

**Indigenous land claims and multiple landscapes: Postcolonial openings in Finnmark,  
Norway.**

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In: *Nature, time and environmental management*

*Scandinavian and Australian perspectives on peoples and places*

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(6-7000 ord, Ashgate 2016)

## **Introduction**

Norway and Australia are nation states where current land practices and rights claims speak to contested natures and notions of belonging. This is particularly salient in relation to these nations' recognition of their respective indigenous populations. Since the 1970s, both countries have seen legal and political processes, rectifying practices in which postcolonial frameworks have been sought, negotiated and articulated against a background of a gradual recognition of colonial pasts. Such postcolonial practices serve to imagine, re-imagine and align pasts and futures in relation to indigenous peoples and the landscapes and places they inhabit.

This chapter explores an ongoing process of establishing local and indigenous user rights in Finnmark, Northern Norway. Our concern is the extent to which this ongoing process allows for what we tentatively refer to as 'otherness within', i.e. the nation's acknowledgement of multiple natures; and/or of indigenous and local nature practices that are radically different from hegemonic and legal notions of property. In our analysis, we explicitly engage Australian legal processes as a comparative figure. Our aim is not to provide an exhaustive account of Australian native title processes but rather to use this as a lens for examining the Norwegian indigenous legal process. The comparison is triggered by the following observation: While legal practices framing landscapes and indigenous rights are hardly straightforward anywhere, the Australian native title framework appears, at certain moments at least, to encompass the possibility of multiple natures; as it has incorporated attempts to engage an indigenous other with radically divergent practices of nature and time (see for example Verran 1998, see also Stengers 2005). Our concern then, is to what extent postcolonial openings provided by an acknowledgement of multiplicity, are incorporated in the ongoing Sami rights process in Norway.

In this chapter, we analyse the legal and bureaucratic processes through which different legal trajectories emerge, and discuss their respective procedures, as well as the extent to which each allows the articulations of multiple natures. We are inspired by recent dialogues concerning attempts to make space for what de la Cadena refers to as a world where many worlds fit (2015. Emerging from critique of the distinction between nature and culture, and against what is often referred to as the ‘one-world world’ (Law 2011), this is an ontological move that may encompass – but does not necessarily require – radical alterity<sup>1</sup>. Rather it reflects a concern with what might be referred to as the uncommons (de la Cadena 2015).

The term *uncommons* is an attempt to articulate the possibilities for alliances (between local guardians of land and environmental activists for example) based on uncommonalities; i.e. alliances or negotiations that do not undo fundamental differences, but may incorporate ‘the parties’ constitutive divergence – even if this opens up discussion of the partition of the sensible and introduces the possibility of ontological disagreement into the alliance.’ De la Cadena continues:

*...this alliance would also house hope for a commons that does not require the division between universal nature and diversified humans: rather, a commons constantly emerging from the uncommons as grounds for political negotiation of what the interest in common—and thus the commons—would be (de la Cadena 2015)*

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<sup>1</sup> Hence, it largely escapes the essentialist trap which is often attributed to and associated with as the so-called ‘ontological turn’. Rather than positing radically different worlds, we agree with Gad et.al. who suggest that anthropology must proceed *as if* there are many worlds: ‘Rather than making a choice between ‘multi-culture’ and ‘multi-nature’, such studies thrive on the exploration of never-finally-closed nature-cultures; the crystallization of specific ontological formations out of infinitely varied elements’ (Gad et.al. 2015:83).

Hence we ask: What would it take to articulate indigenous notions of landscape belonging and land rights in a way that allows such uncommons to co-exist? To what extent is there currently a space for articulating divergences that undo a singular nature, or what Anna Tsing has referred to as processes of worlding – that is, ‘the always experimental, partial, and often quite wrong, attribution of worldlike characteristics to scenes of social encounter’ (Tsing 2010: 54).

In both Norway and Australia, the nation states have historically lacked recognition of indigenous ownership of land. The colonial nature of these historical legal doctrines became publicly visible at more or less the same time in the two countries, times when politics in both places were characterised by strong egalitarian ideals and prevalent ideals of fairness. In Australia, federal land rights for indigenous peoples became known as Native Title in 1993. In Norway, the official legal process was lengthier, and was only formalised in 2005, with the Finnmark Act and the subsequent establishment of the Finnmark Estate (*Finnmarkseiendommen*). In both nations, the land made available for indigenous title was common land (or as called in Australia, crown land), land not subject to private ownership.

The Finnmark Act differs in some important ways from the Australian Native Title Act. First, while the Finnmark Estate (FEFO) represented a national legal process, transferring ownership of our northernmost county to an Estate. This legal process however, was of little consequence to Sami people outside this county. Second, and more important to our argument, while the handover of land from the state to the Finnmark Estate acknowledged an indigenous Sami population, and its rights to land, the Finnmark Estate is not a Sami Estate. The Estate was explicitly handed over to the entire population of Finnmark, both Sami and non-Sami. The new Estate is also managed by a board of six directors, where only three of whom are appointed by the Sami Parliament of Norway, while the other three are named by the Finnmark County Council. As Sami have the right to vote both in the Sami Parliamentary

elections and the county council elections, all directors could, hypothetically be Sami, but not necessarily. The population in Finnmark is Sami, Kvæn<sup>2</sup> and Norwegian. Stigma experienced after years of state assimilation policies have a long-term effect. This, and the fluid and negotiable nature of ethnicity and kinship in this region has manifested in families over several generations, and led to situations in which different members ascribe to all three kinds of ethnic identification (Kramvig 2005). Therefore, to determine ‘who is who’ in Finnmark is by no means straightforward. Also, Norwegian political parties as well as Sami political parties are represented at the county council, and ethnic identity and political affiliation do not necessarily coincide. As we have noted elsewhere (Ween and Lien 2012) the Finnmark Act recognises the rights of the entire population of Finnmark and a multiethnic population is thus institutionally incorporated in the management structure.

This brief comparative background is good to keep in mind when we now turn to a close examination of the actual local work of recognising local user rights, or potentially property rights, the ongoing legal processes of Finnmark Commission. This work was, in the Norwegian case not initiated before 2008, in other words, several years after the land transfer. In this chapter we will explore how these rights processes unfold in practice. Our concern is not only the extent to which indigenous, or also in the case of Norway, non-indigenous peoples are granted user rights, but also the extent to which *divergent relations between landscape and people* (what we refer to above as uncommons) are recognised in the processes, and potentially acknowledged as legitimate. Put differently: does the legal process allow multiple world - making landscape practices to exist side by side, or does it crystallise

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<sup>2</sup> Kvæn is an ethnic minority in Norway descended from Finns who emigrated from the northern parts of Finland and Sweden to Northern Norway in the 18th and 19th centuries. In 1996 Kvæn people were granted minority status and a few years later, in 2005, the Kvæn language was recognized as a minority language in Norway.

yet another ‘one-world world formation’? While most studies of indigenous land rights and land use focus on the effect of legal land rights processes for indigenous (potential/alleged) right holders, we focus instead on the effect of such processes on the kinds of natures / landscapes that are permitted within a legal/bureaucratic format of legal rights claims. What kinds of ‘stories’ are invited or acknowledged as legitimate statements? And, to the extent that they are articulated, what are the implications of such divergent articulations for the kinds of futures that are imagined, performed, or allowed to unfold? Finally, we discuss the implications of such divergences for ontological multiplicity, what future imaginaries do these legal works produce?

Our focus is on whether local land use practices and relations to land are acknowledged, with a view of not only how different *concepts and practices of nature* are embedded in human landscape practices (cf. the introduction to this book), but also how such different *landscapes and people/citizens/right-holders are performed* or enacted, as sites that allow co-existences of particular relationalities and affordances of both human and non-humans (Ween 2009, Lien and Davison 2010, Abram and Lien 2011, Ween 2014). We pay attention to how landscapes and people are formatted through the legal process and the entities that are permitted or made legible. We are inspired by Helen Verran’s approach to landscapes as people-places (Verran 2002) enacted by particular legal practices as an ethnographic finding, a local emic concept, and an outcome, rather than an analytical premise.

Our analysis draws on our long-standing ethnographic interest in both North Norway and Australia. Marianne Lien has done fieldwork in Finnmark since the mid 1980’s and recently re-engaged old field sites, in relation to questions of domestication. Gro Ween has worked with indigenous land rights in both countries, with native title claimant groups during her first fieldworks in the Australian north in the late 1990s (Ween 2002) as well as the Finnmark Commission (Pedersen et al. 2010). She has been engaged in fieldwork in several Sami areas

(Southern Sami, Sea Sami and River Sami). As anthropologists, our fieldworks involve participant observation of significant activities, often with a focus on subsistence activities, but also participation in the activities that in indigenous contexts become necessary extensions of subsistence practices, such as political activities, legal and bureaucratic procedures, as well as interviews, conversations, often based upon long-time collaborations.

Our understanding of nature practices is influenced from Studies of Technology and Science (STS), with a focus on how nature is enacted. Central to such orientations is the understanding that there is always more than one nature, that nature is not out there, nor something that only lends itself to one kind of description, and that the ways in which nature is described, is always also performative (see for example Latour 1988, Asdal 2008, Abram and Lien 2011,). The STS awareness of the agency of documents, legal texts and other bureaucratic devices is well established have also seeped into anthropological approaches (see for example Riles 2000, Cruikshank 2005, Tsing 2005, Blaser 2010)<sup>3</sup>. What these indigenous rights cases make apparent is that legal texts, propositions, regulations and policy notes have the potential to enforce great changes (Ween 2009, 2014). Description of nature, including the act of writing, inscribing in law or bureaucratic regulation in itself has agency. Legal texts and bureaucratic procedures are in a position to produce an *authoritative narrative*: Historian William Cronon (1992) reminds us to consider the very authority with which such narratives are presented and that how this particular vision is achieved, is achieved by obscuring large proportions of

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<sup>3</sup> For example, in her study of the Fijian preparations to the UN Women's Conference in Beijing, Annelise Riles (2000) was concerned with the artefacts of institutional activity, the objects and subjects of bureaucratic practice, how the practice was conceived and what kind of responses it elicited (2000: xiv). In his study of how indigenous work in Chiapas became global through becoming involved in indigenous rights processes, Mario Blaser (2010) was concerned with how modern knowledge practices are performed, and how exactly the knowledge involved in such indigenous rights work engages with each other (Ween 2014).

reality: Narrative foregrounds and backgrounds to hide discontinuities and contradictory experiences. A powerful narrative constructs common sense, making the contingent seem determined and the artificial seem real (Cronon 1992). It is this, the work involved in producing the political that is our concern here (Asdal, Borch and Moser 2008: 6).

We begin by examining the current procedures of the Finnmark Commission against the comparative backdrop of the Australian Native Title, highlighting some important differences. Then, we situate these differences in relation to the colonial/post-colonial context in both nation states, considering differences as well as similarities in relation to their respective colonial histories, notion of equality, and the distinction between settler nations and non-settler nations. Finally, we discuss the implications of such differences in relation to future imaginaries, ontological differences, and suggest that rectifying processes perform – not only the allocation of user rights – but also a form of ontological politics. But before we turn to the empirical material, let us briefly explain what we mean by (post-) colonial practices and nature practices, and how this approach is relevant to our comparison.

### **Law and (post-) colonial nature practices**

While Australia is a settler nation, established through the transition/acquisition as former British colonies in a land already settled by an indigenous population, Norway's colonial heritage is far more complicated and also less pronounced in the narratives of the nation. Norway is celebrated as a nation that - after 400 years without sovereignty - (as an inferior in unions with Denmark and Sweden) finally gained its independence in 1905. In spite of some failed Norwegian efforts in the 1920s/1930s to annex Greenland and the Faroe islands from Denmark, Norway is often distinguished as being relatively 'innocent' in relation to imperial

powers in Northern Europe, as it held no colonies overseas (Colonies were held by the Danish Norwegian Crown, but were not governed from what is known as Norway today.).

*Figure 2 Sami in front of the early Karasjok church*

The fact that Norway as an independent nation state (post 1905) never held colonies overseas, does not mean that there were no internal frontiers or settler politics. Swedish/Norwegian nation building efforts in the 19<sup>th</sup> and 20<sup>th</sup> centuries, the imposition of church and state administration on politically strategic regions, and efforts to eradicate Sami religious and cultural practices are trajectories with colonial undertones. Such practices reinforced a cultural and political process referred to in Norwegian as *fornorsking*, (literally ‘Norwegianisation’), which was already ongoing, due to a non-Sami population expansion into Sami areas at a time (mid 19<sup>th</sup> century) when agriculture was promoted and nomadic practices were oppressed.

**Framing articulations of land claims: The Australian case**

This format will obviously not give us the opportunity for an extensive comparison of Norwegian and Australian indigenous rights cases, our comparison will restrict itself to the legal inscription, the practices these instigated, their consequences for the possible relations between people and land, and the mapping exercises that these brought, last but not least, the postcolonial potential of enacting such people-places.

Although land rights activism in Australia started elsewhere than the Torres Strait, and decades before this, the story of Native Title began when the Meriam people represented by the Mabo brothers took their claim to High Court insisting that they were the traditional native title holders of the Murray Islands and that the Crown’s sovereignty should be subject to these rights (Sutton 2003: xiv). When the Australian High Court delivered judgement in the Mabo and Ors vs. Queensland case in 1992 it held that native title could be recognised by the

common law of Australia. It also stated that Terra Nullius – the constitutional doctrine that Australia was uninhabited at the time of colonisation – was ‘discriminatory, unjust and unconscionable’ (Sutton 2003: xiv). The following year, the Australian government passed the Native Title Act (1993), creating a statutory regime for protecting and recognising native title. According to this Act Australian indigenous people could receive native title provided they were able to prove religious and cultural ties to the land as well as continued use through colonial history. To rectify in this case did not mean overturn, as the title did not effect private ownership rights (Sutton 2003, Smith and Morphy 2007).

In the following years, institutions were established through which Australian indigenous people could apply to have their rights recognised. A native title claim could be launched in several ways: For example, a group of traditional owners could present their claim to the native title tribunal as an independent act, or in response to an Expression of Interest from ‘other interested parties’, such as entrepreneurs, state governments, shire councils or claims by other local indigenous groups. The evidence of traditional owners would be assembled by lawyers, anthropologists and archaeologists, with the knowledge of how to translate evidence of these activities into categories that satisfied the legal criteria of the Act. Anthropologists became particularly important. Legally authorized, as they in effect became, to translate and describe, in ways that make sense to the tribunals; knowledge of hunting, fishing and collecting, of sacred sites, ceremonies, artefacts, ancestral myths and legends, of different kinds of family and individual connections with land, including the genealogies of families within each claimant groups (Sullivan 1997, Sutton 2003, Morphy 2007, Strang 2010). Native title cases made it clear that connections between people and land were heterogeneous. In anthropological terms people’s connections to land have many origins, based upon language or family group connections, religious practice, subsistence use, or as place of birth. Careful ethnographic work, in collaboration with claimant groups, enabled these rectifying processes

to allow the articulation of relations between people and land, radically different from Euro-Australian conventional notions of private property and land use as articulated by settler descendants (Verran 2002, Morphy 2007, Strang, 2010).

### **Framing articulations of land claims: The Norwegian case**

The development of a Norwegian land rights struggle gained momentum in the 1970s. A conflict over a proposed hydroelectric dam and power plant on the Alta River (in Finnmark county), led to what has later been known as the Alta-Kautokeino conflict. While the protesters lost and the dam was built, the political conflict contributed to make the Sami visible as an indigenous population with legitimate interests. Coinciding with indigenous rights developments elsewhere including the UN, the Norwegian state began a legal and fact-finding process that in the end would recognise the existence of Sami rights. Since 1990's the Sami Rights Commissions have requested inquiries into Sami rights positions, land as the foundation for Sami culture, Sami customary law, the rights of Sami south of Finnmark, and fishing rights in Finnmark (NOU 1994:1, 1997:4-5, 2001:34, and 2008:5). The production of these official reports went on for almost three decades and primarily based upon written text, historical records, but also analysis of customary law in traditional Sami practices. Although a top-down process, these reports were written by both Sami and non-Sami academics and interest groups, producing what often was ground-breaking new history (Ween 2012b). Legal changes brought by the work of the Sami Rights Commission included the Sami Act of 1987, which lay the legal foundation for the Sami Parliament, established in 1989 and the Finnmark Act (2005). This process established Norway as a nation based on the lands of two people (Smith 2004), as well as the recognition of colonial 'wrongs' in relation to the Sami (Ween 2008, Pedersen et al. 2010).



*Figure 3, the Sami Parliament (Store Norske Leksikon).*

The Finnmark Act (2005) transferred 45 000 km<sup>2</sup> or about 96 percent of the county of Finnmark from the Norwegian state to a land holding institution, the Finnmark Estate (FEFO). According to the Finnmark Act, management of the land was to benefit not only the county's population (irrespective of ethnic identification) but also especially Sami culture and reindeer husbandry. It involved the recognition that Sami collectively and individually had acquired rights to land through long lasting use of land and water. The Finnmark Act (2005) is based upon three tiers of rights with different kinds of access to land and its resources (Ravna 2006). Local inhabitants of each municipality<sup>4</sup> have the rights to gather eggs and down, as well as to limited logging on their home land. Inhabitants of the Finnmark County are granted the right

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<sup>4</sup> A municipality is a governing structure within the county, defined by territory, and with specific responsibilities delegated from the state, and with a certain autonomy on some political issues, (including for example whether the official language is Sami, Norwegian or both).

to hunt and fish and pick cloudberry in the entire Finnmark Estate, regardless of ethnic identity or municipal residence. The general public also from outside of the county, such as tourists/visitors have rights to small game hunting, angling<sup>5</sup> and cloudberry picking for subsistence purposes (Ravna 2006: 81).

It is explicitly stated in the Finnmark Act (2005), that the Sami through rights immemorial have rights to land and waters. However, the Act also acknowledges that other inhabitants in Finnmark have such rights, through similar long-term use. This benefits those inhabitants who, for a variety of reasons – including harsh assimilation policies – do not identify as Sami<sup>6</sup>. As the self-declared Sami only constitute a majority of the population in the inner parts of Finnmark, the Act was designed to balance Sami interests against the interests of the remainder of the population, and to invite cooperation and non-conflict among all ethnic groups in Finnmark.

Following up the Finnmark Act and the recommendations of Norwegian Official Reports (NOUs) (no. 1994:21, 1997: 5, 2001:34, and 2008: 5) the Finnmark Commission was established with the aim to identify and facilitate a procedure through which rights to land, and the content of such rights could be established on the basis of customary law, immemorial use (see also Minde 2005: 29, Ravna 2006: 79). As we will show, the structures instigated to map land rights in Finnmark had a different approach than the Australian native title processes.

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<sup>5</sup> Such hunting and angling requires the acquisition of hunting or angling permits, as in the rest of Norway, regardless citizenship, residence or indigeneity.

<sup>6</sup> Inter-marriage between Sami, Norwegian, Kvæn and Finnish people have been common in Finnmark. Hence, multiple affiliations and bilingualism has been prevalent, and many refuse to take part in a political and ethnic discourse that defines ethnicity as an either-or, rather than a both-and (for details, see Ween and Lien 2012).

## **Land rights settlements compared**

While the legal processes of indigenous land right settlements bear resemblances, there are also obvious differences in the way they are organised, in the kinds of expertise that is engaged and made relevant, the role of potential rights holders, and the ways in which potential rights holders are invited to articulate their claims. These differences, we suggest enable rather different processes of worlding (Tsing 2005), and rather different epistemic commitments to coincide, with different potential to articulate particular people-places (Verran 2001). In the following sections we will address these differences in further detail.

### *Bottom up vs top down.*

A number of writers have noted the Australian native title legislation and its practices as a legal domestication of the indigenous landscape, in ways that represent new forms of colonisation (Morphy 2007, Weiner 2007). While we acknowledging these apparent shortcomings in the Australian context, our point is, nevertheless, the difference between what primarily is a bottom-up approach in the Australian context and the Norwegian top-down approach. In Finnmark, the Commission has initiated a rights-mapping process, area-by-area. For each specified area, referred to in Norwegian as a '*felt*' (field, which may comprise a few municipalities) a separate timeline is established, a 'window' for articulating claims is announced, and reports are commissioned from research institutions (according to identified needs), chosen after a bidding contest.

While the Australian process was developed with explicit attention to local cultural practices, and at times even with some attention to ontological or epistemic difference<sup>7</sup>, the Norwegian process is run in line with common Norwegian official procedures: When a field is chosen, this is publically declared in all media. Claims are invited, all kinds of rights (ownership rights or user rights), individual or collective rights. Claims of rights must include the area for which the claim is provided and also include a short description of the actual historical and legal foundation for the claim (*faktiske historiske og rettslige grunnlaget for kravet*). Open meetings take place, direct communications are initiated with communities, municipalities, and such as reindeer herding *siidas*<sup>8</sup>, fishermen's organisations. So far, the number of claims for each region has been very limited, and most claims are from larger groups, such as reindeer herding *siidas* or local community *siidas*.<sup>9</sup> Although claims can be articulated orally, it is stated that it is advantageous if the claim is articulated in writing (NIKU Oppdragsrapport 43/2011). Claim forms are 2 page documents, stating name, connecting type of right, with an associated explanation. On the form claimants are asked to tick off whether their claim was for private ownership rights or user rights, individual or collective rights. The form has a small space where claimants can describe the historical continuity that provides the grounds for the claim, and the type of claim made (or types of claims). There is little discussion of whether these claim forms are culturally appropriate for Sami or other inhabitants, or if the format allows the articulation of locally perceived relations between people and land. In any case, the number of claims that have been registered is low. Otherwise, funding for the

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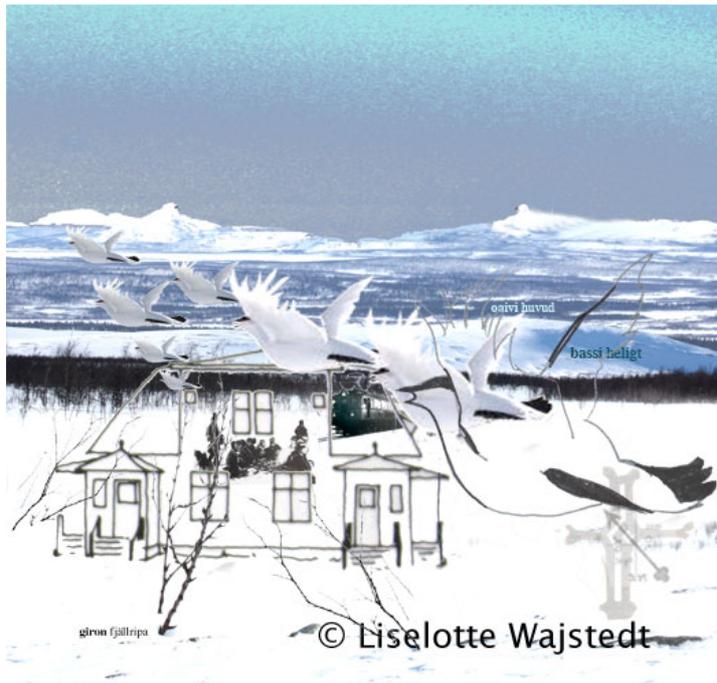
<sup>7</sup> For critical perspectives to the politics of difference within Australian native title practices see Povinelli (2002), Glaskin (2007), Weiner (2007). For a more hopeful interpretation, see Verran 1998.

<sup>8</sup> The Sami traditional unit for social, economic, and political organisation.

<sup>9</sup> For region 1. 19 claims, only 11 were considered within the mandate of the commission. Tana – 9 claims, felt 7, felt 6 Varangerhalvøya west, 7 claims. Felt 5 Varangerhalvøya East, Felt 3, 15 claims -12 were excluded, 24 were noted. Felt 2, 9 claims.

mapping of rights in each region has not been substantial enough to make use of more elaborate fieldwork techniques than interviews. Some are also phone interviews, others are formatted as multiple-choice interviews. All claims and the final reports are published on the Finnmark Commission's website, including the final deliberative report.

When questionnaires have been sent out to larger audiences in a region, the response rate has also been relatively low. For each region, a regional 'expert group' is set up with representatives from fishermen, farmers, reindeer herders, Sami organisations, municipal councils, etcetera. Consultant researchers write reports on aspects of the regional subsistence uses, such as uses of the commons, coastal or river fisheries. The final report for each field is written up, in a legal genre, by the members of the Finnmark Commission. Here, so far, most of the knowledge referred, are based historical records (often the same official reports, written by the Sami Rights Commissions, that in its time provided the grounds to establish the Finnmark Estate and the Commission). The focus on historical knowledge, the explicit legal genre, the lack of funding for in-depth fieldwork; concerning understandings of subsistence uses, oral accounts of land use, religious use, as well as on-going negotiations over rights over time, are narratives backgrounded as a consequence of the legal and text based framework.



*Figure 4, Surviving the Future by Liselotte Wajstedt.*

*Professional expertise: Anthropologists, historians and local experts.*

In the Australian system, consideration for the alterity of the Native Title claimants in its time went far. As the articulation of a Native Title right relied on an acknowledgement of predominantly oral traditions, it was anthropologists who were granted the most significant role of experts in processes to establish claims (Sutton 2003). Religion was deemed to be essential to the continued nature practices. Religious and ceremonial knowledge was respected in the claimant processes as well as by the courts. The Native Title courts were educated in Aboriginal cultural behaviour, notions of shame associated with public speaking; the difficulties of male presence in hearings of female religious activities, etcetera.

Knowledge of hunting and gathering were demonstrated *in situ*, out on the land. Sites of special importance were documented with significant elders making trips, and adding their own stories to GIS locations on maps (Sullivan 1997, Ween 2002, Strang 2010). Family genealogies for entire communities were recorded to ensure that all claimants were heard, to secure knowledge of particular family estates and their boundaries, to find areas where

boundaries overlap and to initiate negotiations between peoples with such overlapping boundaries where it mattered. In this way, oral history became meaningful, not only to anthropologists documenting claims but also for the courts' procedures. In other words, arguably, in Australia, local indigenous people were able to remain the experts of their own land and knowledge.

In the case of the Norwegian Sami rights process it was historians and legal practitioners who were given the roles of experts. These may or may not be Sami themselves. So far, the Finnmark Commission has been able to make use of prominent experts, many of these Sami, in their mapping exercises. There are also good reasons for this focus on text and history: In Norway, the co-existence of Sami speaking and Norwegian speaking people in Finnmark go back at least 800 years. Consequently, there is a rich and varied collection of historical records to be consulted, both of an oral, written, and material kind (as manifestations in the landscape). At the same time, this focus on written records as source, or truth, in the establishment of factual issues, also reflects a more general understanding of land claims as being first and foremost classified historically, and in the legal or judicial realm, rather than in common law. That is, the Finnmark Act is generally acknowledged as a process of setting historical records straight, rather than being about acknowledgement of cultural differences as such. This reflects what Helen Verran has described as the absence of imaginary in Western epistemological traditions (1998: 243), one that renders the landscape inagential so that 'people own land', while the idea that 'land owns people' is unimaginable, within this order, all space is equivalent (1998: 241).

While Australian Native Title claims are mediated through an institutionalised process in which cultural difference is expected to take place (Povinelli 2002, Morphy 2007, Glaskin 2007), in Norway, Sami are expected to be equal citizens, fully equipped and able to express their relations to particular lands or resources in ways that the legal experts will recognise.

Next to the preference for written claims, little attention is paid to the difference between local customary law and Finnmark Commission's legal interpretation. The limited education (often due to WW2) of many potential and real claimants of the older generation is not noted, neither the tendency so far in the Commission's work of many people regardless of ethnicity, to be uncomfortable with the genre of a legal claim, and more so.

*Fluidity and ambiguity: the articulation of difference*

The acknowledged heterogeneous people-places of indigenous Australians, accounting for overlapping associations in connection with as many different kinds of associations, such as language group, family group, gender, ritual and subsistence practice, as well as place of birth, are far from the people-places of Sapmi. Text based, or possibly, interview-based descriptions of people-places, provide little in the sense of in-depth descriptions of local nature practices, that could have involved for example religious practices, practices that in Sapmi have been suppressed or kept secret for centuries (cf. Myrvoll 2011), and in many ways still are. Limited attention is also paid to a cultural ethos that value tacit knowledge and as previously mentioned, the fluidity of social relations (Kramvig 2005) that allow for the acknowledgement of many kinds of identities, kinship and friendships across ethnic divides and subsistence activities. The Sami cultural attention to understatement, open-ended identities and relations are to some extent continuously renegotiated. In Sapmi, as in Australia, when individual claims are launched fixing the otherwise fluid and heterogeneous understandings of rights, this often brings tensions and conflict to local communities. This could be one of the reasons why the number of individually or group-based claims in the mapping of fields of rights instigated by the Finnmark Commission has been so low. To take the divergent forms of worlding within Finnmark seriously, we must pay attention to the social dynamics that may unfold a small community when claims are launched over natures that have been used tacitly by many, in different ways for centuries.

## **Concluding notes**

In this chapter, we have drawn the attention to how landscapes are enacted by particular legal practices. In line with STS inspired observations of the intervening powers of law and bureaucracy, we have chosen to focus on how the Finnmark Commission articulates Sami and other local nature perceptions as an emic concept, as an outcome. Our interest, furthermore, has been in the opportunities that these enacted people-places offer, in terms of making room both for Sami ontological foundations and epistemological framework, and for other forms of uncharted difference entailed in the notion of ‘uncommons’.

There seems to be little awareness of ontologically different multiplicity and for the many acts of translations that the actors involved must transgress in order to successfully navigate the new legal landscape that the Finnmark Commission work triggers. This includes several challenges, including such as: How to feel comfortable with a legally initiated, top-down procedure? How to articulate nature practices on written forms or in an interview, when such knowledge of nature primarily has been taught on the land and in practice? How to articulate complex forms of co-existing identities, or user rights that have evolved in a taken for granted manner through decades, and that continue to work because they are inherently flexible? And finally, how to articulate relations to land when such relations of traditional use and intimate belonging are not exclusive, but permit multiple landscape practices and users to co-exist?

Based on evidence gathered so far, particularly of the economic conditions, but also, as a consequence, of the methodologies employed in the Norwegian investigations, it is not very likely that there will be room for the inherent fluidity of local long term co-existence, nor the uncommon-ness of lands in Finnmark. This, in spite of its well-intended efforts to invite and include locals to articulate and partake in the actual process.

As a consequence, the postcolonial potential of the Finnmark Act as a rectifying practice in a time of transition is limited by the bureaucratic and legalistic framing of the nature and practices involved. The lack of open articulation of ontologically divergent framings of what nature, people, and belonging is about might, in our opinion also further hinder the Act's postcolonial potential.

Considering what is left out, in terms of the kinds of relationalities between land and people and living non-humans, within the format of performing legal rights claims, the kinds of 'stories' that are invited to be told and which that are silenced, the processes of inquiry itself contributes to a flattening of the potentially much more rich and multiple sets of practices that *could* have been made relevant, but are not. It should be noted, that although such multiple ontology is absent from the Finnmark Commission, it is increasingly prevalent in Sami academic traditions (see for example Oskal 1995, Kramvig 2005, Kuokkanen 2006, Sara 2009, Guttorm 2011, Myrvoll 2011, Balto and Østmo 2012) This we argue, is a colonising process, which is in fact a re-colonisation in the name de-colonisation (for similar perspectives with regard to Australia, see for example Morphy 2007). One could argue that the alterity that has become so institutionalised in the Australian context by some could be equally alienating. It could even be that the indigenous/non-indigenous situations co-produced in these nation states over time, are more similar than these two legal framings allow view of.

## **References**

Abram, S. and Lien, M.E. 2011. *Performing Nature at Worlds Ends*. *Ethnos*, 76(1), 3-18.

Asdal, K. Borch, Christian and Moser, Ingunn. 2008. *The Technologies of Politics*.

*Distinktion: Scandinavian Journal of Social Theory*, (16), 5-11.

- Asdal, K. 2003. *Politikkens teknologier. Produksjon av regjerlig natur* [Technologies of politics. Production of governable nature]. Phd. Dissertation, University of Oslo.
- Asdal, K. 2008. Enacting things through numbers: Taking nature into account/ing. *Geoforum*, 39 (1), 123-132.
- Balto, A.M. and Østmo, L. 2012. Multicultural studies from a Sámi perspective: Bridging traditions and challenges in an indigenous setting. *Issues in Educational Research*, 22 (1), 1.
- Blaser, M. 2010. *Storytelling Globalization from Chaco and Beyond*. Durham, NC: Duke University Press.
- Blaser, M. and de la Cadena, M. 2016 *forthcoming*. Indigenous Cosmopolitics. Dialogues about the Reconstitution of Worlds – or Dialogues for a Pluriverse. In: M. de la Cadena and M. Blaser (eds.) *Indigenous Cosmopolitics*. Durham, N.Y.C.: Duke University Press.
- Cronon, W. 1992. A Place for Stories, in Nature, History, and Narrative, special issue of *The Journal of American History*, 78(4), 1347-1376.
- Cruikshank, J. 2005. *Do Glaciers Listen? Local Knowledge, Colonial Encounters and Social Imagination*. Vancouver: University of British Columbia press.
- de la Cadena, M. 2010. Indigenous Cosmopolitics in the Andes. Conceptual reflections beyond ‘politics’. *Cultural Anthropology*, 25(2), 334-370.
- de la Cadena, M. 2015. ‘Uncommoning Nature’ *Apocalypse*, August 22nd 2015—[Day 79](http://supercommunity.e-flux.com/texts/uncommoning-nature/)  
<http://supercommunity.e-flux.com/texts/uncommoning-nature/>

Gad, C., Jensen, Bruun, C. and Winthereik, B. 2015. Practical Ontology. Worlds in STS and Anthropology. *NatureCulture*, 3: 67-86.

Glaskin, K. 2007. Claim Culture and Effect. Property relations and the native title process. In *The Social Effect of Native Title: Recognition, Translation and Co-existence*, edited by B.R. Smith and F. Morphy, Canberra: ANU Press, 79-91.

Guttorm, G. 2011. Árbiediehtu (Sami traditional knowledge) – as a concept and in practice. *Diedut. Sami Allaskuvla*, 1, 59-76.

Kramvig, B. 2005. Fleksible kategorier – fleksible liv [Flexible categories- Flexible Lives]. *Norsk antropologisk tidsskrift*, 16(2-3), 97-108.

Kuokkanen, Rauna. 2006. The Logic of the Gift – Reclaiming Indigenous Peoples' Philosophies. Re-Ethnicizing the Mind? In *Cultural Revival in Contemporary Thought*, T. Botz-Bornstein (ed.). Amsterdam and New York: Rodopi, 251-71.

Latour, B. 1988. *The Pasteurization of France*. Harvard: Harvard University Press.

Law, J. and Wen-yuan, L. 2011. Cultivating Disconcertment, in Michaela Benson and Rolland Munro (eds), *Sociological Routes and Political Roots*, Oxford: Wiley-Blackwell, 135-153.

Law of 17<sup>th</sup> of June 2005, no. 85, *Om lov om rettsforhold og forvaltning av grunn og naturressurser i Finnmark fylke, the Finnmark Act*.

Lien, M.E. and Davison, A. 2010. Roots, Rupture and Remembrance. The Tasman lives of Monterey Pine. *Journal of Material Culture*, 15(2).

Minde, H. 2005. *The Challenge of Indigenism. The struggle for Sami land rights and self-government in Norway*. Delft: Eburon.

Morphy, F. 2007. Performing Law: The Yolngu of Blue Mud Bay meet Native Title Process. In *The Social Effect of Native Title: Recognition, Translation and Co-existence*, edited by B.R. Smith and F. Morphy, Canberra: ANU Press, 59-79.

Myrvoll, M. 2011. *Bare gudsordet duger. Om kontinuitet og brudd i samisk virkelighetsforståelse* [*Only Gods Word Works. About continuity and rupture in Sami perceptions of reality*]. Doctoral dissertation. University of Tromsø.

NIKU Oppdragsrapport 42/2011. *Felt 1 Stjernøya/Seiland*.

NIKU Oppdragsrapport 43/2011. *Felt 2 Nesseby*.

NIKU Oppdragsrapport 241/2011 *Felt 3 Sørøya*.

NIKU Oppdragsrapport 172/2013. *Felt 6 Varangerhalvøyavest: Berlevåg og Båtsfjord*.

NINA Rapport 881/2012. *Felt 5 Varangerhalvøya øst*.

NOU 1994: 21. *Bruk av land og vann i Finnmark i historisk perspektiv. Bakgrunnsmateriale for Samerettsutvalget* [Use of land and water in Finnmark in historical perspective. Background material for the Sami Rights Commission], Sami Rights Commission [Samerettsutvalget], Norway.

NOU 1997: 4. *Naturgrunnlaget for samisk kultur* [The natural resource base for Sami culture], Sami Rights Commission[Samerettsutvalget], Norway.

NOU 1997:5. *Urfolks landrettigheter på bakgrunn av folkeretten og utenlandsk rett, bakgrunnsmateriale for samerettsutvalget* [Indigenous land rights on the basis of international

law and foreign law, background material for the Sami Rights Commission]. Sami Rights Commission [Samerettsutvalget], Norway.

NOU 2001, 34. *Samiske sedvaner og rettighetsoppfatninger*. Bakgrunnsmateriale for Samerettsutvalget [Sami customs and rights perceptions. Background material for the Sami Rights Commission]. Sami Rights Commission [Samerettsutvalget], Norway.

NOU 2008, 5. *Retten til å fiske i havet utenfor Finnmark. Kystfiskeutvalgets innstilling* [The Right to Fish in the Coastal Areas Outside Finnmark. The recommendations of the Coastal Fishing Commission].

Oskal, N. 1995. *Det rette, det gode og reinlykken* [The Right, the Good and Reindeer Luck]. PhD dissertation. Universitetet i Tromsø.

Pedersen, S. Bull, K.S. Ween, G.B. Solbakken, J.I. 2010. *Sjølaksefiske i Finnmark i et historisk perspektiv. Betydningen av sjølaksefiske for sjøsamisk kultur* [Coastal Salmon Fishing in Finnmark in a Historical Perspective. The importance of coastal salmon fishing for a Coastal Sami culture]. Report for Finnmarkskommisjonen, Sami Allaskuvla/SEG.

Povinelli, E. 2002. *The Cunning of Recognition. Indigenous alterity and the making of Australian multiculturalism*. Durham: Duke University Press.

Rapport *Felt 1 Stjernøya/Seiland*. <https://www.domstol.no/globalassets/upload/finn/rapporter-utredinger-og-kunngjoringer/rapporter/felt-1-rapport---den-trykte.pdf>, (Accessed, last 15.October 2015).

Rapport *Felt 2 Nesseby*. <https://www.domstol.no/globalassets/upload/finn/rapporter-utredinger-og-kunngjoringer/rapporter/felt-2-rapport.pdf>, (Accessed, last 15.October 2015).

Rapport *Felt 3 Sørøya*. <https://www.domstol.no/globalassets/upload/finn/rapporter-utredinger-og-kunngjoringer/rapporter/felt-3-rapport.pdf>, (Accessed, last 15.October 2015).

Rapport *Felt 5 Varangerhalvøya øst*. <https://www.domstol.no/no/Enkelt-domstol/Finnmarkskommisjonen/Felt-1---3/Avsluttede-felt/Felt-5/pdf>, (Accessed, last 15.October 2015).

Rapport *Felt 6 Varangerhalvøya vest*.

<https://www.domstol.no/globalassets/upload/finn/rapporter-utredinger-og-kunngjoringer/rapporter/rapport-felt-6.pdf> (Accessed, 15.October 2015).

Ravna, Ø. 2006. *Recognition of Indigenous Peoples' Land Rights through Modern Legislation. The Case of the Sami People in Norway*. Oslo: Ministry of Foreign Affairs.

Riles, A. 2000. *The Network Inside Out*. Ann Arbour: University of Michigan Press.

Sara, M.N. 2009. Siida and Traditional Sami Reindeer Herder Knowledge. *The Northern Review* 30, 153–178.

Smith, B.R. and Morphy, F. 2007. *The Social Effect of Native Title: Recognition, Translation and Co-existence*. Canberra: ANU Press.

Smith, Carsten. 2004. *Samerettsutvalget- tyve år etter [The Sami Rights Commission – Twenty Years After]*. Innledning på Torkel Opsahls minneseminar, Norsk Senter for Menneskerettigheter. Smith, Carsten (2007): *Samerettsutvalget – tyve år etter*. Oslo: Torkel Opsahls minneseminar, [http://www.galdu.org/govat/doc/sam-erettsutvalget\\_tyve\\_aar\\_etter.pdf](http://www.galdu.org/govat/doc/sam-erettsutvalget_tyve_aar_etter.pdf), accessed 7. May, 2015.

- Strang, V. 2010. Mapping Histories, Cultural Landscapes and Walkabout Methods. In *Environmental Social Science Methods and Research Design*, edited by I. Vaccaro, E.A. Smith and C. Aswani, Cambridge: Cambridge University Press, 132-156.
- Stengers, Isabelle 2005. Introductory Notes to an Ecology of Practices. *Cultural Studies Review*. 11:1 (183-196).
- Sullivan, P.J. 1997. *A Sacred Land, A Sovereign People, an Aboriginal Corporation. Prescribed Bodies and the Native Title Act*. Darwin: NARU, ANU.
- Sutton, P. 2003. *Native Title in Australia: An Ethnographic Perspective*. Cambridge: Cambridge University Press.
- Tsing, A.L. 2005. *Friction. An Ethnography of Global Connection*. Princeton University Press: Princeton, USA.
- Tsing, A.L. 2010. Worlding the Matsutake Diaspora: Or, Can Actor–Network Theory Experiment With Holism? In *Experiments in Holism*, edited by T. Otto and N. Bubandt, West Sussex: Wiley and Blackwell, 47-67.
- Verran, H. 1998. Re-imagining land ownership in Australia. *Postcolonial Studies*. 1(2), 237-254.
- Verran, H. 2002. A Postcolonial Moment in Science Studies: Alternative Firing Regimes of Environmental Scientists and Aboriginal Landowners. *Social Studies of Science*, 32(5/6), 729-762.
- Ween, G.B. 2002. *Bran Nue Dae: Indigenous Rights and Political Activism, in Kimberley, Western Australia: A Study of Indigenous Activism*. D.Phil. dissertation in Social Anthropology, Oxford University.

- Ween, G.B. 2008. *Indigenous Land Rights in Norway: Does Norwegian Indigenous Land Rights Development have relevance for Africa?* Report. Oslo: Kartverket.
- Ween, G.B. 2009. Blåfjella/Skjækerfjella nasjonalpark: Om forvaltning og utøving av sted [Blåfjella/Skjækerfjella National Park: About management and enactment of place] *Norsk antropologisk tidsskrift*, (1-2), 95-106.
- Ween, G.B. 2012a. Performing Indigeneity in Human-Animal Relations, In *Eco-global Crimes: Contemporary and Future Challenges*, edited by R. Ellefsen, G. Larsen and R. Sollund, Farnham: Ashgate, 295-312.
- Ween, G. B. 2012b. Resisting the Imminent Death of Wild Salmon: Local Knowledge of Tana Fishermen in Arctic Norway, In *Fishing People of the North; Cultures, Economies, and Management Responding to Change*, edited by J.P. Johnsen, C. Carothers, K.R. Criddle, C.P. Chambers, P.J. Cullenberg, J.A. Fall, A.H. Himes-Cornell, N.S. Kimball, C.R. Menzies and E.S. Springer, Alaska Sea Grant, 153-171.
- Ween, G.B. 2014. Tracking Nature Inscribed: Nature in Rights and Bureaucratic practice. *Nordic Journal of Science and Technology Studies*, 2(1), 28- 34.
- Ween, G.B. and Lien, M.E. 2012. Decolonisation in the Arctic? Nature Practices and Rights in sub-Arctic Norway. *Journal of Rural and Community Development*. 7(1), 93-109.
- Weiner, J. 2007. History, Oral History and Memorization in Native Title..In *The Social Effect of Native Title: Recognition, Translation and Co-existence*, edited by B.R. Smith and F.Morphy, Canberra: ANU Press, 215-225.

