

Inheriting Kinship: Norwegian Holiday Property as Relational Practice

Simone Abram

Abstract

This chapter approaches inheritance as a form of intergenerational gift, with reference to anthropological theories of exchange and kinship. In doing this, it considers a particular kind of property, the Norwegian holiday home, and the distinctive practices attached to its use and inheritance. The chapter shows how the holiday home attracts a particularly acute role in family relations during the process of inheritance from parents to children, and illustrates how legal concepts are adopted from one arena and applied to another.

Introduction¹

This chapter approaches Nordic inheritance by bringing together perspectives on property, ownership and legal process in the special case of Norwegian holiday homes or ‘hytte’, often translated as ‘cabin’. Cabins offer insights into the management of testamentary obligations and freedoms between family members, and into the way that legal concepts are adopted from one legal arena and applied in another; that is, legal forms from another area of the law are reproduced in relation to cabin-inheritance through a creative transference of popular inheritance concepts.

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It is also worth paying attention to cabins in Nordic contexts due to their relative abundance. There are approximately 450,000 holiday homes in Norway,² in a population of around 5.25 million, including around 2.3 million households,³ suggesting one holiday home for every five households. Given that a family in the broad sense (both extended families and what Simpson calls ‘unclear families’⁴) may include several households, it has been suggested that around every other Norwegian family at least has access to such a holiday home.⁵ Related to these cabins, a range of practices is understood to constitute what is often called a ‘cabin culture’ with distinct ideals and norms related to outdoor life, simple living and family togetherness.⁶ Cabins also have a special status in Norwegian property and planning regulations and have thus come to occupy a separate housing market. For various reasons, they have come to occupy a slightly different place in the practice of inheritance, as they have accrued a wide range of moral and affective meanings among Norwegian families, as this article will outline.

Cabins are domestic spaces where family gather to share leisure time, outside the ‘normal’ everyday routine of working life. They are a place to be at home that is, nevertheless, not the family’s main home. The family that gathers at the cabin may not live together on a daily basis if, for example, it includes adult children, highlighting various paradoxes and nuances in

² SSB (Statistisk sentralbyrå) 2017a. Fritidsbyggområder, 2015 <https://www.ssb.no/natur-og-miljo/statistikker/fritidsbyggomr/aar> (accessed 10.4.17).

³ SSB 2017b. Nøkkeltall for befolkning. <https://www.ssb.no/befolkning/nokkeltall/befolkning> (accessed 10.4.17).

⁴ B. Simpson, “Bringing the ‘Unclear’ Family Into Focus: Divorce and Remarriage in Contemporary Britain,” *Man* n.s., 29, no. 4 (1994): 831-51.

⁵ J. M. Denstadli, Ø. Engebretsen, R. Hjørhol, and L. Vågane, *Den nasjonale reisevaneundersøkelsen 2005 – Nøkkelrapport*, TØI rapport 844/2006 (Oslo: Transportøkonomisk institutt (TØI), 2006).

⁶ See Gunnar Vittersø, “Norwegian Cabin Life in Transition,” *Scandinavian Journal of Hospitality and Tourism* 7, no. 3 (2007): 266–80; Simone Abram, “The Normal Cabin’s Revenge: Building Norwegian (Holiday) Home Cultures,” *Home Cultures* 9, no. 3 (2012): 233-56.

the relationship between family and home in a Norwegian context. These nuances can often emerge in the form of emotional tensions when cabins come to be inherited, and some of the solutions found for resolving inheritance conflicts adopt principles that are known from Nordic legal history, even though they are no longer included in laws on inheritance applicable to these kinds of property, as I will show. The inheritance of cabins therefore illustrates how arcane forms that are no longer legally applicable may be reproduced through private contracts, if not through inheritance law. Looking at this from another perspective, sharing, passing on or losing a cabin from the family can be seen as significant ingredients in the performance of kinship for many Norwegian families. As English property scholars have usefully noted, property itself can be defined as ‘a network of dural relationships between individuals in respect of valued resources’.⁷ Hence, the approach adopted by Finch and Mason in their study of British inheritance applies equally here: ‘in examining how families handle inheritance, our focus is not so much on the property as on the relationships.’⁸

Inheritance As Making Relations through Property

As highlighted in the introductory chapter in this book, inheritance can be seen as one of the means by which kinship relations are not merely utilized, but actually generated, reproduced or maintained. Inheritance can be understood as a form of trans-generational gift, playing the role understood in anthropological theory as materializing relationships.⁹ Acts of giving and receiving are understood in anthropological theories of exchange as the embodied enactment

⁷ K. Gray and S. F. Gray, *Elements of Land Law*, 5th ed. (Oxford: Oxford University Press, 2009), 6.

⁸ Janet Finch and Jennifer Mason, *Passing On: Kinship and Inheritance in England* (London and NY: Routledge, 2000), 2.

⁹ See Annette B. Weiner, *Inalienable Possessions: The Paradox of Keeping-While-Giving* (Berkeley: University of California Press, 1992).

of relations that are otherwise conceptual.¹⁰ Gifts are understood not merely to reflect existing relations, or to embed existing relations in material form, but actually to be the material that gives substance to relations themselves. In the simplest sense, giving a gift creates an obligation, or places the giver and receiver in an imbalance of power, hence the need for the receiver to give a gift in return, a ‘counter-gift’, perhaps on a subsequent occasion, thereby occasioning the basis for an ongoing relationship.¹¹ In giving and receiving material things, we thus enact relationships and put into motion a range of personal and material relations.

Giving and receiving as the basic elements of any exchange relation carry a range of obligations and emotional entanglements, and the moments of exchange carry some risk. If the giving and receiving is unsatisfactory, or if the thing given is inappropriate, then the relations themselves can be endangered rather than consolidated. Giving and receiving personal gifts is as tricky and risky as commercial exchange, with less legally codified regulation to secure redress if the exchange is found wanting.

Inheritance As Gifts

The special case of *giving and receiving in relation to death* raises particularly vivid moments of fragility, as relations are inevitably subject to upheaval at this moment. Normatively affective ties of kinship come under strain at moments of great change, and the death of kin is one of the most significant moments of transition in many lives. The one-sided feature of the exchange – since no return gift is possible – lends emotional weight to this kind of gift, changing its character. Inheritance often combines purely financial with material interests, and this balance between money and goods lends to the tension associated with the gift and poses

¹⁰ See Karen Sykes, *Arguing with Anthropology: An Introduction to Critical Theories of the Gift* (London: Routledge, 2005).

¹¹ Marcel Mauss, *The Gift* (London: Cohen and West, 1954).

difficulties for the receiver that may be both financial and emotional. As Finch and Mason note, the financial value of an inherited object may bear little relation to its emotional resonance, and even the putting of a price on such an item may threaten to undermine the emotional value that the gift entails.¹²

The Norwegian legal, moral and social imperative to distribute inheritance equally between offspring leads to an expectation that the total bequest must be valued financially in order to be divided fairly, and this quantification of the inheritance is often understood to imply a quantification of the relationships it entails. Such quantification of what are otherwise understood to be emotional ties is often a source of tension, and in some societies the notion of quantifying the value of relationships is considered inimical, if not unthinkable.¹³ The anthropological record is also full of instances of wrangling over money associated with relationships. Marriage dowries, for example, mix finance and kinship in sometimes-explosive tension. While dowries have been consigned to history in much of Western Europe, a rise in interest in ‘prenuptial agreements’ and popular media stories of celebrity divorce settlements suggest that, even in the Nordic countries, there is significant ambivalence about the mix between affect and commerce. The heightened emotional resonance of shared family property and belongings adds to the familial anxiety that can be produced by the inheritance of cabins.

One reason why inheritance of property is so charged is the perdurance of the material objects being inherited. This simple fact carries significant emotional and moral obligation, since the transfer of ownership is rarely complete. As Weiner has detailed, gifted objects

¹² Finch and Mason, *Passing On*.

¹³ See P. Rivière, “The Amerindianization of Descent and Affinity,” *L’Homme* 33, nos. 2-4 (1993): 507-16; F. Santos Granero, *The Power of Love: The Moral Use of Knowledge Amongst the Amuesha of Central Peru* (London: The Athlone Press, 1991).

retain symbolic value based on the history of their ownership, and items owned by famed or cherished relatives carry value to the new owners.¹⁴ As Selmer points out, in the case of inheritance, this inalienability is sustained beyond death, carrying symbolic associations around the relations between kin and between generations.¹⁵ Finch and Mason also show how inheritors make active moral decisions related to bequests, wondering what the testator would have done with it.¹⁶ Such decisions are particularly symbolically loaded in relation to personal items, where they are made complicated by the kin relations associated with the bequest. In this context, a cabin can be seen as a single item that is inherited, but also as a collection of items that may or may not be divided amongst inheritors.

The process of inheritance, involving the negotiation of financial and familial relations in the context of heightened emotional tension, is inevitably associated with moments when the two worlds of financial transaction and gift-exchange collide; where the emotional and financial worth of material things can throw relations into new perspective, relations can be both made and unmade. In the context of property, it is important to note that Norwegian property law allows for joint ownership of property (unlike English law, for example), enabling the possibility that a number of people might jointly inherit a property. Generally, of course, it is not only kin who inherit from each other, since the range of possibilities in wills and testaments is broad. In the case of cabins, however, it is extremely rare that non-kin inherit; hence, the drive of this chapter concerns the question of *which* kin member(s) should inherit and the implications of the answers to this question.

Norwegian Inheritance

¹⁴ Weiner, *Inalienable Possessions*.

¹⁵ Selmer, B. [You need the full reference here, and you also need to ensure you add it to the bibliography.]

¹⁶ Finch and Mason, *Passing On*.

The significance of cabin inheritance is related to the important symbolic and cultural value of ‘Home’ as a frame for people’s lives in the Norwegian context.¹⁷ Marianne Gullestad highlights the role of the Norwegian home as a form of self-expression of its inhabitants, and as an expression of core elements of Norwegian cultural life, including individual and family identities, security, ‘peace and quiet’, autonomy, self-sufficiency, carefulness and mastery, and of love relations between spouses.¹⁸ She also argued that these priorities constituted modes through which national sentiment was generated, such that referring to ‘Norwegian homes’ is a specific and meaningful categorization, not merely a convenient agglomeration.¹⁹ⁱⁱ The cabin takes on many of the attributes of the home described by Gullestad, as families project the cabin in particular as a place to ‘be together as a family’,²⁰ⁱⁱⁱ often more so than in the hurly burly of everyday life. Time at the cabin carries a sense of ‘time out’ or ‘quality time’, a place to long for and enjoy as a simple indulgence.^{21iv}

The enhanced focus on the cabin as both arena and product of family life lends further emotional freight to discussions about how a cabin should be passed on. Such questions are not merely discussed within the family, but have a cultural life, such as in the frequent appearance of the topic in popular magazines. The desire for advice highlights the leeway offered by the law in making testamentary arrangements. It is this leeway that lends the law

¹⁷ Eilert Sundt, *Om sædelighetstilstanden i Norge* (Oslo: Pax, 1857/1968); Eilert Sundt, *Om huslivet i Norge* (Christiania, 1973).

¹⁸ Marianne Gullestad, *Kultur og hverdagsliv på sporet av det moderne Norge* (Oslo: Universitetsforlaget, 1989).

¹⁹ Significant minorities such as the Sámi arguably adhere to a separate nation whilst being full Norwegian citizens. Immigration has also brought different traditions, as Gullestad herself was at pains to emphasize. These complex and contested issues are not addressed here. It should be read as implicit that ‘Norwegian’ is a term relating to nationalism, not a descriptive category.

²⁰ As described in field research among Norwegian cabin owners.

²¹ See Garvey, “The Norwegian Country Cabin and Functionalism”, for a discussion of the cabin’s place in Norwegian modernity.

such significant social interest, since, as Cotterell puts it, the law is “an aspect or field of social experience, not some mysteriously external force acting on it”.²² Many property theorists similarly conceive of law as a persuasive narrative that shapes how we see the world,²³ providing a conceptual frame for the everyday, while necessarily being performed as ‘a set of practices’.²⁴

Nordic systems of split or joint ownership are baffling for those used to an English system which fixes only one person (be it corporate or private) as the owner of a thing.²⁵ In contrast, Nordic law’s recognition of co-ownership of property among an unrestricted number of persons has more in common with French law, which also proceeds on the basis of partible inheritance. Perhaps unsurprisingly, tensions over shared inheritance of holiday property found in France show marked similarities with those outlined in this chapter.

How Does the Cabin Gather Kinship around It?

It is clear from preliminary fieldwork that I have carried out in Norway in recent years^v that concern over the transmission of built property (dwellings) is particularly acute in relation to cabins, much more than over primary residences or other property.²⁶ The first response I

²² R. Cotterell, *Law, Culture and Society: Legal Ideas in the Mirror of Society* (Aldershot: Ashgate, 2006), 25. See also A. Pottage, “Introduction: The Fabrication of Persons and Things,” in *Law, Anthropology, and the Constitution of the Social: Making Persons and Things*, ed. A. Pottage and M. Mundy (Cambridge: Cambridge University Press, 2004), 1-39.

²³ C. M. Rose, *Property and Persuasion: Essays on the History, Theory and Rhetoric of Ownership* (Boulder: Westview Press, 1994).

²⁴ N. Blomley, “The Borrowed View: Privacy, Propriety and the Entanglements of Property,” *Law and Social Inquiry*, 30, no. 4 (2005): 617-61, at p. 656.

²⁵ See T. Honoré, “Ownership,” in *Oxford Essays in Jurisprudence*, ed. A. G. Guest (Oxford: Oxford University Press, 1987: 107-47).

²⁶ Fieldwork has included visiting cabins in different parts of the country, attending national cabin-policy conferences, and interviewing solicitors about their approach to advising clients about inheritance, as well as

receive when talking to Norwegians about inheriting a cabin is usually: “oh, so many feelings”. Lawyers whom I interviewed about inheritance contracts speculated that this is because cabins are more likely than primary homes to be inherited (since they do not attract the requirement to reside: ‘*boplikt*’). But they also recognized the deep emotional attachment to places associated with childhood pleasure – a cabin being so often the place where families spend time together, both indoors and outside ‘in nature’, repeatedly over many years. Knowing every stone and every blade of grass is often the source of deeply felt nostalgia, which may be especially important in the light of increasing transnational movement and uprooting, as Lien and Melhuus suggest.²⁷ It is also the place where these experiences are shared with close family, embedding the association between family and cabins.

At the same time, the labour required to maintain a cabin is, for many, an ambivalent part of the attachment to the cabin itself. While primary residences also require maintenance, it may not be controversial to propose that cabins seem to require inordinate amounts of work. It may simply be a function of the limited time spent at a cabin if the time spent on maintenance of a property is considered constant, and may also reflect the likelihood that maintenance of the primary residence is more likely to be carried out by hired professionals. But it is also clear that, as Klepp has argued, that cabin maintenance and cabin building are part of the leisure experience, and provide a particular opportunity for the playing out of gendered and family identities, with building work being considered a particularly male business, for example.²⁸ Children join the ‘community of practice’ that is the cabin family and learn

consulting selected case notes. Work with solicitors was primarily carried out in 2011 – prior to the abolition of inheritance tax.

²⁷ M. E. Lien and M. Melhuus, *Holding Worlds Together; Ethnographies of Knowing and Belonging* (Oxford: Berghahn, 2007).

²⁸ I. G. Klepp “Hytta som leilighetens mannlige anneks,” in *Den mangfoldige fritiden*, ed. Asbjørn Klepp and Liv Emma Thorsen (Oslo: Ad Notam Gyldendal AS, 1993), 46-56.

through a kind of apprenticeship – or what Lave and Wenger call ‘situated peripheral participation’ – what is expected of them as a caring member of the family and what is expected in relation to caring for the cabin.²⁹ They thus learn to be members of the cabin-family, taking on moral ownership of (or membership in) the cabin as one form of their kin relationship to the other members. Through giving time, labour and love to the cabin, family members gain a kind of moral ownership of it while confirming kinship ties to each other, and by default negating kin relations with family members who do not participate in cabin life, or do not participate in the ways expected by other members of the family.

Inheritance As a Moment of Instability in Kin Relations

After long involvement with the cabin, the question of inheritance attracts particular attention and provides an arena for the articulation and negotiation of kinship and other relations. At the point of inheritance, decisions must be made about which sibling inherits which share of which property, according to a paradoxical framework of egalitarianism and hierarchy. Norwegian inheritance law stresses both the importance of ‘branches’ of a genealogical tree, but also includes equality between full siblings. A by-product of the principle of sibling equality is to perpetuate distinctions between step-siblings, half-siblings and full siblings, despite the emphasis that many ‘blended’ families put on treating all of the children in a family equally. Inheritance thus highlights social norms of Norwegian kinship that are less explicitly discussed in practice.

Inheriting a cabin may provoke disagreements between siblings and affines over questions such as whether the cabin is to be inherited by a single beneficiary, or whether

²⁹ Jean Lave and Etienne Wenger, *Situated Learning: Legitimate Peripheral Participation* (Cambridge: Cambridge University Press, 1991).

sharing-rights are included in the inheritance (see below). However, as increasing numbers of families own cabins, and often multiple cabins, tensions may arise not only in relation to competing desires to inherit cabins. The significant maintenance that cabins require can become a burden in terms of both money and time, sometimes leading to disagreements and disputes about whether to dispose of a cabin, or over who might prefer not to inherit.

There is no doubt that managing inheritance has been a significant tax issue in the past for some families, although the recent removal of inheritance tax has undoubtedly changed this situation. Arranging the succession of property before a death may have as an alibi the need to plan for tax reasons, but in practice, the solicitors I interviewed argued that it is as much about ensuring the smooth transition of kin relations as it is about finances. In other words, inheritance demands both legal and emotional facilitation. But it also entails moral framing, since there are clearly shared understandings about preferable ways to distribute cabin rights and property, in a national context. The legal consciousness approach helps to explain how rights such as those related to *odel*, which are not applicable to cabin property, are reproduced (or at least mimicked) in private contracts of sale, applying an ancient legal principle in a new arena, and generating legal innovation through practice rather than through legislation.³⁰

Two legal features related to housing are useful to have in mind when considering inheritance practices of holiday homes, beyond the fact that inheritance law does not give anyone rights to inherit a holiday home *per se*. The first relates to a situation where inheritors receive a bequest in joint ownership – under the law on joint ownership, or ‘*sameieloven*’. Under this arrangement, any one owner of a shared property may sell their share. This share must be offered to the other members of the joint ownership agreement, who may choose to

³⁰ Knut Dørum, this volume.

buy the share belonging to the selling party. This must normally be done at market price. In areas of high demand where cabin prices can be extremely high, or where co-owners do not have finance available, the remaining owners may be unable to afford the additional share, forcing them to sell the cabin outright. Thus, parents who leave a cabin to a group of siblings may risk the cabin leaving the family altogether if the different financial positions of the siblings mean that those left cannot afford to pay those who wish to sell up. This provides another reason why legal and financial advisers recommend against leaving cabins shared between siblings, and particularly where the financial situations of these siblings differs significantly.

A second set of legal categories separates usage rights and ownership rights, giving rise to complex patterns of possible ownership and access to cabins, which can be mapped onto changing concepts of the family, and highlights the blurred boundaries between conventional and new forms of kinship and affinity, as discussed later in the article.

As one of the solicitors interviewed explained, parents may feel torn over passing on the cabin to just one of their children, while acknowledging that dividing rights between several siblings through shared ownership could quickly see the cabin in the hands of numerous owners (second cousins in the next generation, for example). The more owners involved, and the more distantly they are related (either by kinship or familiarity), the more likely they are to disagree on how to manage the cabin, raising the risk of discord. Discord is precisely what these legal and financial advisers aim to avoid, so their advice is often driven by this concern.

A solution that is often recommended by advisers is for the parents to say that one of their children should inherit the cabin, but that they must tolerate that their siblings have use-rights (*'bruksrett'*), for example, for as long as they live (although these rights may also be inherited further). Such a solution is a fairly common way to smooth the transition between generations,

and between a couple and one of their several siblings. Ownership of the cabin in these cases will be defined in a specific contract, detailing the various ownership and usage rights associated with the cabin. Quite fine details can be included in this type of inheritance agreement (even to the degree of who brings in firewood, or how often the cabin should be painted), which may be organized well in advance of the actual handover of the estate, the ‘*boskifte*’.

Gifts As Relational Vehicles, Gifts Disguised As Sales

A common vehicle to arrange this has been to take the inheritance out of a will and make a contract of sale of the cabin from parents to child(ren), often as the parents retire and consider their financial situation. Until the abolition of inheritance tax (op. cit.), a common solution was to ‘sell’ the cabin to the inheritor at an agreed price, in a contract that stipulated that the seller (for example, the parents) retained four weeks use per year, that is, the maximum allowed for the sale to be considered a genuine transfer of ownership (under inheritance tax rules). Each year, the value of the gift decreased in its liability for inheritance tax (according to the exemption rules for gifts over time), while allowing the parents to guarantee their continued use of the cabin. In such contracts, actual dates may be specified (“every other Easter holiday” or “a fortnight in July with two further weeks by arrangement”, for example). In drawing up such contracts, legal advisers aim to solve or avoid conflict, talking clients through the options and encouraging them to find a solution that will lead to the minimum conflict in the long term. The recent abolition of inheritance law means such arrangements are not strictly necessary, but according to professionals I have spoken with, the pattern of contracts has not significantly changed.

The solicitors and financial advisers whom I spoke to all advised against shared ownership, even though some were participants in shared ownership arrangements themselves. As a rule, however, each saw shared ownership as the source of potential conflict, and their own role as seeking conflict avoidance. Instead, they recommended that single ownership of the / a family cabin by one party could be compensated financially through the sale of other items or properties in the family estate, and compensated affectively by maintaining access to the cabin for use by the non-owning siblings, thus separating the financial and affective fallout of changing ownership while acknowledging that both have meaning for kinship relations.

The instigation of such arrangements (the private sale, the sharing of different rights, use or ownership) and the changing practices they imply (changing habits of gathering at the cabin) still represent a potential destabilizing of the practices of family relations. The potential for one sibling to inherit ‘more’ than another, or to inherit different kinds of rights to the cabin, carries a potential threat to the principle of sibling equality. Such moments must be handled carefully, the potential inequality must be compensated, and the family must find a way to adjust to a new set of kin / cabin arrangements. Where this fails, it can lead to long-lasting family rifts, with siblings losing contact with one another or cousins cutting each other off.

The dilemma of how to pass on a cabin without threatening convivial family relations thus encourages parents to plan such transitions in advance, in the hope that any perceived injustice can be addressed or resolved, rather than festering through further generations. The great dilemma lies in this paradox, that forcing siblings to share a cabin equally may dissipate the value to each of them of the cabin (in terms of access), while limiting the liberty of each sibling to make choices about the cabin (decisions over maintenance or improvements, or

whether to retain or sell it). Siblings are thus forced into an enduring relationship as long as the cabin remains in their joint ownership.

Yet financial compensation to siblings who do not inherit if a cabin goes to only one among them is only a partial form of compensation. As mentioned above, money for emotion is not a comfortable moral equation in this context – indeed the emotional force of financial transactions is heightened in family relations precisely because each item inherited carries with it the approbation, rejection or moral obligations that characterized the relationship between the parents and their children, alongside the history of sibling relations that one financial adviser described as inevitably fractious to some degree.³¹

New Family Forms – New Conflicts

But there are other ways in which such a simple equation becomes more complex while reflecting changing family relations among Norwegian families. It is important to note that testamentary freedom in Norwegian inheritance law is restricted.^{32vi} Two-thirds of the total bequest must be shared equally between direct beneficiaries – usually the children of the deceased – up to a limit of one million Norwegian kroner, in a rule known as *Leks Mikkelsen*.^{33vii} Hence, at least one-third of the total bequest can be left to whomever the testator wishes. Given the general increases in property values, and the decrease in the value of the kroner, one million kroner is often a minor fraction of the total bequest, leaving

³¹ See also Simone Abram, “Values of Property (Properties of Value): Capitalization of Kinship in Norway,” *Journal of Tourism and Cultural Change* 12, no. 3 (2014): 1-14; and M. Bloch, and J. Parry, “Introduction: Money and the Morality of Exchange,” in *Money and the Morality of Exchange*, eds. J. Parry and M. Bloch (Cambridge: University Press, 1989), 1-32.

³² For example, in comparison with the complete testamentary freedom under British law; see Finch and Mason,

³³ After Christian Mikkelsen, prime minister at Norway’s independence in 1905.

increased freedom in practice. Where the cabin falls within the testamentary obligation, or where an owner dies intestate, the bequest will follow a route down the branches of the genealogical tree, where the primary beneficiaries are children, grandchildren, then great-grandchildren. Where there are no children, the next rank of beneficiaries are parents, or via the parental relationship to the deceased's siblings, or their children, or if there are neither parents nor siblings, then via the grandparents to cousins through the generations. However, each time a bequest passes down a generation, it should be split equally between any siblings. Hence, there is a system that prioritizes parental relations between generations and sibling equality within generations. To illustrate that this is not a 'natural' system, it is worth noting that, for example, parents do not bequeath automatically to their own siblings – it is only their offspring whose sibling relationship is significant. Nor is a deceased's parents the primary inheritor if the deceased has children. The law, in other words, urges parents to pass on their worldly goods primarily to their children, and that in equal measure between them. The significant exception to this rule relates only to the inheritance of working farms or forestry, which comes under *odel* regulations that prioritize the eldest child, who gains particular rights to inherit the whole property. Norway thus has two inheritance systems in place, one for working farms / forests, and another for private property. In this chapter, I will not address *odel* in detail, except where it appears through conceptual borrowing.

Where a cabin has been left to one of a number of siblings (rather than shared between all), then at the second or third generation, this leaves a cabin in the hands of a 'branch' of the family. When the owner marries, the cabin can be held outside of the marriage as '*særeie*' rather than forming part of the shared property of the marriage. In principle, any marriage partner can take out of the marriage whatever they brought into the marriage, either in the case of divorce or widowhood. Hence, if a couple divorce and remarry new partners, or if the

spouse brings other children into the marriage, these will not stand to inherit the cabin, since only the owner's full legal children (biological or adopted) have the right to inherit this property.

The system really starts to become complex in 'unclear families'³⁴ that include multiple parents – that is, where there are step-siblings and half-siblings.^{35viii} In the first instance, if I own a cabin, and my children's other parent marries for a second time and gains stepchildren, only my prior children will inherit my cabin since it is held as *særeie*. If I remarry and have further children with my new spouse, these children will share the rights to the cabin with my prior children, unless my testament explicitly states otherwise. Any new stepchildren (that is, my new spouse's children from a former partner) will have no rights to the cabin, even if they spend all of their childhood holidays there alongside the other children in the family and continue to enjoy regular family time there with or without other siblings. Norwegian law has a peculiarity that tempers the brutality of this division by postponing its effects. When one spouse dies, the other may continue in what is known as '*uskiftet bo*', or unimplemented inheritance. In other words, the act of inheriting is postponed until the second spouse dies, at which point the inheritance proceeds as though both had died simultaneously. However, a part of the inheritance may be implemented outside this procedure. For example, for a couple who have children from other marriages, those children may receive their minimum inheritance (currently up to 1m kroner) when their parent dies. Any further share of inheritance can sit in the unimplemented bequest until their step-parent dies, at which point all children will inherit equally, with the early inheritors receiving their share minus the minimum inheritance they received earlier.

³⁴ Simpson, "Bringing the 'Unclear' Family into Focus."

³⁵ Adopted children do not complicate anything per se from a legal perspective, since they are straightforwardly their parents' children in the eyes of the law.

The system includes a particular anomaly, though. Normally, if a spouse dies, the children inherit two-thirds of the bequest, and the widow/er inherits one-quarter (leaving one-twelfth as a sort of wiggle-room). If the spouses have unequal wealth, then this quarter may be worth a different amount depending on which spouse dies first. The cabin may be a property of lesser value than the main home, so its route through inheritance could well fall into the third of the bequest that is free from testamentary obligation. However, where this is not the case (whether because the cabin is particularly valuable, or it forms a large part of the total bequest), the proportion of the cabin shared between a spouse and stepchildren may vary. For example, if the surviving spouse inherits from the deceased spouse, s/he may become the sole owner of the cabin. In that case, joint children and the separate children of the surviving spouse inherit equally from him or her, meaning that separate children inherit a smaller share if their parent dies before their step-parent. Without going into all the details of possible scenarios, it is worth noting here that anomalies are possible and can be the focus of concern when devising testaments or cabin ownership arrangements.

As mentioned, each spouse may retain property that s/he owned prior to the marriage, inherited or received as a gift during the marriage from someone other than the spouse. Property may also be kept outside the marriage agreement, as ‘separate property’ (*‘særeie’*). Cabins retained as *‘særeie’* in the marriage may be inherited by testament outside the marriage too, so that a parent may keep a cabin with their separate child(ren) in mind, who may then inherit the cabin directly without it first being inherited by the surviving spouse. Although any property brought into the marriage or inherited or received as a gift during the marriage can be taken out of the marriage at divorce, the complication arising, which most often prompts court cases or divorce disputes, is the contribution of the spouse to the value of the property during the marriage. If the spouse has decorated, done maintenance, built any

improvements, and so on, then their efforts earn them the right to half of the value of any improvements undertaken throughout the marriage. Calculating the value of such improvements, particularly over long periods, is a matter of opinion (even of expert opinion) and, as such, is a common cause of conflict. Such conflicts are most visible during divorce rather than inheritance cases, but can easily become an issue at inheritance where, for example, a divorced spouse has an unregistered partner (i.e. with no formal civil partnership) who has participated actively in cabin life, perhaps over many years.

If a spouse keeps his / her family's cabin as separate estate in a second (or generally subsequent) marriage as '*særeie*', it becomes more likely that it will continue in the line of kinship of their own parentage (their 'branch'), and will not come into the (shared) ownership of their stepchildren. This is often understood as a 'natural' progression of ownership along lines of kinship rather than alliance (that is, through marriage). The point here is to demonstrate how inheritance of a cabin may paradoxically reinforce the inequality of step-siblings who are otherwise considered equal within the family's everyday relations, yet at the point of inheritance are marked as different.

Old Inheritance Laws, New Practices

Given the complexities and potential anomalies noted above, creative responses can be found in the testaments and other contracts that people make in relation to cabin inheritance.

Particularly notable is the practice of adopting arrangements that are either historic legal features or are part of laws not relevant to this field, for example, the 'borrowing' of legal ideas from *odel* that are concerned with keeping landholdings undivided within one family

branch (as indicated above). As noted, odel is not applicable to cabins^{ix, 36} but the ideal of odel rights has a popular force such that similar principles are brought into cabin inheritance and can be found specified in both contracts of sale that anticipate inheritance (outlined above) and in testaments. Various kinds of '*forkjøpsrett*', that is, priority purchase rights derived from odel practice, are practiced particularly in relation to cabins (as mentioned above). If parents leave a cabin to one offspring, they may include rights for another, or all others, to have the right to buy the cabin if the owner wishes to sell it, and this may be either as a right of first refusal, or as a right to step in once a sale price has been agreed with a potential purchaser and demand to buy at the agreed price. From a comparative perspective, such rights introduce a degree of risk into the property market for potential purchasers.

In the 'first refusal' scenario, the rights-holders and owner are usually advised to seek a valuation from a surveyor. If there is disagreement, a common means of resolution is to appoint a second surveyor and fix the price halfway between the two valuations. The parties may then conduct a private sale, keeping the transfer of the cabin under control rather than opening it up to the market. But siblings may not adopt such a 'reasonable' approach since, as a specialist financial adviser put it to us, people think with their heart^{x. 37} Even if the process is followed carefully and correctly, siblings may reflect back on their childhood and suspect that they have not been treated fairly, causing arrangements to collapse, or generating mistrust. If the right is implemented in the midst of a sale to a third party, it may disrupt carefully laid plans by sellers and lead to resentment of the claiming party. The choice of clause in such a contract can thus have considerable impact on the ongoing relations between family members. Interestingly, it is extremely rare for such cases to come to court. Some

³⁶ Odel applies to agricultural land over 25 hectares and productive forestry over 500 hectares. See Lov om odelsretten og åsetesretten (odelslova) <https://lovdata.no/dokument/NL/lov/1974-06-28-58> (Accessed 06.01.16).

³⁷ Or in the Norwegian idiom, they 'react with their stomach'.

informants suggested to us that this was simply because such a case would pit sibling against sibling, and in a relatively non-litigious country, most Norwegians are reluctant to sue close family members over something that may be primarily of sentimental value. Rifts over cabins may well lead to siblings cutting off contact with one another, but a court case would, we are told, most certainly lead to an enduring rift within a family.

Cabins in Court

One of the very few cases to have come to court in recent years was reported at Agder Lagmannsrett (county court)^{xi} and concerned the ambivalence surrounding preferential treatment of ‘natural’ offspring over step-siblings.³⁸ The case is a little complicated, but offers an illustration of the kinds of tensions that can emerge between kinship and commerce.

According to the case records, a property named ‘Nygaard’ was sold at auction to Roald Risdal in 1971 for 17,000 Norwegian kroner. Roald was then thirteen years old, and the property was bought on his behalf by his father, Olav, partly using money given to Roald by his mother as a gift in advance of inheritance. At the same time, she gave an equal gift to her two sons from a previous marriage. The family (Olav, Anne and Roald) then used Nygaard as a holiday home. Eleven years later, when Roald was twenty-four, he sold the property back to his father for 50,000 kroner with an agreement which stated that ‘the buyer and seller agree that the seller, Roald, has *forskjøpsrett* if the property is sold by Olav, or on inheritance, at the same sales price of 50,000 kroner plus documented expenses’.

Olav died in 2000, and his wife, Anne, took over his estate. When she later died in 2009, she left her estate not only to Roald, but to three inheritors from her previous marriage: one

³⁸ Kristiansand tingrett TKISA-2011-35071 – Agder lagmannsrett LA-2011-150884 (11-150884ASD-ALAG).

son and two grandchildren by a deceased son. As part of the inheritance process, Roald wished to exercise his right to buy back Nygaard according to the odel-like agreement he had made with his late father. The other three inheritors went to court to object to the arrangement. The court decided that Roald should have the right to buy Nygaard for 200,000 kroner, and that each of the other three should pay case costs of 52,000 kroner each to Roald. This judgement effectively forced each one to contribute around 50,000 kroner net, thereby introducing some element of equality between the inheritors. The three other inheritors appealed on the basis that Roald and Olav's agreement was invalid, since the property was registered to Olav and he was the *de facto* owner. Roald was only thirteen when the property was bought and had no income, and it was his parents who paid for the property. Hence, they argued, Olav had bought the property in the interests of his son and at the cost of the rest of the family. Roald, they argued, had never really owned the property and hence should not have the right to claim it.

Roald's lawyer argued that the appeal should be thrown out, since Roald was recognized as the owner by the authorities (at the land registry) when Olav bought the property, which was partly financed by an advance of his inheritance from his mother. As an adult, Roald had contributed to the maintenance of the cabin, paying the ongoing expenses associated with the property in the form of a deduction from his salary from his father's company, where he worked. It appears that Roald and Olav had shifted the ownership of the cabin to keep it outside their family business, to ensure that it could not be lost as collateral if the business failed. To some extent, the dispute thus swung between inheritance law and contract law, but questions about the relationship between father and son, indeed between parents and son, come into the legal ruling about the son's right to the benefits of inheritance.

According to the record of the case, the court accepted Roald's solicitor's argument that the dispute did not relate to who should own the property, but how much it was worth. This argument removed questions of affect and family closeness and reduced it to a question of financial justice. In his view, the law could only judge whether Roald should be able to buy it from the estate for the price agreed in the contract or at the current market price estimated by a surveyor to be 900,000 kroner at the time of the death of Anne. Much of the case revolved around the real or market value of the property at the time of purchase, of the agreement, at the time of Olav's death and then at the time of the case, after Roald's mother's death.

Within the case, it is interesting that the court notes that the relationship between Roald and his parents is described as close, while the parents' relationship with Roald's two half-brothers was more distant, giving this affective warmth some legal significance, perhaps reflecting the concern that financial value in this dispute still symbolized affective value. This echoes comments we have heard from legal and financial advisers and from cabin owners, as suggested above, that it is the practical and emotional labour that family members contribute to the cabin that brings them greater moral ownership, but here, too, that the warm relationship between Roald and his parents could also influence a preferential property or financial settlement (that is, in contradiction to sibling equality). Roald's mother, however, had clearly acted on the principle of sibling equality under inheritance when she had put the original 10,000 kroner into the purchase of the cabin, as she simultaneously gave 10,000 kroner each to her other sons. One might argue that these other sons could have used their 10,000 kroner to buy property that could have increased at the same rate, but in fact, the mother's other inheritors claim that they should receive equal benefit from the rise in financial value of the cabin that had been bought in Roald's name. The appeal court ruled that Roald did have the right to inherit the cabin, but at the current market value of 900,000 kroner.

In this case, half-siblingship, equality of inheritance, cabin-property and *forskjøpsrett* come into focus. To some extent, the case illustrates the risks identified by the solicitors mentioned above, that inequalities or lack of clarity about ownership can lead to disputes between siblings over inheritance, when it is too late for the parents then to sort out any misunderstandings. But the case also indicates the limits to principles of sibling equality, and preferential or partial property rights encased in contracts. None of these rights are absolute, but partial in relation not only to different legal principles, but also in the light of the emotional qualities of the relationships between different kin. It should not be controversial to claim that although the ruling was about money, the case may have been just as much about sibling rivalry, resentment of the perceived preferential treatment of one sibling, and a demand for equal treatment in fact.

The reason for citing this case here is precisely because the dispute is over a cabin. The emotional attachment to the cabin, reflected in the contribution to its maintenance and in its frequent use, is linked to ownership rights. Roald's frequent use and maintenance of the cabin may have led his parents to believe that he could exercise a right to re-purchase that was modelled on odel law (otherwise not applicable in this case), but the passing of the cabin to one offspring to the exclusion of the others may have had much to say for the motivation of the other inheritors to pursue the case, although we have no record of their motivations in the case itself. Whatever the case for this particular family, cabins can be seen to have a peculiar position in relation to inheritance, being much more than inert property with market value. Cabins become the locus of emotional investment as well as labour, and persist as the materialization of the relationship between parents and inheritors. Even a cabin inherited by one inheritor to the exclusion of all others carries with it the history of the family's use of it,

the implication that sole ownership excludes others, whose absence may carry ongoing significance in the cabin's future.

Conclusions

What I have proposed here is that the cabin has a particular significance in the production of Norwegian kinship, and that the cabin takes on a moral significance within the Norwegian family partly through its use ('being together'), and partly through its changing ownership and its passage between kin through inheritance. What happens to the cabin matters to the family, possibly more than what happens to the primary home of the deceased. It matters because it can continue to be in the possession of the family in a particular way, especially where use or ownership is shared, and it matters because it is disputable, and hence often gives rise to conflict and to moralized normative discourses about what 'should' happen to a cabin between generations. It also matters because of the heavy moral, shared normative overtones of expectation of what a Norwegian cabin-family should be and what constitutes an ideal (harmonious, equitable) outcome.

Given how clearly the contracts, agreements and disputes over cabin inheritance reflect the moral and legal principles and practices of kinship in Norwegian society, it is important to pay attention to the cabin. The many means by which cabins can be inherited outside the system of testaments (for example, through intra-family sales or share-ownership) mean that future historians of Nordic inheritance could well miss the significance of cabins if they restrict their attention to testaments alone. And for anthropologists, it is clear that the way the cabins are owned, used and inherited reflects the organization of Norwegian society through the materialization of kinship in the body of the cabin. Not all Norwegian families own cabins, of course, so it may seem odd to define a national tradition through the activities of

only a part^{xii, 39} but the inheritance of cabin can be seen as a kind of synecdoche of Norwegian kinship practices, since it highlights the tensions and moral norms that are widely shared.

Further, it is apparent that Norwegian families, when working through decisions about how to leave cabins between inheritors, adopt principles and models from other areas of law related to rights of purchase, sharing of use-rights, shared ownership forms, and family claims inspired by odel. Different areas of law are thus woven into sometimes complex and detailed agreements, contracts and testaments to achieve the outcome desired by the bequeather. These predominantly concern how, or whether, siblings should continue to share a family cabin.

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³⁹ Although, of course, this chimes with Anderson's famous argument that the unity of the nation is in any case imagined; Anderson, *Imagined Community*.

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Author Description

Simone Abram is a Professor at the Department of Anthropology at Durham University (UK).

She is currently co-leading a research project on kinship and property with Professor

Marianne Lien at the University of Oslo, entitled “Materializing Kinship”. Her research engagement with Norway began in 2000.

Recent publications include the monograph *Culture and Planning* (2011) and edited volumes:

Green Ice: Tourism Ecologies in the European High North (2016); *Media, Engagement and Anthropological Practice: Contemporary Public Scholarship* (2015) and *Elusive Promises: Planning in the Contemporary World* (2013).

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