of overlapping and sometimes contradictory claims' (Brown 2007b, 512). Claims can be raised by property owners, or other stakeholders who implicitly or explicitly share interests in a given property, and claims can be formally as well as informally justified. Within these contestations and struggles, property is (re)produced and maintained. This is demonstrated in Article 1, where it is argued that there is a strong concept of family property in rural Norway, and many owners enact their properties on behalf of a transgenerational family.

When investigating the 'realities of property', Blomley (2004c, 14) argues that legal arrangements offer 'determinacy and order in a disordered and ambiguous world', and that the way the liberal ownership model seems to 'settle' property relations often stands in contrast to the 'unsettled nature of property'. By calling his book *Unsettling the City*, Blomley (2004c) questions the settlements of property which the dominating property regime upholds, and thus draws the attention to a struggle between 'legal' forces that seek to *settle* property relations, and forces based on custom and practice that seek to *unsettle* property relations. In operationalising these ideas, however, the picture might be somewhat more complicated, and



Blomley, although explicitly delimiting his study to the urban realm, perhaps makes property more open to change than it really is (cf. Brown 2007b):

[W]hilst the rural is an assemblage of differently connected and constituted spaces, attempts to fix the identity of space, place and rural subjectivities through performance by different groups testify to the desire for fixity and certitude in conditions of continual social and cultural flux. For it is especially the rural realm which is assigned significance as that which remains the same in a changing world, and repetitive performances may reassuringly convey the illusion of stasis. (Edensor 2006, 484)

Smallholdings examined in this study were (and are) in a period of inevitable transition as rural restructuring processes have caused farming activities to cease (as will be further accounted for in Chapter 4). Property relations thus need to be resettled, legally and socially, and this is what has happened during recent decades. Owners have gradually been forced to find new uses for their properties, and legal amendments have been passed entailing that such properties are not agricultural properties in a *legal* sense any more. Following Mitchell (2003), who questions precisely how claims to land are made and asserted, there is a need to address resettlings of Norwegian smallholdings within the interconnections of deliberate and habitual enactments. In the following chapters, I will show how ownership models applied by property owners entail both deliberate and habitual enactments, but that the transition processes these smallholdings undergo cause owners to an increasing degree to deliberately settle existing property relations.

Hardin's (1968) influential and widely accepted essay *The Tragedy of the Commons* considered how people tended to overuse shared natural resources. The solution, Hardin argued, is either that the group should have imposed constraints on itself through mutual agreements or the commons should have been divided into private shares with individual owners assigned to each share. Hardin's analysis has gained wide ideological appeal among those who favour the liberal ownership model and defend strong individual property rights, but 'readers have seized upon his conclusion without pausing to check how well it fits with observable facts' (Freyfogle 2003, 161). Blomley (2005b, 127) similarly invites geographers to take property seriously, not only by examining the effects and workings of the dominant liberal ownership model, but also by drawing the attention to the 'much more interesting and complicated realities of property'. The three articles presented in Part II of this thesis elaborate on how the present study meets this invitation; through investigations of what

Freyfogle terms ‘observable facts’ and the way properties become enacted through everyday life and practice. In Part III, the findings from the articles will be discussed as a whole, and I will relate this discussion to a wider debate regarding space, and spaces of property in particular. In the next section, I will therefore develop a framework for exploring rural property and for investigating how ownership is looked at by different actors at different stages in relation to the (re)production and revalorisation of Norwegian smallholdings. I will use Lefebvre’s (1991) conceptual triad of spatiality to develop a three-fold model of the spaces of property, wherein notions of properties as material objects, formal representations, and lived life are embraced.

## **2.4 Developing a spatial triad of property**

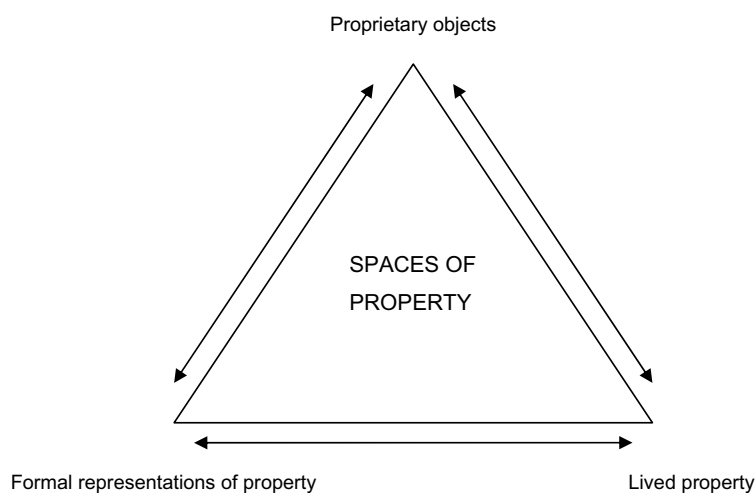
Lefebvre’s (1991) model of space has been outlined, developed and used in a number of studies, and one of its core elements is that it transcends the dualism of the conceived and abstract versus the perceived and concrete to incorporate everyday life as a third dimension (Elden 2004; Halfacree 2007). The significance of treating space as socially produced is clearly advocated in Lefebvre’s notions of space. Lefebvre proposed that production of space is premised on three complementary levels, which bring together and unify the various fields of space, whether physical, mental or social (Peet 1998). The three levels in this unitary theory of space are spatial practice (perceived), representations of space (conceived) and spaces of representation (lived).

First, *spatial practice* embraces actions which produce particular locations in terms of both material expressions of performances and societal reproduction. They are associated with how the material, the physical nature – ‘the real’ – is *perceived*, and they ensure continuity and some degree of cohesion for social formations and guarantee a level of competence and performance to people as actors. Second, *representations of space* are abstract conceptions of space as *conceived* and articulated by planners, politicians, academics, artists, and media. They are based on a mixture of understanding and ideology, and are always relative and changing. These images can be powerful and influential on how we conceive space. Third, *spaces of representation* refers to space as directly *lived*, i.e. inhabitants and user’s everyday lives. They embody complex symbolisms which are sometimes coded and sometimes not. They are rooted in the history of a people and are essentially qualitative, fluid and dynamic (Lefebvre 1991; Peet 1998; Halfacree 2006).

Merrifield (2000, 175) argues that Lefebvre’s conceptual triad of spatiality always must be ‘*embodied* with actual flesh and blood and culture, with real relationships and events’

(Merrifield's emphasis), and Lefebvre (1991, 40) himself noted the importance of operationalising his conceptual triad as it 'loses all its force if it is treated as an abstract "model". If it cannot grasp the concrete ..., then its import is severely limited, amounting to no more than that of one ideological mediation among others'. The present study endeavours to 'embody' Lefebvre's conceptual triad with flesh, blood and culture in terms of adopting the triad to analyse how spaces of property are constructed, maintained and controlled. Lefebvre's distinction between representations of space and spaces of representation ties in with legal geographers' critique of the hegemonic liberal ownership model accounted for in Chapter 4. For Lefebvre, modern history of Western society involves a dominance of (formalised) representations of space, and he argues that there is a risk that such formal representations are considered objective and real.

Property and, in the present study, smallholdings can be seen as (re)constructed in the intertwining of property as a physical site shaped by spatial practice – a perceived proprietary object; property as abstract representations of space – as conceived (formal) representations; and property as spaces of representation – as lived experiences and social relations. On the basis of these reflections, I have developed a 'spatial triad of property' (Figure 3).



**Figure 3: Spaces of property**

1. *Proprietary objects* refer to the land owned, which is shaped by social practice. The object of property is closely related to the other two corners of the triangle: 'with the rise of private

ownership of the land came the need to divide it up in accordance with abstract principles that would govern both property lines and the status of property holders' (Lefebvre 1991, 243). Recent rural restructuring processes have altered social practices in rural Norway. Accordingly, the proprietary objects that are Norwegian smallholdings can also be expected to have changed significantly, i.e. the physical landscape which changes as a result of new functions and new social practices.

2. *Formal representations of property* are the abstract and conceptualised spaces of property used in property law, by lawyers, planners and politicians, 'all of whom identifies what is lived and what is perceived with what is conceived' (Lefebvre 1991, 38). The formal representations of property are the most significant element in the liberal ownership model, and spaces of property are considered as demarcated and fixed quantitative entities. This space tends to dominate other spaces of property, which is aptly demonstrated by, for example, the often imperative role of maps and land registers.
3. *Lived property* refers to the everyday life of property owners: 'space as directly *lived* through its associated images and symbols, and hence the space of "inhabitants" and users' (Lefebvre 1991, 39). Lived property is inseparable from the social relations at play in local settings; it tends to be dominated by the abstract and imagined spaces of property and 'it overlays physical space, making symbolic use of its objects' (Lefebvre 1991, 39). The three articles in present study highlight the emotional aspects of property ownership as vital elements in the everyday life of property owners.

This three-fold model attempts to join the concrete, the abstract and the lived property. One of the strengths that this model inherits from Lefebvre's conceptual triad is that it provides a framework for analysing how spaces of property are produced simultaneously at micro- and macro-level; spaces of property are produced through local everyday life and enactions, yet interlinked nationally and globally. The spatial practices which produce distinct proprietary objects rely on the one hand on formal representations situated in a macro level of policy, trade and production, and on the other hand, on a micro-level of lived experiences. The latter implies what Lefebvre terms 'appropriation', which 'itself implies time (or times), rhythm (or rhythms), symbols, and a practice' (Lefebvre 1991, 356–357).

The 'spaces of property' model (Figure 3) is similar to the model developed in Article 2 ('Conceptualising home', Figure 5). Figure 5 is based on my own empirical findings, but it also incorporates what Blunt (2005) describes as three main theoretical trends in recent studies within geographies of home. Figure 3, however, is solely based on Lefebvre's existing theories, and used as a framework for discussion. The main common feature is that the models

highlight the importance of the 'lived' and 'experienced' in the constitution of home and property, respectively.

My contention that spaces of property are (persistently) (re)produced within the intrinsic interrelationships between material objects, formal representations and lived life ties in with several other contributors who also highlight these relationships in the (re)productions of property (e.g. Strathern 1999; Brown 2007b; Whatmore 2007). The empirical focus in the present study is the importance of social relations and the lived experiences of property owners, which tend to be disregarded by the dominant liberal ownership model. It also appears that on Norwegian smallholdings formal representations of property do not dominate the social relations of property to the same degree that might have been expected. This will be further elaborated in Parts II and III, but before that, I will in the next chapter present and reflect on methodological aspects of the study.



### **3. Researching Property Enactment**

The personal account which opened this thesis is of great importance for the nature of this PhD project. The parallels between the stories my informants have told and my own story did not come as a surprise. There are pros and cons of being so ‘close’ to my informants and this type of relationship will, no matter what, influence the research process. Therefore, I will devote the first section of this chapter to reflect on the relationships between the researcher and the researched. Subsequently, I will only briefly present the research design for the project, as the research design is also accounted for in all three articles. Then, two sections will follow addressing two main methodological themes central for the study: institutional ethnography and visual methodologies.

#### **3.1 Reflexivity**

I am a researcher. I am a (relatively) young man. I live in the city. I am interested in music and outdoor sports. I have high education. I have a distinct dialect. I grew up on a small farm. All this is me, everything is true, and all these characteristics had, in one way or another, significant importance prior to and during the interviews, as well as in the process of interpreting and analysing the interview material. Which roles the different positions played in the interviews depended on how I and my informants positioned us in relation to each other.

Reflexivity is about seeing the researcher’s role in a research process and how the values and thoughts of the researcher are represented in the process. It can be argued that qualitative interviews are always biased since meaning is shaped by and appears in certain contexts. All interpretations, whether made during interviews or during analytical processes, are preceded by certain expectations and preconceived ideas (Widerberg 2001). Reflexivity thus refers to the awareness of reciprocal processes between the researcher and the researched by which knowledge and understanding are developed and shaped. Scholars have argued that researchers should more explicitly recognise and take account of their own positions (e.g. McDowell 1992), whilst others, such as Rose (1997), argue that reflexive research is important, but that a full understanding of the researcher, the researched and the research context is impossible. Notwithstanding, to reflect on the relationship between the researcher and the researched, as well as the research context, is important both for researchers and readers.

For the reader of the present thesis it is important to note that my own background and the emotions this background entails, have in various ways affected the research process.

When I presented myself to the interviewees, I was consistent about presenting my background as both a researcher *and* as coming from a small farm, and this ‘openness’ seemed to be appreciated by all interviewees. Before I started conducting interviews I was well aware of different positions I could take depending on how the interviews developed. The relationship between me as an ‘objective’ researcher and as strongly attached to the smallholding I grew up on turned out (not very surprisingly) to be most conspicuous when reflexively examining my positionality. One important aspect of qualitative research is to empathise with the informants (Thagaard 2009). The emotions I have in relation to my home place are very similar to the emotional ties expressed by the informants, and hence, it has been easy for me to empathise with my informants and therefore understand the emotional challenges and dilemmas many of them faced in their property enactment. My ability to easily identify with informants’ emotions due to my personal background strengthened the rapport between me and my informants and it helped in reflecting on the meaning of their utterances.

Widdowfield (2000) has examined the ‘place of emotions in academic research’ (see also Bondi 2005). Widdowfield argues that despite an increased focus on reflexivity in qualitative research, examinations of how researchers’ emotions affect research processes have been rare. She further points out that

not only can emotions affect the research process in terms of what is studied or not studied, by whom and in what way, but they may also influence researchers interpretations and ‘readings’ of a situation. (Widdowfield 2000, 199)

An examination of my own positions in this PhD project has demonstrated how emotions may play significant parts in both shaping a research project and interpreting and analysing empirical material. I have already mentioned some of the positive sides of being emotionally involved in the research issues, but there are also some drawbacks one should be aware of. Since many of the informants appeared to be in a quite similar situation as myself in terms of having grown up on a smallholding, it might easily be assumed that they also had more or less the same thoughts, attitudes and relations connected to their respective properties. However, this was not necessarily the case, so I had to concentrate on not interpreting the informants’ statements into my own preconceived picture, but rather let the informants draw their own pictures of their relationship with their property. To avoid this potential trap I chose to use institutional ethnography and visual methods as the main methodological tools. These approaches will be accounted for later in this chapter.



Although I will argue that my emotions, whether consciously or unconsciously, have played a significant role in the research process, I have not found it easy to act in accordance with McDowell (1992, 409), who argues that we should ‘write this [our positioning] into our research practice’. Rose (1997) argues that transparent kinds of reflexivity cannot fully articulate the uncertainties and complexities attended with the self and the context, and my experiences from the present study support Rose’s argumentation. I think it would be naïve of me to believe I could provide a complete picture of the research context and also how the context has been influenced by my personal thoughts and experiences. Furthermore, if I tried to do so, I would probably exaggerate some issues and most likely fail to notice other more ‘hidden’ aspects, and thus, a supposed transparent reflexivity might in fact reinforce the bias of the research process. However, for me, awareness of these issues has been a matter of great importance, both in terms of self-awareness when interpreting and analysing the empirical material and in terms of letting the reader be aware of my background that may have influenced the research process. I will now continue the methodology chapter by accounting for what I have done, why, and how.

### **3.2 A two-phase research design**

To investigate the relationships between legal arrangements and property enactment on Norwegian smallholdings, and key factors in property owners’ decision-making, a two-phased research design was chosen. The first phase consisted of a postal survey among owners and former owners of smallholdings whereas the second phase consisted of qualitative interviewing.

The postal survey was carried out among owners and former owners of smallholdings affected by the recent amendments of the area limit prescribed in the Concession Act. I chose to study properties in four local authority districts which varied in terms of geographic location, attractiveness to tourism, landscape characteristics, and labour market. One local authority district is located by the coast in the northern part of the country, one by a fjord in the western part, and two in south-eastern Norway, where one is quite close to Oslo. All four local authority districts are relatively small; they have a limited number of agricultural properties in this particular area category and consequently few transactions. Therefore, identifying the local authority districts made it fairly easy to identify potential informants.

Staff at Statistisk sentralbyrå (Statistics Norway) helped me to compile statistics on a local authority district level, including size, use and transactions of agricultural properties, and I then used these statistics to select 148 former owners (Group A) and 150 current owners

(Group B) to receive a questionnaire. Respondents in Group A had sold their properties between 2001 and 2006. The postal survey was first and foremost carried out in order to provide initial and basic information about property management and history, land use and reasons for decisions taken. Article 1 draws on some of the quantitative data in the analysis of the relations between property and kinship, but beyond that, data from the postal survey were limited to providing background information for planning and carrying out the qualitative interviews. The response rate in the survey was 55%, and there were equal numbers of responses from Groups A and B.

The final question in the survey was an invitation to participate in an interview. Initially, I expected 20–25 interviews to be sufficient for carrying out the study. My aim was to have minimum 50 persons to choose from when deciding who to interview. I calculated a response rate of approximately 50% for the postal survey, and that about one-third of those who responded would agree to participate in interviews. Therefore, 298 respondents were chosen for the postal survey, divided among the four local authority districts. (The original number of respondents was 300, but two respondents were not reached by mail, so the final number was 298.) My calculations proved quite accurate, as 53 respondents in the postal survey agreed to participate in interviews. Of these, 25 persons were purposely chosen, but four of them withdrew from the study for various reasons. Thus, 21 persons were interviewed: 20 interviews were carried out in person and one interview was conducted by telephone. Based on information from the postal survey, the interviewees were chosen to represent variety in terms of age, gender, location, level of use of their property, and ‘family roots’ in their property. Interviewees chosen from Group A had recently sold their property and those chosen from Group B had all reported in the postal survey that at one point they had considered selling but had decided not to. Thus, all interviewees had actively considered the future of their property and deliberately acted upon their decisions. To preserve anonymity, the interviewees have been given pseudonyms, which are used consistently throughout the thesis.

The selection of informants in this study was quite complex. There were, for example, two steps of self-selection before I made the final selection of 21 persons to be interviewed: those who responded to the postal survey and those who agreed to participate in interviews. Self-selection may affect the results of research projects, including the present one. Nevertheless, my main aim in the selection process was to obtain a variety of narratives from owners and former owners of Norwegian smallholdings. Even though it would have been interesting, I have not compared different groups in terms of, for example, age, gender or

geographical location. The reason for choosing local authority districts and informants with different characteristics was to illuminate the core of the project (property enactment on Norwegian smallholdings) from as many different angles as possible. Hopefully, the self-selection processes in the present study have not had any major influences on the results. This is supported by the fact that I did not find any obvious differentiating characteristics between those who agreed to participate in interviews and those who did not.

The interviews were transcribed, indexed and systematised using qualitative data analysis software, and in the analysis process interpretative indexing categories were generated from the data, i.e. the categories were not predetermined. Based on the indexed transcriptions, the analysis of the qualitative interviews was carried out as a content analysis. This ties in with an institutional ethnographic approach where, as will be seen, the aim is to identify key factors – or ‘ruling relations’ (Smith 2005) – in interviewees’ everyday lives. The indexing was not designed to accompany the logic of variable analysis, so the use of qualitative data analysis software was limited to *structuring* data. Many different software packages are available on the market and many of these have functionality also for *analysing* qualitative material. However, in my opinion, there is an imminent risk that researchers rely on computers to perform their analysis, and as a result quantify unquantifiable data. Therefore, I consider that, dependent on the type of data material, the use of qualitative software packages should mainly be limited to organising and indexing purposes.

As noted, the interviews were based on an institutional ethnographic approach, and I included visual material in the interview process. These two methodological approaches will be accounted for in the following sections.

### **3.3 Institutional ethnography**

Institutional ethnography is an approach within a qualitative research tradition which is concerned with the social construction of reality, and explores ‘ruling relations’ – the social relations which tend to dominate people’s everyday lives. Canadian sociologist, Dorothy Smith (2005), who may be said to be the founder of this tradition, argues – as the title of her book *Institutional Ethnography: A Sociology for People* suggests – that research should be *for* people, not *about* people. The concept of ‘institutional ethnography’ was first introduced by Smith (1987) in writing a sociology for women, but since then the institutional ethnographic approach has been applied in studies within a range of subject fields, for example land-use planning (Turner 1995; 2003), health and health care (McCoy 2005; Widerberg 2006),

housing, home and homelessness (Luken & Vaughan 2003; Nichols 2008), socio-legal studies (Goodman 2008) and development studies (Perreault 2003; McNamara & Morse 2004).

Institutional ethnography takes as its entry point actual activities performed, and focuses on activities and practices rather than directly on an individual's thoughts and feelings. Research can be conducted by observing how things are done *in practice* or it can be done by interviewing people *about* their activities and performances. For the purpose of my research, the latter was the most suitable option as decisions over property are not made 'every day' and therefore are difficult to 'observe' as such. With such a focus, the relational context within which activities and performances are carried out are made visible, and the ruling relations come into sight (Widerberg 2006). The aim is not to generalise about the group of people interviewed, but to identify and analyse social processes which have generalising effects (DeVault & McCoy 2006).

In consequence, in institutional ethnography 'particular attention is addressed to the institutional or ruling discourses as these are taken up by the informants' (McCoy 2006, 118), and interviews are undertaken in order to discover ruling relations in decision-making (DeVault & McCoy 2006). Normally, institutions in this context refer to conceptual text-based systems, which are formally settled through, for example, legislation, work instructions, agreements, and descriptions. However, for the purposes of the present study I have used a wider definition of institutions: as sets of rules, formally or *informally* justified. Informally justified institutions, such as home or family, might be just as powerful as those formally justified, and I have found institutional ethnography to be a useful tool to uncover informally justified ruling relations – or key factors – in property owners' everyday lives. As addressed in several places in this thesis, the main goal was to identify and analyse motives for property owners' decision-making relating to Norwegian smallholdings and illuminate the struggles between the formal representations of property and the lived and experienced property. Therefore, in the interviews my goal was to take the perspective of the ones governed rather than the ones governing (Widerberg 1986). Hence, rather than asking my informants how particular factors affected their decision-making in relation to their property, I focused on what factors they considered *did* affect their decision-making. In order to achieve this I used an interview guide which invited interviewees to provide narratives of their properties as well as their lives. My strategy during the interviews was to detect and follow up on 'ruling institutions' in owners' property enactment:

The goal of institutional ethnography is to develop a detailed, descriptive analysis of some portion of the institutional relations that have been identified as consequential, in order to show how these institutional work processes are organized and how they shape the ground for people's everyday experiences. ... [T]he task is to glean good ethnographic understanding of the informants' lived experience and circumstances in a way that brings into view the institutional hooks and traces, identifying sites and processes for further investigation. (McCoy 2006, 123)

During the interviews it became clear that there were some informal institutions that were highly significant in governing property owners' decisions, which are accounted for in the articles. The institutional ethnographic approach was a useful methodological tool to uncover these relations.

The institutional ethnographic approach was combined with the use of visual images, and this combination was very fruitful as the visual images functioned as a starting point to gain insight into informants' perspectives on the social relations of property enactment. In the next section I will elaborate on visual methodologies, and emphasise their relevance in studies of people's everyday lives and experiences.

### **3.4 Visual methodologies**

Visual methodologies can be a useful supplement to texts and spoken language in qualitative research. As Mason (2002, 104) argues, 'the idea that everything we are interested in exists in language or text, or is expressible in those ways, and that we can explore it using words or reading text, can be argued to be a rather limited and uncreative one'. Although the use of visual methods has been a long-standing interest in social sciences (e.g. Collier & Collier 1967), there has recently been an increase in the interest in such methodologies. For example, in her book *Visual Methodologies*, Gillian Rose (2007) provides a critical introduction to the study of visual culture, and adds valuable insights to researchers who in different ways want to work with visual material.

Visual methodologies can take a range of forms, but broadly it is possible to distinguish between two ways to employ visual material: epistemological and ontological (Mason 2002). Probably most common in social science research is the epistemological approach: to apply visual material as part of the research process; in contrast, the ontological approach is used to analyse visual data sources. Similarly, as regards the use of photographs in interview situations, which is most relevant for the present study, Rose (2007) distinguishes

between *supporting* and *supplemental* ways in which the qualities attributed to photographs are put to work in a research projects. The former refers to how photos encourage dialogues which might otherwise have been difficult or impossible without them, whilst the latter refers to how visual qualities of photos display themselves in their own terms and thus act as a supplementary data source for the researcher.



**Figure 4: Example of a farm map<sup>8</sup>**  
(Source: The Norwegian Forest and Landscape Institute)

In the interviews conducted among owners and sellers of Norwegian smallholdings I used two types of visual material which together had both supporting and supplemental

<sup>8</sup> The property on this map is not related to any of the properties investigated in the present study.

functions. First, an important element in my interview strategy was that all interviewees were shown a map of their property. The map showed property boundaries and land-use categories superimposed over a geo-referenced aerial photograph (Figure 4). Figure 4 shows a standardised 'farm map' produced by the Norwegian Forest and Landscape Institute, that also shows detailed information about the size of each land-use category (e.g. forest, pasture, cultivated land) on the property. This, in turn, informs about the property's agricultural value. The aerial photograph covers the surrounding areas, which means that neighbouring farms are also visible on the map. Second, prior to the interviews, the informants were asked to find photos which they considered to be descriptive, representative, and/or typical of how they perceived their property. These photos were actively used during the interviews.

The visual material used in the interviews primarily served an epistemological function, or what Rose (2007) might term a *supporting* function. As aforementioned, an institutional ethnographic approach requires that the researcher takes the informant's perspective and that the interview is focused on activities and practices of people's everyday lives. Rapport thus becomes a major concern, and as many of the issues discussed were highly personal and emotional there were many potential difficulties in establishing good rapports. There is reason to believe that the use of photographs tempered many of these potential difficulties (cf. Collier & Collier 1986). The images invited informants to take initiative in the conversations focusing around the visual material as a common reference point. Hence, the visual material helped in establishing good rapport and a relaxing interview atmosphere. Another important element in institutional ethnographic research is to put the social ruling relations at the centre of attention rather than the informants themselves. In this respect, the visual material was invaluable as it changed the conventional one-to-one pattern of a conversation and made the interviews become a relation between the informant, the researcher and the photos and/or maps. Thus, instead of being a subject of interrogation the interviewee in fact became an *informant* and an expert *informing* the researcher about the property. The researcher and the researched explored the images *together*. I believe the visual material removed much potential tension from the conversations, and it was thus easier for me as a researcher to ask questions that were direct and concrete without inhibiting the informant (cf. Collier & Collier 1967). The visual material enabled us to talk about emotional issues which otherwise might have been difficult to broach. In addition, photographs proved valuable in terms of helping the informants to recall stories, memories and experiences, i.e. they served as a reminder of the past (Rose 2003).

Less significant in the interviews was the supplemental function of the visual material. However, the informants were asked to find photos from or related to their properties, and thus, the images literally provided good pictures of what people in various ways found important and representative of their perceptions of their properties. The photos therefore became a potential data source in addition to the recorded dialogues. However, at this stage in the research process I was not prepared to use photographs in this way, and therefore I did not record what was actually displayed on the photos and neither did I make an effort to obtain copies of the photos. Thus, when analysing my data material I was left only with the main features of the images which I was able to recall. There are roughly three categories that stand out according to their content: landscape photographs, family photographs and photographs of people working. The last category was basically old pictures of parents, grandparents or even great grandparents, but sometimes also recent photos – but then in cases where the smallholdings were maintained as second homes. This data source has to a certain extent informed the analysis, but its importance is nevertheless limited.

Combining institutional ethnography and visual methodologies has been a fruitful approach for examining the legal geographies of Norwegian smallholdings. These methods have been suitable for challenging and questioning taken-for-granted assumptions about property and ownership, which are key elements in legal geography literature.

The next chapter will elaborate on the historical and political background to Norwegian smallholdings as a property regime, and thereby it will provide a context for the three articles presented in Part II.



#### **4. Rural Restructuring and the Revalorisation of Smallholdings**

The effects of modernity and globalisation have generated profound economic, technological, cultural, and demographical changes in rural areas, and the impacts of these processes have enabled researchers to talk about ‘rural restructuring’ as different from gradual rural changes, and rural restructuring seems to preoccupy contemporary rural studies (Ilbery 1998; Woods 2005; Cloke 2006; Marsden 2006). As this chapter will demonstrate, rural change and restructuring has not only occurred recently. Rural areas and rural society, as well as other parts of society, have been, and are, continuously changing. Thus, the dichotomy often referred to between the dynamic, changing and threatening present and the stable, romanticised rural past is at best imprecise. Historically, there have been changes on a far greater and more disruptive scale than those experienced today (Woods 2005).

Almås (2004a) distinguishes ten substantial socio-economic and policy-driven changes in Norwegian agricultural history during the last century. However, contemporary rural change is, according to Woods (2005), characterised by two specific features: the pace and persistence of change, and the totality and interconnectivity of change. The technological innovations of the recent past have caused rural societies to change rapidly and globalisation interconnects rural change with global economic and social change. This chapter traces the history of Norwegian smallholdings, and seeks to place them within the context of rural and agricultural restructuring processes during the recent centuries.

##### **4.1 Three origins of Norwegian smallholdings**

By the early 20th century Norway had become a land of small farmers or peasants par excellence. In 1920 the number of smallholdings of 0.5–2 ha was *c.* 70,000, which amounted to almost 50% of the total number of farms (Gjerdåker 2002). These properties had mainly two different origins: former *husmannsplasser* (comparable to ‘crofts’) that had been bought out, and properties parcelled out from larger properties. *Bureisingsbruk* (comparable to ‘settler farms’) constitute the third origin of smallholdings investigated in this study. From about 1915 to the 1960s, roughly 20,000 new farms were established by settlers as *bureisingsbruk*, most of them smallholdings serving as a secondary income source (Randen 2002). Each smallholding’s history seems to be of major importance when their present-day owners make decisions about their properties. For this reason, in this section I will address these three different origins of Norwegian smallholdings, and examine the socio-economic,

political and legal processes leading to the extensive development of smallholdings during the second half of the 19th century and the first half of the 20th century.

First, *husmannssystemet*, or ‘crofting’, developed in Norway in the late 17th century, and the grounds on which crofters separated from other farmers or peasants were legal and economic, as well as social. In 1686 a new law prohibited the division of existing holdings that were matriculated with less than one *skippund*<sup>9</sup> in order to secure farmers’ ability to pay taxes (Lunden 2004). A result was that farmers evaded this law by handing over parts of their properties to crofters on long-term contracts, without giving them the formal title to their parcels. The concept of a Norwegian *husmann* has been classified into two principal types: *arbeidshusmann* and *byggeshusmann*. The former indicates *husmenn* as a workforce in agriculture, fairly equivalent to what in English is referred to as ‘crofter’. The latter were craftsmen leasing a small piece of farmland and were more independent, equivalent to the English ‘cotter’ (Gjerdåker 2002; Almås 2004b). Crofters managed their own small ‘farms’ and paid rent to the owners, wholly or partly in the form of labour. For the most part, the crofts were too small to provide subsistence for a family. The crofters, especially the *arbeidshusmenn*, were profoundly dependent on the farmers who owned the land, and a new lower social class developed. The number of crofters grew rapidly in the 18th and 19th centuries, and in 1801 there were almost 40,000 crofters (and about 70,000 ordinary farmers) (Lunden 2004).

In the coming years, the first steps towards a modern liberal state were taken in Norway in the wake of the enlightenment era in other parts of Europe. However, in the Constitution of 1814 crofters did not meet the criteria for voting and representative opportunities. From the mid-19th century the number of crofters decreased due to a period of recession, migration from rural to urban areas and not least emigration to North America. At the same time a growing number of crofters engaged in occupations outside farming, and the contrast between landowners, tenants, and crofters became less significant with regard to personal freedom, household economy and social esteem in the local community (Gjerdåker 2002). The 19th century had seen the establishment of social and political institutions and a growing labour movement. There was increasing reluctance on the part of the younger generations to take over their parents’ humble and unfree status, and those who did take over

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<sup>9</sup> *Skippund* is an historical measuring unit based on weight, often used in measuring agricultural production. The exact weight of one *skippund* has varied significantly through history and also regionally, but in average the weight was c. 160 kg.

eventually became more able to buy out their crofts (Gjerdåker 2004). Crofting gradually became outdated, and when the first Land Act was passed in 1928 the crofting system was formally abolished and crofters gained the legal right to buy their crofts and have them matriculated.

Second, as an alternative to the crofting system, the division of farms into smaller entities was often done in order to secure the possibility of self-sufficiency for each of the siblings. Ever since the first farms were established some 3000 to 4000 years ago, the partition of farms has been common. The rapid population growth combined with recession in the first decades of the 19th century reinforced the partition of farms. To have a small plot of land enough to feed a cow or two was extremely valuable, as economic conditions became severe. The widespread partition of farms resulted in many small properties that often were unsuited for large agricultural production, yet which were sufficient for providing, for example, a supplementary source of income for fishermen living in fjord and coastal districts. Partition of property was particularly common in the western and northern parts of the country, whilst crofts first became common in the inland south-eastern parts of Norway where the farms were generally larger.

Between 1850 and 1900 the pressure on rural areas weakened. Industrialisation and the many new employment opportunities in urban areas involved a significant migration from rural districts to towns. Additionally, only Ireland had more intensive emigration than Norway in this period, for the most part to North America. In 1917, however, the United States in effect closed their borders to European immigrants, and this, along with a new recession in urban industries, served to reinforce Norwegian agriculture. Despite the fact that the first half of the 19th century was a period of economic crisis and wars, Norwegian agriculture experienced a period of expansion (Valen-Sendstad 1964). This was mainly due to technological advances and also political and social institutionalisation in agriculture. Farm partition was still permitted and continued after the Land Act was passed in 1928. However, along with new technologies in agriculture and a focus on increased productivity and trade, the demand for structural rationalisation arose. Small (divided) properties became insufficient to meet the new demands, and in the revision of the Land Act in 1955 further farm partition became prohibited. Nevertheless, for several centuries numerous farms had been split up, resulting in a vast number of smallholdings that did not fulfil the requirements for a modern farm from the 1950s onwards.

The third origin of the studied smallholdings is the establishment of new farms on uncultivated land. This state-driven settlement process [*bureising*] started in the early 1900s

as a means to halt emigration. It also became a significant remedy for resolving the unemployment crisis in the 1920s and 1930s (Almås 2004a), not only as a result of providing labour for farming activities but also in terms of secondary effects benefiting craftsmen and other local industries. So, during the two first decades of the 20th century there was an important shift in Norwegian policy in that it moved from being relatively passive to be increasingly active as regards control and management of secondary industries and agriculture. Several policy initiatives were carried out in this period in order to support the establishment of new farms which required financial support for settlers as well as physical infrastructure such as new roads and draining systems. Governmental arrangements aimed at helping the settlers so that newly established farms could compete with the other three alternatives for many people, namely emigration, moving to a city, or poverty (Randen 2002). Loans granted by the state to settlers had favourable conditions, i.e. the repayment period did not start until five years after the loan was paid out. The state-driven settlement ceased during the 1960s and the last *bureisingsbruk* was registered in 1986. More than 19,000 new farms were established, and most of them were small. There is no doubt that the settlement period saved many people from unemployment and poverty, and it definitely influenced rural development in Norway, in terms of both demography and landscape changes. However, technological developments and the state-driven orientation towards productivity from the 1950s onwards put these properties in a very difficult position. Of the 19,000 farms, one-third ceased as independent farm holdings after one generation, one-third after two generations, and one-third were still active approximately one decade ago (Randen 2002).

#### **4.2 Norwegian smallholdings 1945–2009: new challenges for old properties**

The experiences from World War II laid the premises for a new agricultural policy (Hegrenes 2001; Almås 2004a). After the war there was a modernisation project which entailed a technological and social revolution in Norwegian society. The Labour Party started a period of 20 years in power where the main aim was to develop a welfare state based on economic growth and social democratic industrialism (Almås 2004a). In the post-war period Norwegian agricultural policy had a marked social and regional profile (Rønningen 1999), and the family farm, playing on the stability of the nuclear family, was the model for achieving increased production as well as social and regional benefits. For the primary industries this was reflected in a steady course towards productivism and structural rationalisation (e.g. Rønningen 1999; Hegrenes 2001; Almås 2004a). As a consequence, Norwegian agriculture

changed from being based on family farming, which occupied the whole family towards an activity which only generated enough income for one person (see Bjørkhaug 2007). Agricultural policies gave investment priorities to farm units likely to expand, and this policy, together with the migration to urban centres offering work opportunities in manufacturing industries and an increasing demand for income, had dramatic effects for many rural communities in the periphery. The structural rationalisation during the post-war decades was state-driven: the state wanted to reduce the total number of farms, in particular those that did not have the potential to provide a family with sufficient income. The rationalisation was also a means of releasing labour into the growing secondary industries. It may be argued that there was inconsistency in the policy. On the one hand, the agricultural policy had a social profile and aimed at securing income for the rural population. On the other hand it encouraged rationalisation which often contradicted the social profile (Rønningen 1999; Setten 2002).

During the 1950s 44,000 smallholdings disappeared, while those who chose to continue to farm their holdings changed from full-time to part-time farmers (Almås 2004a). However, due to technological development, not least the introduction of the tractor, productivity in Norwegian agriculture increased. Despite some criticism from early Norwegian rural researchers (e.g. Brox 1966), the line of structural rationalisation and productivism were to continue for several decades and resulted in a steady increase in the number of part-time farmers. Many farm families started to scale down their agricultural production and take jobs in the new manufacturing and service industries. As a consequence, leasing land to other farmers became common – a trend which is still important today.

In 1975 there was a marked shift in agricultural policy. There had been increasing unrest in rural areas over structural rationalisation and an increased gap between the income level and welfare arrangements for farmers and other social groups. After a period of strikes (e.g. the 'Hitra-aksjonen', whereby farmers in the local authority district of Hitra refused to pay taxes) and intense debates, farmers' demands for higher incomes were met by an almost unanimous Parliament in December 1975: it was decided that the average annual income of a farmer should equal that of an industrial worker within a period of three years. This quite dramatic decision was made possible for several reasons. First, in the international arena, food self-sufficiency was put on the agenda and Norwegian authorities wanted to strengthen the country's position in this respect. Second, the recently discovered oil in the North Sea had strengthened Norway's financial power and brought optimism as regards the country's future financial situation. Third, the new Labour government wanted to put its mark on a new rural policy (Almås 2004a). This shift brought with it a profound optimism and activity in

Norwegian agriculture, but it also meant the end for many part-time, marginalised smallholdings which did not have the potential or the owner's interest to join this large-scale development of agricultural properties. This reinforced the reduction in the total number of farms as well as leading to a profound reduction in the relative number of farmers whose farm was their only source of income.

Many smallholdings have in effect gone through a period of inevitable transition, from being properties of high economic agricultural value to being properties without, or with reduced, farming functions and uncertain futures. Many smallholdings have been abandoned, whilst others have been used as second homes. In consequence, the regrowth of cultivated land has been inevitable.

During the last two decades, however, we have witnessed revalorisation of smallholdings. Whilst their agri-economic functions have been de-emphasised, their value as a place to live, away from the urban hustle and bustle, has gained increased focus. This is in line with the recent focus on commodification of the countryside – the transition from an economy based on production to an economy based on consumption (Murdoch et al. 2003; Woods 2005; Perkins 2006). The focus on commodification of rural areas, mainly put forward by British research, has been criticised for being too linear and giving too much attention to the production-consumption dichotomy, and for disregarding the spatial heterogeneity observed in many other countries (e.g. Holmes 2006; Perkins 2006). Nevertheless, as regards smallholdings in Norway, there is an increased demand for such properties from people who seek the rural idyll and the consumption amenities of the countryside, where they have the opportunity to pursue their hobbies by growing their own vegetables and maybe keep some animals. In addition to some members of the Norwegian urban population, this also attracts a number of foreigners. There is also, for the same reasons, a market for buying such properties as second homes. However, the supply does not seem to meet the demand, and there have been several initiatives from the authorities and private organisations to encourage owners of disused smallholdings to sell their properties to someone who wants to live there permanently. The present study, in common with other studies (e.g. Mæland 2005; Blekesaune et al. 2007), demonstrates that there tend to be various social and cultural reasons for owners to hold on to their properties, and this will be demonstrated in more detail in Part II of the thesis. Before entering Part II, however, it will be useful to briefly summarise the analytical and empirical contexts within which current property enactments of smallholdings are situated.

### **4.3 Challenging established enactments of property**

The recent revalorisation of Norwegian smallholdings has challenged established enactments of property (cf. Brown 2007b). For production, smallholdings have been 'de-valorised' whilst they have been 'revalorised' as permanent or second homes for families seeking the 'rural idyll'. In recent debates in rural research it has been argued that through contemporary rural change many rural areas are reproduced in a dual process of de-valorisation and revalorisation of land associated with declining agricultural returns and growth in consumption activities related to lifestyle and leisure (Marsden 1999; Brown 2007b). As regards Norwegian smallholdings, the combination of decreased economic viability, a strong concept of family property, increased physical and social mobility, and altered legal and social arrangements related to smallholdings, has brought alternative enactments among property owners:

However, this move towards alternative enactments is not uncontested. The diversity of ideas, assumptions and opportunities produced by legal, moral and material re-orderings make the negotiation of moral authority for particular individual or sub-group property claims more problematic. Thus the re-settling of property relations is often struggled over, and varies from case to case. (Brown 2007b, 513)

This variation is partly due to a social and cultural heterogeneity in rural areas entailing a range of representations and understandings of the rural, which influence how people act in and towards the rural, as well as attitudes about who and what belongs in rural places (Berg & Lysgård 2002; Murdoch et al. 2003). The present study analyses and discusses property enactment on Norwegian smallholdings in the light of the changes and revalorisations these properties have experienced in recent decades and the struggles property owners have gone through in this respect.





## Part II

Part II presents the three articles on which the present thesis is based. All articles elaborate on property enactment on Norwegian smallholdings, and the emotional aspects of owning property are emphasised. However, the respective articles relate property enactment and the ‘emotions of property’ to different geographical perspectives: Article 1, to ‘geographies of relatedness’; Article 2, to ‘geographies of home’; and Article 3, to studies of second homes.

In the following three chapters the articles are presented as they were accepted for publication, i.e. there are likely to be some minor disparities between the versions presented here and the final versions which, at the time of reading, are or will be published in the respective journals. There will also be some overlap between the three articles as well as between the articles and the remainder of the thesis. This is an unavoidable drawback when a PhD thesis is partly based on a collection of articles.

For the sake of coherence, I have standardised the numbering of footnotes, endnotes, figures and tables according to the rest of the thesis.<sup>10</sup> Literature references are however in accordance with standards of the respective journals. For reading purposes, I have separated the articles from the rest of the thesis by presenting them with a slightly different font.

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<sup>10</sup> It should be noted that the footnote in Article 1 describing the etymology of *odel* may be incorrect. In this footnote we refer to Gjerdåker (2001) who argues that *odel* means the ‘the best of something’, i.e. allodial land is ‘the best land’. Other etymological sources than the one Gjerdåker uses, argue that *odel* means family ownership rights to land, father’s land, ancestral land or home, and land belonging to one of a group by birth (Fritzner 1886; Falk & Torp 1903; Bjørvand & Lindeman 2000). *Odel* may thus refer to the bond between land and family, not the land itself. We are indebted to Michael Jones for this clarification.



## **Article 1**

### ***Holding property in trust: Kinship, law and property enactment on Norwegian smallholdings***

#### **Abstract**

This paper discusses relations between kinship, law and property enactment. A recent revision of The Norwegian Act Relating to Concession in the Acquisition of Real Property is designed to influence the relation between subjects (property owners) and objects (properties) through ceasing the obligation of residency and cultivation on certain properties, which in turn is intended to increase sales prices on the respective properties. Drawing upon empirical research conducted in four Norwegian local authority districts, this paper argues that responsibility for past, present and future generations of family or kin is highly important in property enactment. Whilst relations between subjects and objects are powerful and inform policy actions, relations between social subjects might be just as influential and powerful. When enacting properties, people may live in more complicated worlds than often assumed. We assert that further research in legal geography and the emerging field of 'geographies of relatedness' might gain from seeing kinship and property as co-constituted

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## **Article 2**

### ***Home matters: The role of home in property enactment on Norwegian smallholdings***

#### **Abstract**

The article argues that geographies of home add important perspectives for analysing property enactment on Norwegian smallholdings. Characteristics of smallholdings as homes are described, and it is demonstrated that 'home matters' in terms of how property owners' senses of home affect how properties become enacted. In conformity with recent theories in legal geography, the article demonstrates that these socio-spatial relationships conflict with the dominant ownership model which permeates public policy initiatives: The ownership model assumes a single owner motivated by self-regarding behaviour and maximising economic benefits. This article, however, reveals a deep sense of home and place attachment on Norwegian smallholdings, and this influences how smallholdings as properties become enacted, and thus, how legal instruments aiming at affecting people's behaviour are responded to. The article draws upon empirical research conducted among current and former owners of smallholdings in four Norwegian local authority districts.

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### **Article 3**

#### ***From “home” to “second home”: Emotional dilemmas on Norwegian smallholdings***

##### **Abstract**

This paper examines emotional dilemmas occurring when Norwegian smallholdings are converted from permanent to second homes. These are properties that might have been in the family for generations as permanent homes, and which successors often feel obliged to take over and maintain by having them as second homes. Second homes are usually associated with “leisure and pleasure”, a retreat to “recharge the batteries”. However, this paper argues that having a smallholding which used to be your permanent home as a second home might involve emotional dilemmas, and it discusses relations between on the one hand, aspects of idyll and comfort and on the other hand, aspects of duty and responsibility. Further, the paper examines how emotional and social property relations influence how smallholdings as second homes become enacted.

**This article is not included due to copyright**



## **Part III**

### **8. Emotions of Property**

As Bondi et al. (2005, 1) states: ‘our emotions matter [and the past, present and future] can seem bright, dull or darkened by our emotional outlook’. Common to the articles presented in Part II is that they highlight the significance of the emotional and normative aspects of property. All three articles point at how the amendments to the Concession Act are supposed to ‘unsettle’ property relations, whilst property owners’ emotions and normative behaviour seem to uphold and ‘settle’ existing property relations. The articles illuminate recent theories of property enactment from three different angles, but the articles and the subfields they address are deeply entwined. ‘Kinship’ is expected to represent stability and cohesion and so too is ‘home’, and the stability and cohesion is constituted by emotions and feelings. ‘Kinship’ and ‘home’ are closely connected and it may be argued that they are co-constituted in the same way as kinship–property and home–property.

In this final chapter I will discuss the three articles as a whole, and relate this discussion to theories of property enactment presented in Chapter 2. I will use the tripartite model of ‘the spaces of property’ (Figure 3) as a framework for this discussion. I will especially address how ownership ‘models’ applied by owners of Norwegian smallholdings in different ways conflict with the liberal ownership model on which the amendments to the Concession Act was based. First, I will draw the attention to Figure 3, and make some notes on the tensions between the lived and the formally represented spaces of property.

#### **8.1 Tensions between lived and represented spaces of property**

Ownership ‘models’ applied by property owners can be said to be developed according to how and to what degree the three facets of the spaces of property – proprietary objects, formal representations of property, and lived property – are weighted and interrelated. Lefebvre (1991) argues that formal representations of space strive to dominate lived experiences of space as well as perceived spaces. The present study shows how formal representations of property, epitomised by the Concession Act and its amendments, strive to dominate the lived property and the proprietary objects. However, the three articles demonstrate that in the case of the investigated smallholdings, the experienced and lived spaces of property, in terms of emotional and social property relations, hold a strong position in this struggle. The liberal ownership model tends to approach property on the continuum between the represented

property and the objectified property, whilst the lived spaces of property seem disregarded. However, on investigating the ‘realities of property’ (cf. Blomley 2004c) among owners and sellers of smallholdings a different perception of ownership is revealed. This ownership ‘model’ is based on a social and often transgenerational view of ownership and the ‘emotions of property’ are, as the articles demonstrate, observable in a number of ways. Article 1 demonstrates the significant role of kinship when decisions over the properties are made, Article 2 elaborates in a similar way on the role of home and attachment to home, and Article 3 examines the role of emotional dilemmas in property enactment in cases where smallholdings are converted from permanent to second homes. The articles demonstrate perceptions of property which are deeply related to what is experienced and lived, and owners of Norwegian smallholdings investigated in this study tend to approach the spaces of property on the continuum between the lived property and the proprietary objects, although with reference to the formal representations of property. The present study reveals tensions between the formal representations of property and the lived property. The tensions, and sometimes contradictions, between formal representations and the lived might destabilise spaces of property and make the elements within them (i.e. the corners of the triangle) less coherent (cf. Cloke & Goodwin 1992; Halfacree 2007). The level of (in)coherence between elements that constitute spaces of property is a vital factor when it comes to the successfulness of policy initiatives for influencing spaces of property.

## **8.2 Conflicting perceptions of ownership: enacting property on Norwegian smallholdings**

As already noted, there appear to be contradictions between the liberal ownership model applied in formal representations of smallholding ownership and property owners’ perceptions of owning smallholdings. On the one hand, authorities attempt to destabilise and unsettle existing property relations through legal amendments based on the liberal ownership model. On the other hand, property owners attempt to stabilise and settle existing property relations by means of morally and normatively justified everyday enactments. To facilitate a summary of the key findings of the study, this section critically addresses and discusses four qualities which Singer (2000a) and Blomley (2004c) highlight as fundamental principles for the liberal ownership model: individual ownership and exclusive rights to private property, owners’ propensity to maximise productivity and profit, properties as spatialised objects, and the apolitical and amoral nature of property. Table 3 provides a schematic overview of the discussion.



**Table 3: Conflicting perceptions of property**

	<b>The liberal ownership model</b>	<b>Owners' perceptions of ownership</b>
<b>Individual vs. collective</b>	Individual	Collective and transgenerational
<b>Profit maximising</b>	Yes	No
<b>Property relations</b>	Subject-object	Subject-subject (-object)
<b>Political and moral judgements</b>	Apolitical and amoral	Political and moral

First, the very logic behind raising the area limit in the Concession Act was that eliminating the price control on a number of smallholdings would encourage owners to sell their properties, since the potential sales price in most cases would increase significantly. This logic assumes one identifiable single owner who controls the properties' resources and who has exclusive power to take any decisions. Even on properties where there is joint ownership, the owners are assumed to constitute a single identifiable unit, which supposedly and ideally operates with one voice towards external stakeholders. Consequently, when the aim is to influence property management in order to support a desired rural development it is obvious to target the owners and provide them with certain benefits for certain actions – in this case allowing owners to sell their properties at market price. The profits from a potential sale would only be of gain to those with formal title to the properties – most often a single person. The taken-for-granted assumption that the smallholdings have one identifiable owner who has the power to control and benefit from all resources on their property stands in contrast to the highly complex social property relations expressed in the interviews with present and former owners of Norwegian smallholdings. This is particularly demonstrated in Article 1, where a transgenerational ownership practice is revealed as common on many smallholdings. For example, Inger's unmarried uncle lived all his life on a smallholding in south-eastern Norway, and before he died he expressed a clear wish that someone in the family should take over the property, even though he did not have any children himself. Inger, who was very close to her uncle, explained how she felt she 'had to' take over the property because as she said:

We wished very strongly that it [the property] should not be sold on the open market. My uncle really wanted the property to stay in the family.

*Did you feel any pressure from your uncle?*

A little. But just as much from myself. Because all my life, to be honest, I have thought that I don't want that this place should go out of the family. ... It does have a certain value, you know, to have such a place. And I'm very emotionally attached to it.

What Inger conveyed in the above quote, and what is representative for most interviewees in the study, is a strong concept of family property and a deep sense of attachment to place. Many owners appeared to regard themselves as representatives of their family when it came to owning property. Thus, ideally both past, present and future generations of a family should be consulted when major decisions are about to be taken. Inger, for instance, took over the property when her uncle died, without planning to stay there. Inger did not feel that the property was really 'hers' to sell, and the main goal for Inger, as for most other interviewees, was to keep the property in the family. The concept of family property and transgenerational ownership practice aptly exemplifies how the principle of individual ownership and owners' exclusive power to transfer and sell their properties and to use them as they see fit are highly questionable. Looking beyond formal title, the study demonstrates, in conformity with, for example, Blomley (2004c; 2005b), Brown (2006; 2007b) and Singer (2000a; 2000b), that a single owner or unified group of owners can be difficult to identify due to informal and moral claims to entitlement as well as owners' moral responsibility towards other stakeholders.

Second, and closely related to the principle of individual ownership, is the liberal ownership model's assumption that property owners are motivated by self-interest and self-regarding behaviour in terms of maximising productivity and profit from the properties. What the conceptual framework of the model seems to miss out is that owners have *obligations* as well as rights. Even though the language for talking about property obscures it, it is hard to deny that ownership also entails obligations (Singer 2000a). Obligations can take different forms, but there will always be some kind of tension between liberty on the one side and obligations and responsibilities on the other. Thus, obligations delimit property owners' freedom and power, for example by reducing the opportunity to maximise productivity and personal profit. Such obligations can be formal, for example in cases where law protects liberty for one owner and at the same time reduces liberty for others, but often obligations and responsibilities are informal. The amendments to the Concession Act presuppose that property owners are motivated by the opportunity to maximise economic profit. On the smallholdings investigated here, informal moral obligations for keeping property in the family and for maintaining its values in the best possible way often seem to be principal, and thus, maximising profit by selling such property is often regarded as not an option. The articles demonstrate that amongst most interviewees, money and sales prices were subordinate to the role of family and attachment to (a) home. Paul, an elderly owner, used his property as a second home and had started to think about handing over the property to someone else in the family, to 'take their turn' (see also Article 3):

If I ever were to sell the property, then ... they first have to develop an attachment to the place before they can ... There are some of them [the youngest generation in the family] that have an emotional attachment to the farm. ... They would definitely be first in line, before anyone else. It's not about making money. (Paul)

However, some of the informants had sold their properties outside the family, and they told that the question of selling price was indeed important, but not until *after* they had made the decision to sell. Rather, they conveyed that the decision was certainly emotional and very hard to take: 'it was a true nightmare' (Linda). Hence, profit was in most cases not a relevant factor in the decision-making process, but once the property was put on the market most owners wanted to achieve the highest possible price. Nevertheless, Johannes and Margaret regretted they had accepted the highest bid since, in their opinion, the new owner had managed the property very poorly:

Yes, the price was an issue. Because there was a couple from [name of a city in south-east Norway] – she was a nurse and he was an agronomist – they were very interested because they wanted to start farming sheep. But it was a bit too expensive for them. They had to withdraw. But if we had known how it finally turned out we could have gone down 200,000 kroner and it would have been alright anyway. (Margaret)

Interviewees tended to support Christman's (1994) arguments for a sharp distinction between 'control rights' and 'income rights'. Control rights refer to the rights to utilise resources on a property for one's own purposes. Since the smallholdings studied here had ceased being active farms there were few, if any, income-generating sources on the properties in the study. However, through renovation and rebuilding many properties had been transformed to serve new purposes for the benefit of the owner – especially in terms of converting formerly permanent homes into second homes. Such transformations appeared to constitute part of an understanding that owners are entitled to maintain, control, transform, and gain from their properties as long as they do not deprive future generations of having the same assets and opportunities. Interviewees, both those who had and had not sold their properties, conveyed that selling their smallholding in order to make a profit was not a matter of consideration. Such behaviour, which closely relates to Christman's notion of 'income rights', seemed not to be part of the owners' normative perceptions of ownership. The owners tended to have a more

altruistic approach to ownership with normative and moral rules for ‘good’ and ‘bad’ behaviour. These normative rules balanced the tension between obligations and liberties of owning a smallholding.

Third, another imperative feature of the liberal ownership model is that it relies upon demarcated spatial boundaries and property as a finite space. When properties are described in various contexts they are mostly referred to as spatialised objects rather than bundles of juridical and normative rights and obligations. Informants in the present study certainly talked about land, boundaries and hectares when describing their properties, but as the interviews proceeded and owners described their relations to the properties in more detail and talked about what had been crucial in their decision-making, the *social* aspects of property and what might be termed the ‘emotions of property’ became apparent. Blomley (2004c) notes that treating property as a ‘spatialised thing’ centres the attention on property as a relation between the owner and the object owned. Hence, property appears as fixed spatial arrangements with rules attached to them. However, as Cresswell (1996, 159) aptly argues, spaces ‘seem to have their own rules, not the rules constructed for them’. The discrepancy between rules constructed for a fixed objectified space and rules developed and negotiated in a socially constructed space is evident when examining the relations between the amendments to the Concession Act and property enactment on Norwegian smallholdings. The Concession Act is based on properties as strictly defined spaces, both in terms of area and land cover. The Act, including the amendments of it, is applicable for certain spatialised objects, and hence based on the assumption that properties are finite and impersonal objects, fixed by objective boundaries. By amending the qualities and delimitations of the object, it is assumed that the one-to-one relation between the object and the subject (the property and the owner) changes and results in a certain development (increased sale due to elimination of price control). This objectification of property was, as aforementioned, also evident in informants’ descriptions of their properties, but only to a certain degree and in the early stages of the interviews. When they started talking about their actual enactments, decisions taken and activities performed, it became palpable that owners’ relations to their properties were highly contingent on their relations to other people:

We will own it till our dying day if none of our children want to take over. ... [A] rich man from Oslo has very little chance. (Marie)

I promised my dad not to sell any of the land. (Robert)

You have to do it. When you see all the work that's been put in here before, you have to try to maintain it. (Johannes)

The above quotes are representative of most of the interviewees' perceptions of property, and demonstrate that property is socially produced as well as socially productive. The social and emotional property relations appeared to govern owners' actions, and thus, there seems to be a discrepancy between the authorities' view of property as spatialised objects and the property owners' perception of property as a set of social relations negotiated and maintained through normative behaviour, with reference to an object.

Fourth, and finally, according to Singer, '[t]he ownership model is premised on the view that the meaning of property is clear and not a matter of controversial political and moral judgement' (Singer 2000a, 7). If property was apolitical and amoral there would be no conflicts between how property is represented in the Concession Act and how property is and has been enacted by present and former owners of Norwegian smallholdings. There would be no tensions between the represented and lived spaces of property, and developing a spatial triad of property might be unnecessary. Conversely, the present study demonstrates that property is subject to both political and moral judgements, and these judgements are taking place *within* the property system. The fact that authorities aim at influencing property owners' decisions by amending property laws shows that property is, indeed, political. The Concession Act is used to achieve certain political goals, e.g. the 'settlement goal'. Through amending the Concession Act authorities want to encourage certain 'good' and 'preferred' uses and enactments of property in favour of other 'bad' and 'undesirable' uses and enactments. The three articles demonstrate, in various ways, how property owners' moral judgements of 'good' and 'bad' behaviour play imperative roles in property enactment, and that these judgements often may conflict with authorities' political judgements. Hence, as Singer (2000a, 7) aptly puts it: 'Property does not come in a preset package'. Property *is* a matter of politics and morality, and, by examining the tensions and struggles between represented and lived spaces of property, various political and moral judgements are exposed.

### **8.3 Concluding Remarks: emotions of property**

At the time of the amendments to the Concession Act, Lars Sponheim, the Minister of Agriculture and Food, was well aware of the social property relations and the tight bonds

between land and family in Norway, as he stated (perhaps not very elegantly) in a parliamentary debate prior to the revision of the Concession Act in 2003: '*Jeg tror blod ofte er tjukkere enn et lavt beløp* [I think blood is often thicker than a small sum]' (Odelstinget 2003). He argued that raising the sum would thin out the blood and make the land-family bond weaker. The present study demonstrates that the blood might be thicker than even a *large* sum.

There is incoherence between the authorities' assumptions regarding ownership of smallholdings and owners' enactments of Norwegian smallholdings. Whilst the amendments to the Concession Act are based on a liberal view of ownership, owners have a propensity to enact their properties according to a much more complex, relational and contextually defined view of ownership evoked by the 'emotions of property'. Due to emotional and social aspects of property, owners of Norwegian smallholdings tend not to be influenced by the amendments to the Concession Act to the degree expected by the authorities. The main considerations when owners make decisions about the future of their properties are based on social and emotional relations. The study has identified kinship and attachment to home as key factors in property owners' decision making. Kinship and a sense of home are closely related to property, and Articles 1 and 2 demonstrate that kinship and home also *shape* property. Article 3 displays some of the emotional dilemmas that owners' face in their property enactment relating to the conversion of a 'home' into a 'second home'. Thus, property is about social and emotional relations with regard to a physical object, and not only about one-to-one relations between one owner and her or his property.

Article 1 argues that 'future research on 'geographies of relatedness' and 'legal geography' in the rural realm can gain from seeing property and kinship as co-constituted'. There is a strong bond between property and kinship, and property owners tend to regard themselves as representatives of their family in their role as owners. Hence, owners feel a responsibility for maintaining their property for the benefit of the family as a whole, including past and future generations. Many do not, however, feel that they are entitled to exploit the resources for their own personal gain if that means reducing the value of the property for other family members.

Smallholdings as homes are characterised by a strong attachment to place and the attachments to smallholdings are based on work and leisure activities connected to the entire property. Similar to the relations between property and kinship, there also seems to be a co-constitution of home and property on Norwegian smallholdings (Article 2). When interviewees talked about 'home' they were referring to the whole property. Activities have

shaped identity and identity has shaped activities, and hence, property owners' identity is closely related to their property. These socio-spatial relations are highly important when properties become enacted, and tend to dominate potential economic motives for selling their properties – their homes.

Enacting smallholdings is in many respects an emotional 'balancing act', especially when smallholdings are converted from permanent to second homes. Second home enactment involves emotional dilemmas. On the one hand, having one's 'home' as a 'second home' represents aspects of idyll and comfort, but on the other hand it also represents strong senses of responsibility and duty. As argued in Article 3, 'people seem to acquire, own and even sell properties because they feel they *have to*', and thus, emotional dilemmas connected to smallholding ownership are vital in decision-making processes.

A key lesson from this PhD project pertaining to the legal geographies of Norwegian smallholdings is that the degree of coherence between the represented and lived spaces of property is vital for the successfulness of policy instruments designed to influence enactments of property. The study has examined tensions between the represented and the lived spaces of Norwegian smallholdings, and it demonstrates notable and important incoherencies between how property is represented in the recent amendments of the Concession Act and how property is actually 'lived' by the owners. The study has demonstrated the importance of socio-spatial relationships when decisions are made and properties enacted.





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