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The right to roam – balancing inclusion and enclosure

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Research Article

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Abstract

The right to roam – balancing inclusion and enclosure. In Norway, the right to roam is an old custom – a right to traverse and gather berries, herbs and firewood on uncultivated lands – dating back to the Viking Age. In 1957, this right was included in Norwegian laws, in the Outdoor Life Act (Friluftslova). The law transformed agrarian lands into areas for outdoor life and recreation, primarily walking and hiking. However, due to modernisation, the activities performed today are very different than those in the 1950s, involving many sorts of technical devices and installations, commercial activities and a different landscape. The law was a manifestation of the Norwegian outfields as a commons, but what is a commons for some can be an enclosure for others. This is the topic of this article: how the right to roam includes many and much but represents encroachment, displacements and enclosures and has created crowding, natural wear and tear and urges for management regimes. The article describes this as a balance between inclusion and enclosure. The article has two major parts: one presenting the academic discussion about inclusion and enclosure, the other discussing the implementation of the principle in Norway in light of this theory.

Introduction

The freedom or right to roam is an old custom providing everybody with access to bounded natural areas for harvesting or land traversing purposes. In prehistoric times, nature was harvested but not cultivated or owned. Even today, there are places around the world where the ground is not owned. In Greenland, people do not own the lots of their houses but dispose of them (NOU, 2007: 13) – though the ground is owned by the state. In Antarctica and parts of the Sahara, there are unowned areas, and all over the world, there are areas where the ownership status is unclear. Thus, it is not self-evident that a land area has an owner. Nor is it self-evident that alleged owners should have full control over their land. Historically, in many places, this has not been the case; the lands people own have, in many places, been shared with the public. In Norway, the contemporary land-ownership pattern has been settled over hundreds of years, from the medieval age until the mid-18th century (Arnesen, 2003), but the ownership has all along been shared with the public, in accordance with the right to roam principle. It has been an including principle. There is also a moral issue involved in the field – should anybody have exclusive rights to non-inhabited or wild natural areas? These are topics of wide and thorough scholarly debates. Here, the balance between inclusion and enclosure, as unfolded in Norway, is discussed. I will start the discussion by referring to the essence of this debate: the right to roam as a contrast to property rights and the right to exclude.

In Norway, Sweden and Finland, *the right to roam* has been recognised as a customary right, also on private lands. There currently are some challenges related to this. In many places, there are too many visitors and activities taking place, more than nature and local communities can bear. People living in popular nature areas complain and accuse strangers of invading their mountains, forests and villages (Granås & Svensson, 2021). Local people feel that they have lost control over the areas where they live and that there are needs for new policies and regulations in the field (NOU, 2023: 10).

The Norwegian (and Swedish) term for the right to roam is *allemannsretten* – everyone's (or everyman's) right.[1] Other legal terms are public or open access rights. The right to roam is an inclusive principle, but people have different needs and interests. Some people's interests are well catered to in the legislation, whereas others' are not. And the right to roam tends to be subordinated to private property rights. Therefore, one of the basic questions in the field is: to what degree should owners of land have the right to exclude others from their properties? And can the right to roam hinder such enclosures? Even where the right to roam is strong, who benefits and who are the losers? Such questions are part of the debate. It is also the theme for this

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[1]Even today it is called everyman's right, although it also has been a right for women. The law in 1957 did not address the differences between the genders concerning outdoor recreation. It was treated as a masculine endeavour. Later this has changed significantly (Gurholt, 2008).

article: the Norwegian right to roam seen as inclusion or enclosure from a social science perspective.

The approach in this article is to look at the Norwegian practising of the right to roam in light of discussions that have dealt with the relationships between property rights and the right to roam, primarily within Anglo-American academia. This way of examining a topic is not to compare but to use observations and concepts from somewhere else in the analysis of a certain practice. Methodologically, the approach is similar to what is called juxtapositional research (cf. Hooker, 2017), where observations and concepts from one area are somehow used to enlighten another. Here, discourses at play are applied as backdrops for an analysis of Norwegian practices and debates concerning the right to roam. The article can also be seen as some sort of conceptual research, where "a key characteristic . . . is that it can progress without the need for immediate or specific empirical data to support its knowledge claim" (Xin et al., 2013, p. 70). The article is not based on a fresh or new empirical study but on publications discussing the field.

The article is structured as follows: it starts with a description of the early development of the right to roam, followed by a theoretical discussion about the right to roam in relation to private ownership and the right to exclude, the right as an interest and moral concern and as universal versus pluriverse ontologies. Thereafter, the Norwegian right to roam is presented, describing its emergence and character, based on what is written about it and partly stepping back to the theoretical strings presented. A new law in 1957 that formalised the right to roam changed the Norwegian landscape. This is also discussed as a commoning. Towards the end, the article dwells on the relation to another freedom, neoliberal economy and ideology.

The right to roam – principal issues

A short history of the right to roam and enclosure

The right to roam seems to have existed since time immemorial. To survive, people needed access to nature to find food. This might mean traversing other people's lands. As legal regimes emerged, the right to roam was challenged by private property rights blocking human passages (Mégret, 2023). Thus, the right to roam obviously developed in concert with the right to own land. The idea of private ownership is said to relate to the emergence of agriculture, dating back at least 12,000 years (Mégret, 2023). The introduction of agriculture implied that the ground was a basis for the production of goods for self-sustenance and exchange in markets, which necessitated a defence of people's lands. Private ownership was a way of managing this. But the ability to pass through was a strong custom and prevailed even after property ownership had become common. But, over time, Frédéric Mégret (2023) maintains, a combination of new types of knowledge, new views on property rights and new laws sorted people into categories of rich and poor, a class-based society with varying degrees of civic rights, and differing levels of being considered civilised. This thinking was supported by philosophers, lawyers and authors who made this the dominant conception of a civilised society and particularly the nation states. In these processes, the state more or less "... monopolised the legitimate means of movement" (Mégrét, 2023, p. 7).

The thinking about private ground ownership gained a strong position during the Enlightenment, particularly discussed by philosophers such as John Locke, John Stuart Mill and Jeremy Bentham. Locke worked as a secretary for Lord Ashley, who was involved in the establishment of Carolina in today's USA as a British colony (Anderson, 2007). Locke also wrote about land property. He claimed that the earth and nature were given (by God) to mankind in common. However, cultivated land is not merely nature; its value is extended by humans. For the owner, land was "... the labour of his body, and the work of his hands had been 'mixed' with the land, joining something that is his own, and thereby makes it his property" (Locke, 1967 [1690], p. 287–288). This is known as Locke's *labour theory*. Mill and Bentham (Perle, 2015) diverged from this, seeing land as an inheritance of all species; thus, private property had to be expedient; if not, it was unjust. This has been called a social *obligation theory*. Locke also influenced the view concerning indigenous peoples. He had observed that they helped the colonisers in their adaptation to the new land, for instance, in growing corn, but he still thought of them as "part of nature" and that their lands were wild and uncultivated and not laboured (Perle, 2015). Locke's thinking was widely known and formed the basis for legal practices in many countries; for instance, it was included in the American Declaration of Independence. Since then, property rights as an exclusionary principle have had a particularly strong position in American society.

The early British law, as in most of Europe, was strongly influenced by Roman law traditions. In its first emergence, it was common law, uncoded and scattered. Later, it was codified into what is called civil law. These legal traditions were different from the German legislation that had its predecessor in Leges Barbarorum, the people – tribes – that settled and inhabited the former dominions of the Roman Empire. Between the fifth and ninth centuries, their laws were (partly) written down. A key point here was that the landowners did not have exclusive rights to the land (Tordsson, 2010). The principle was called *split ownership*. Travel, hunting, fishing, trapping and some harvesting were permitted for everyone, regardless of who owned the land, and without having to compensate the landowner financially. Tordsson (2010) argues that the origin of the Scandinavian right to roam may have roots in this law tradition. However, also in countries where the property rights have had a stronger position, the freedom to roam is discussed. It is said that no society exists without some sort of freedom to roam (Williams, 2001). However, there are obviously variations concerning these issues, from no closures – open access – to limited and total closures. And there have been and are different ways to open up, from opening up for everybody, as the practice is in Scandinavia, to using zoning principles where particular areas are dedicated for outdoor recreation (as national parks). It is also suggested as an alternative to open it up for those who are willing to pay for it (Kochan, 2019), a practice that is known from France and Italy (Ervola, Mäntymaa, & Uusivuori, 2024).

It is often difficult to say how and when a political or legal system emerged, and this is also true with the right to roam. However, there are reasons to believe that the processes were much the same all over. In Europe, the development from the early Medieval Age is known. For instance, the development in England is well described. Judit Perle (2015) is a scholar who has summed up the history related to property and roaming rights from this period. She has described how people in the English countryside, in the early Medieval Age, lived in villages surrounded by open fields and common lands, but some lands were already owned by so-called Lords of the Manor, a type of landlord or landowner. The fields surrounding the villages were private but often managed

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through collective regimes. When the harvesting was done, the areas were often regarded as common pastures. Thus, people lived off the land, often combined with labouring for a landlord, and could freely move around. This system lasted until the 16th century but changed significantly with the shift to Lutheranism. The properties of the Catholic monasteries were redistributed by the King and created a new class of landowners, many without roots in the old rural society. In this process, properties were enclosed, ownership trumped user rights, and the landowners gained more and more power over the land.

Not everyone was satisfied with these regimes, and since the 16th century, there have been protests, riots and lawsuits concerning private closures and ownership management that provoked local people (cf. McDonagh, 2009). Campaigns for land reforms appeared from the late 18th century and have been part of the British political terrain until our age. In fact, this resulted in new regimes, with a limited but important right to roam in England decided upon in 2005 (called CRoW) and in Scotland in 2007 (Alexander, 2016) with a right to roam similar to those in Scandinavia. The right to roam also exists in other countries; in some countries, it is limited to specific areas (Germany, Denmark, Switzerland), to areas above the forest (in Austria) or to lineal access (along designated walking tracks), as in England (cf. Ervola, Mäntymman, & Uusivuori, 2024).

Interests and moral claims

The rationale behind private property of land can be discussed. How did the idea come about, and why do some countries, regions or societies only have common lands? And why should anybody have exclusive rights to land? Land possessions are not natural but social creations. Landowners have not done anything personally, except for settling, annexing, inheriting or buying, to be the owner. So, why should they possess land without sharing it with the public? A similar line of thinking lies behind the idea of resource rent and the taxing of production based on natural resources, introduced by Ricardo in the 18th century (Ricardo, 1965) but also debated today. Norway has particularly debated this, as a country profiting from natural resources like fish, sea, oil, forests, waterfalls and wind (Nielsen et al., 2023). Should the right to roam – or the territories where it is valid – be added to the list of natural resources? The accessible areas for the right to roam represent a common natural resource, upon which practices and industries called outdoor recreation or tourism are developed. A similar line of thinking is also at the bottom of Leopold's Land Ethics; nature (in large) is something we have in common, and as humans, we should have an ethical, caring relationship with nature (see Stiegemeier, 2019). Leopold maintained that we must be able to experience what we are morally obliged to take care of. This is also an argument for the right to roam.

One of those who recently has raised the question of nature as something we have in common is David Rischel (2024). He states that "the value of nature gives us reason to institute a right to roam" (p. 3), and its value "amplifies the interest of the roamer." If this value is an interest we have in common, on what grounds should anybody have a right to exclude? Rischel (2024) relates it to the distributive justice thinking of John Rawls (2005). In short, this means that we as human beings are not only entitled to take care of ourselves but also to act in the interests of others. This is a duty we have as citizens, a responsibility and a prerequisite for social justice in society. According to this, Rischel argues that exclusionary rights to natural areas are unjust. He also claims that sharing, or what he calls *civic friendship*, is a norm in most societies and something that should be institutionalised, especially concerning access to nature (Rischel, 2024). Civic friendship is to " . . . treat our fellow citizens with a general non-prudential concern for their interests and act together in a political sense" (Rischel, 2024, p. 8), and further, "civic friends share at least some interests." Rischel's focus is England. As other British scholars have shown, among them Jonathan Mitchell (2008), the emergence of the right to roam has been a troublesome endeavour. A law that was meant to enlarge the right to roam (CRoW), he claims, primarily enforced the rights of the property owners based on ecological arguments, ignoring local traditions.

The right to roam can also be seen as an interest, primarily as an interest of the public against the interests of the landowners, and there are many conflicts of interest in the field. Mathias Brinkmann (2022) discusses the freedom to roam from this perspective. An interest is most often a prerequisite for a formal right, defined by its moral importance, its neutral character (and should therefore be state regulated), and its necessity (no alternatives available). His question then is whether the right to roam today has these qualities. His answer is mostly no, related to current recognised aspects of the right to roam, presented by Anderson (2007): the right (to roam) was at one time needed for people to interact, but this is not the case anymore; the right to roam may have positive health effects, but this can be obtained in other ways; the right to roam is a way to immerse oneself in one's history and culture, but it is not necessary for life; and lastly, the right to roam is not important for preserving communal bonds (through encounters) in our times. Despite its weak interest character, there are still arguments in favour of the principle related to morality (Rischel, 2024). This is about the human right to autonomy and the intrinsic rights of nature. There is an element of giving autonomy to the non-owners in reducing the owner's right to exclude, Brinkmann claims (2022; p. 222), but still " . . . the autonomy that roamers gain in return is at best a pale cousin of robust autonomy. A right to roam, even in its Scandinavian form, allows only a limited range of activities; it does not allow residency, commercial activities, altering the land or determining how the land ought to be used . . . " The status of the lands can easily be changed, as well as the conditions for roaming. Even more important, in the view of Brinkmann, is the symbolic aspect of the right to roam. It " . . . is the upshot of an empirical, contingent distribution of legal rights to realise moral claims on a more fundamental level, on which no land is owned . . . " (Brinkmann, 2022, p. 224), and further "[f]undamental co-ownership in this sense expresses a form of fundamental social equality." There is obviously a strong argument for involving moral issues in handling the principle.

Ownership or sovereignty?

In his writing on the topic, Frédéric Mégrét (2023) claims that the right to roam is much more than mere regulation of territories: " . . . the right to roam is . . . a series of rights and obligations that they have towards the owners and vice versa" (2023, p. 15). He ties the right to roam to the concept of sovereignty, mostly used in relation to nation-states: "What defines sovereignty is the ability to govern a population on that territory – not some bare fact of territorial ownership . . . . property is itself quite dependent on sovereignty in that it is guaranteed and regulated by it . . . " (Mégrét, 2023, p. 11–12). Sovereignty is not ownership but the jurisdiction through which the state governs a territory, similar to the fact that the state does not own the people over whom it

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governs. "Territories are governed, not owned . . . Sovereignty is a privilege, but it is also a fiduciary duty . . . " (Mégrét, 2023, p. 13). In this discussion, Mégrét leans on Jeremy Waldron (2017), who makes a distinction between sovereign ownership and sovereign responsibility:

> The sovereign of a territory has the responsibility for organizing the law and legal system for that territory . . . . [T]he sovereign [state] decides whether or not there will be private property in a society, which resources will be owned privately (and which will be owned by the state), and how extensive rights of private owners will be. In any community, some property is state-owned . . . even in a capitalist society, all property is ultimately state-owned and some of this is just leased back by the state-owner to individuals . . . . (Waldron, 2017, p. 481).

This implies that the state always has the authority to make claims on private property. However, Waldron (2017) also points to a series of problems related to sovereignty and ownership. Sovereignty tends to collide with private ownership or conceptions of user rights. The responsibility of a sovereign regime is to govern a territory in the interests of people living and working there, and not in ways that exclude people from the land or customary activities. Therefore, Waldron argues that in most cases, "sovereign responsibility" is a preferable term. The sovereigns (the states)

> . . . are stewards of . . . people's interests and – at least in our modern understanding – broadly accountable for them. It is for their sake that they maintain order, secure public goods, frame and regulate the system of property, and enact and enforce laws. These are public matters; they are not like the rights of private owners (Waldron, 2017, p. 482).

And he adds that the states' collective stewardship of lands also involves a responsibility for the environment. Concerning the right to roam, this should mean that a state as a sovereignty should not only take care of the land and people who have customarily practised on it but also the social organisation of distinctive cultures on the lands.

Common property, a one-world ontology

Somehow, the right to roam makes territories common property or commons. There are, in fact, a variety of concepts related to this, such as commons, common property, common pool, common pool resources, open access area, commoning and more. Diez and colleagues (2002) maintain that the altering concepts represent different perspectives or priorities. For them, the term "commons" refers " . . . to a diversity of resources or facilities as well as to property institutions that involve some aspect of joint ownership or access" (Diez et al., 2002, p. 18). A commons is not the same as open access, which more has the character of anarchy (Agrawal, 2002). It should be added that all such views and concepts are social constructions, often contested, and matters of rhetoric. And therefore, it is in fact discussed whether a commons really is something we all have in common.

There is a growing acknowledgement of a plural view that the world is not a universe but consists of pluriverses. This is a rather complicated discourse, but it may be an easy issue to respond to; the one-world world, as it is called by John Law (2015), is a world that many are unfamiliar with – it simply isn't the world they know. This has been strongly felt in communities all over the world and has been triggered by powerful actors, such as nation states, international corporations and institutions in modernising projects, and knowledge producers, world religions and truth systems. For instance, too many indigenous groups have experienced that their territories have been taken from them and that their customs and customary ways of life have been perverted. Most of these people are unfamiliar with the thinking that legitimises "modern" endeavours, not paying respect to their practices, their beliefs, their forefathers and descendants. Nor to the nature they used to live in, with and off; all that for them constitutes the world, their reality. Their position, knowledge and demands tend to be ignored and treated as cultural differences by those in power.

John Law (2015) and Mario Blaser (2014), among others, think this is wrong and that it reflects modern and Western hegemonic ontologies. As Blaser (2014, p. 52) has claimed, "the contrasting ontological assumption . . . is that there are multiple realities or worlds . . . ". Ontologies reflect practices, as Blaser sees it, articulated by those performing them. Blaser (2014) also writes about political ontologies, negotiated and adjusted through political processes, and "enmeshed with the ontologies of surrounding communities, or are interrupted by oppressive political agents" (Kramm, 2024, p. 717, referring to Blaser & de la Cadena, 2017, p. 6; Escobar, 2017). In fact, in many places, political combats are ongoing everyday agendas. For many indigenous groups around the world, a huge part of their life is political combats and a striving for recognition, respect and justice (Viken, Hoeckert, & Grimwood, 2021). The combats are about land appropriation, impoverishment of their land and resources and threatened practices and customs. The projects they combat are often presented as common responsibilities for development and modernisation (de la Cadena, 2019). Thus, commons tend to be uncommon for some. It is also claimed that there are levels or scales of ontologies, for instance, international, national and local ways of defining realities (Jensen, 2017). There is no grand accord about the social realities or the world, or that a one-world world exists.

The major point in this discussion is that with the right to roam, territories can be perceived as commons and tend to be treated according to a one-world world ontology. For others, this may appear as exclusion or displacement, representing a significant unfairness. The one-world world ontology also tends to involve a colonial mentality and patronising regime, based on neoliberal one-world world ontologies, focusing on growth and scale, ignoring the existence of other worldviews based on relational and caring attitudes towards nature and the non-human world. However, it is asked, are there possible compromises? Despite pluriverse realities, there may be " . . . possibility for an agreement that, rather than converging on identical interests, would be underpinned by 'uncommonalities': interests in common that are not the same interest." (de la Cadena, 2019, p. 53). To sustain themselves in the future, a reciprocal acceptance of diverging ontologies is required, along with spaces for diverse practices and ontologies, Kramm (2024) claims. Kramm (2024) also suggests that states should be organised as federations, where indigenous groups have self-determination concerning central issues related to the territories and cultures and establish procedures for dialogues in-between.

The right to roam in Norway

The outline above identifies some vital aspects of the right to roam; it has developed over centuries in a dialectical process in relation to private land ownership; it is about ethics, social norms and fairness – should anybody have the right to exclude people from nature? This tension between inclusion and exclusion is an overarching mantra for the discussion in this text. This also involves discussions about values and interests, state sovereignty

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and dynamics mirroring the time being. As also pointed out above, the right to roam is some sort of commons – in Norway often thought of as a universal principle – but also contested. Is the right to roam really something we have in common? If not, what character does the principle have? And has it changed over time? Lastly, how has the right to roam been influenced by modernisation processes such as industrialisation, urbanisation, commercialisation and outdoor recreation development? But first, the development of the principle and its legality is presented.

The 1957 Act and aspects of its realisation

The split between property and sovereignty is a fruitful scheme to shed light on the Norwegian way of treating the right to roam – also showing some of the paradoxes it produces. The right to roam is based on state sovereignty and is a universal principle in Norway – it includes everybody and the whole country, and the access is free of charge. All over the country land ownership is shared with everybody, manifested both in old customs and a law from 1957, called *Friluftslova* (The Outdoor Life Act) (Reusch, 2012). The first Norwegian legislation including a right to roam is found in the laws of Magnus the Law Reformer (Magnus Lagabøter, also referred to as Magnus IV) from 1274. He did not mention the right as such (Taraldrud, 2007), but stated that no one should cut in another man's forest, except travellers who, as support for themselves, could take what they needed for repairing sledges or ships and for firewood during their stay (Ministry of Justice and Police, 1957). Later, in Christian V's law from 1687, the right to traverse other people's open fields and fallen meadows was verified (Reusch, 2012). The judicial writings from the early 19th century onwards argued that the right to roam exists as long as the ground-owners' interests are not compromised (cf. Brandt 1878; Lundevall, 1949; Oerstedt, 1831; Rynning, 1934; Taraldrud, 2007). Early in the 1800s, the hunting and inland fisheries were excluded from open access, stated as a privilege for the ground owners. The right to roam was touched upon in a criminal act in 1842, formalising the right to pick nuts and berries in areas that were not fenced (Reusch, 2012). In the 1920s, a Mountain Act was decided, giving visitors the right to hunt and fish in state-owned mountain areas, and in the 1930s, there was a suggestion to *Stortinget* (the Parliament) of wider public access to beaches. The work on the Outdoor Life Act also started in the late 1930s but was halted by WW2. The work restarted with appointing a committee in 1950 (Reusch, 2012) that suggested the law that was decided in 1957. The law had its antecedents and formalised the old customs of the right to roam. The new, as Falkanger (1999), a law specialist, sees it, was the adaptation to a new era where outdoor recreation explicitly was recognised as a legal matter. Among revisions that later have been done are one in 1996, adding a purpose clause, and one in 2013, including the right to berry and mushroom picking. But the law is basically as it was authored in 1957. However, the activity pattern that the law covers has changed significantly, currently covering a series of technology-based activities.

The Outdoor Life Act specifies the territories where it is valid. It is basically in the outfields, the areas beyond inhabited and cultivated land. In the outfields, everybody can go wherever they want, not only following pathways. Most of the outfields have a status called LNFR (areas for agriculture, nature, outdoor recreation or reindeer herding) in the national plan system. The split between the infields and the outfields is more or less a product of the law from 1957. Earlier, farming activities did not end with the cultivated ground. The areas beyond were complementary, used as pastures, in forestry and supported local people with materials such as firewood, nuts, berries and mushrooms and, under varying regimes, included rights to hunting and fishing. The outfields were integrated parts of the local communities. The split between in- and outfields was further enforced by agricultural policies in the 1970s, stimulating industrialised and commercial farming (Arnesen, 2000; Fuglestad & Fløe, 2024). More and more the outfields are seen as areas for modern forestry or as nature or wilderness for outdoor life (Fuglestad & Fløe, 2024). And with the advent of modern forestry, both high-standard roads and gravel roads have been established in the outfields all over the country, also providing facilities for outdoor recreation. Besides the public roads (state, county and municipal roads, together 97 746 km (OFF, 2025)), there are about 50 thousand km of high-standard forest roads in Norway (Statistics Norway, 2025a) and 44 thousand km of low-standard (gravel) forest roads, together almost 100 000 km of roads into or across the outfields. In addition, the Norwegian Hiking Association is in charge of more than 6000 paths around the country (DNT 2025), and local NGOs are probably catering for even more. In addition, and particularly in Finnmark, the northernmost county in Norway, but also in mountainous areas in the south, there are encompassing networks of designated snowmobile tracks across the outfields, altogether almost 10 000 km (Ministry of Climate and Environment, 2024). In many places, quite strong snowmobile (recreational) cultures have developed (Lien, 2018; Mathiesen, Vuorinen, Gundersen, Stokke, & Singsaas, 2023).

In sum, the outfields are significantly more accessible than in earlier times, also for outdoor life purposes. With the increased accessibility, the outfields have become arenas for new sports activities, leaving less nature for the traditional (and simple) outdoor life. The modern encroachment of the outfields is a bit-by-bit development where the sum is the problem, reducing the areas where the right to roam actually is valid and, in fact, reducing the legitimacy of the principle, according to Backer (2007). In addition, all the roads and pathways have recently been identified as a challenge for the overall ecology of Norway (Mikkelsen et al., 2025).

The Outdoor Life Act did not establish a separate management regime but identified the municipalities as the major implementing bodies. The law contains several paragraphs specifying regulation opportunities (§§ 15, 16, 19, 22) – the municipality can lock an area, they can establish an area-based management regime and can dedicate areas for outdoor recreation. Concerning snowmobile activities, the municipalities are both the authorities for establishing trails and for deciding upon local rules (*forskrifter*) for these activities, and they are the authority to make dispensations, all within a frame decided upon by the Norwegian Environment Agency. There is also a law that strictly regulates motorised vehicle use in the outdoors, the *Motor Traffic on Uncultivated Land and Watercourses Act*, basically banning such use. Also, this law is implemented by the municipalities. The role of the municipalities may become even more central with a proposed new regime (NOU, 2023: 10), suggesting local destination management bodies and an opportunity for the municipalities to introduce a tourist tax.

An important law for the municipalities is the *Planning and Construction Act* demanding every municipality to create area plans that categorise the ground. One of these is area plans for outdoor recreation, with a subcategory called state-secured outdoor recreational areas, financed by the state, implemented by the municipalities. The state can buy or expropriate land for these purposes. There are about 2300 state-secured recreational

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areas in the country (in 2025) (The Norwegian Environment Agency, 2025a). Besides, there are 3400 preserved nature areas, including 41 national parks on the Norwegian mainland (and seven more on Svalbard), preserved through the *Nature Diversity Act*. The national parks are managed by their own boards, with representatives appointed by the county assemblies. Altogether 17.7 per cent of the Norwegian mainland is protected (in 2024). But almost none of these categories of land exclude human beings. Some places – mostly tourist sites – have their own visitor management regimes, often with the double role of arranging for visitors and protecting the nature. Thus, there is some sort of public stewarding taking place, in addition to landowners' work. Except for the *Nature Diversity Act*, the right to roam along with other legislation basically provides formal rights and facilitations for humans, not for non-humans or nature as such. However, there is a monitoring and policing institution called *Statens Naturoppsyn* (SNO, the Norwegian Nature Inspectorate, an institution under the Norwegian Environment Agency) surveilling the outfields on a rather sporadic basis.

Altogether, this scattered presentation of the Norwegian Outdoor Life Act and its implementation tells about an inclusive law, which has opened up the outfields for a broad public and allowed a series of new activities to take place. It is a history of inclusion that is widely appreciated. It is also a model for other countries trying to establish something similar. However, despite this general positive picture, there is also another side of the story, of displacements, encroachments and colonialism.

Encroachments and annexations changing the landscapes

The law from 1957 has definitively changed Norwegian landscapes. Whereas the landscape earlier was formed by farming and forestry, and still is, it has recently also turned into a recreational landscape (Fedreheim & Sandberg, 2008); new roads and paths are constructed, paths have been turned into roads, yeoman farms transformed into holiday properties, forests and shores into cabin areas, mountain-sides into ski slopes and ski resorts and meadows into golf courses, and so on. Paradoxically, such developments, introduced for the sake of recreation, tend to reduce the nature areas available for traditional roaming (Backer, 2007). It is the agendas of urban and industrial expansion and a neoliberal market philosophy that are at play. The driving force is no longer local food production and forestry but the production and consumption of experiences (Löfgren, 2001; Fuglerud & Fløⁱ, 2024). This has rhetorically been said to be an ideological transformation from Homo Logos to Homo Ludens (Wang, 2000; Granås & Svensson, 2021). Together with other forms of modernisation – new industries and infrastructure – outdoor recreation has been seen as an urban encroachment on the countryside (Ween & Abrams, 2012).

When the landscape changes, the experiences of it also alter. There is a human logic related to this; it is easier to walk on marked and facilitated footways than in the bush. There is research showing that people in general prefer prepared paths (Vikene & Sanderud, 2024). But it may give a different experience. The experience of walking through the bottom of a forest or along a simple path differs substantially from that of walking along a constructed road. This is well described by Tim Ingold (2010), who argues that such constructions create a distance from nature and reflect engineering and desktop work, not the footsteps of people who have, over generations, tramped paths. Similarly, for cross-country skiing, today, most people ski along well-prepared tracks. However, it is maintained (Jacobsen, 2017) that this experience is totally different from making your own paths through the snow. The roads and groomed tracks are created within designated politics for outdoor recreation, a system of management that arranges for more, better and more easily accessible outfields. In Norway, this is called *tilrettelegging* – facilitating or arranging for. It includes much but tends to exclude traditional hiking and the concerns of non-humans. Most of this is done by local NGOs, the municipalities, and the semi-private outdoor recreation boards – *friluftsråd* – most often in collaboration with the landowners. The facilitation, it is argued, is now more appraised than the right to roam (Svensson, 2025). Consequently, fewer people are making use of the right to roam in its original sense. The prevailing pattern is similar to that in countries without these rights, where outdoor life takes place along designated footways. But still, the right is strongly defended in Norway, having a symbolic significance, signalling a society with encompassing freedom and inclusivity. It is not only a judicial claim; it is also a moral right.

Despite the wide consensus concerning the right to roam in Norway, it is not an area without frictions. Some of these are between property owners and the authorities – most often related to illegal enclosures, such as fences around houses or cabins in the outfields, and the establishment of private beaches, harbours, boathouses or shelters in the mountains (Backer, 2007). There are also controversies between recreationists and industrial outdoor activities, such as sheep farming or reindeer herding (Viken, 2024b), forestry (Backer, 2007), wind turbine projects (Karam & Shokrgozar, 2023; Fjellheim, 2023a) and cabin area development projects. Concerning cabins, there were 380,000 second homes or cabins in Norway in 2006 (Fedreheim & Sandberg, 2008), a number that had increased to 450,000 in 2024 (Statistics Norway, 2025b). And the cabins are more spacious than before and used more frequently (Kaste, 2021). Thus, the areas for outdoor recreation in its simplest form are shrinking, as are the areas left for non-humans. However, the outfield areas have only had a slight decrease, covering 3.8 per cent less of the country's area in 2024 than in 2011 (Statistics Norway, 2025c). Due to the abolition of farms, the outfields in some places expand. The most recent controversial move from the Norwegian authorities is related to "the green shift," which is about introducing new energy sources in power-requiring industries, including oil and gas production, occupying land areas. These industries shall be driven by electricity from hydropower or wind turbines – a very controversial policy and strongly debated in 2025.

The right to roam as colonisation

The implementation of the terra nullius principle in Norway was a colonial grip but first and foremost concerned the northern areas of the country. The national state alleged unowned land as state land, despite that it was inhabited. This took place in an epoque with colonisation going on all over the world. However, in Norway, it is seen as domestic colonialism (by Denmark/Norway and Norway), basically hitting the Sámi society. Still, huge areas of Norway are governed according to this grip. However, in Norway this is rarely discussed as colonialism.

Also, formalisation of the right to roam in the Outdoor Life Act in 1957 had a colonial flavour – making all outfields some sort of common property. The law states a regime in common for all outfields of the country. Gro Ween and Simone Abrams (2012) have made an analysis of how this law disregarded the practices and customs that existed earlier. One of their statements is: "From being defined as agricultural commons where farmers could enjoy

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locally established user rights, the highlands were transformed into roaming land where access rights were shared by all" (Ween & Abram, 2012, p. 160; cf. Kalland, 2007). Furthermore, the law also "constituted the high mountains as an aestheticised and standardised national property" (Ween & Abram, 2012, p. 161, citing Löfgren, 2001, p. 161). Another way they look at this is as a "... national legal and political movement away from a focus on local, predominantly farming and productive interests for subsistence purposes towards a focus on the right for the urban population to use the land for outdoor life activities" (Ween & Abram, 2012, p. 161). These tendencies also covered the lowlands, including huge grazing areas and forests. Areas that for centuries had been productive for the local communities were rhetorically transformed into wilderness. Wildernesses tend to be regarded as no man's land or frontier land (Nash, 1977) available for new activities, in particular, different forms of outdoor life. Ween and Abrams (2012) also point out how new practices are representing new geographical narratives about the mountains: the interests behind these practices have some sort of urban, academic or middle-class foundation and are increasingly involve commercial interests. This can undoubtedly be characterised as an urban colonising of the outfields.

In addition to this, a technological revolution has been going on since 1957. Firstly, due to technological and economic development, and in particular modern transport methods, people's outreach increased significantly. Urban people can now easily reach the outfields, even those far from the urban centres (Löfgren, 2001). Secondly, a series of technological innovations has enabled new activities, such as terrain and mountain cycling, mountain skiing, canoeing, climbing, rafting, parachuting, snowmobiling and more, and lighter gear has made these activities more comfortable and common. Thirdly, lots of infrastructure and installations support these developments. Thus, without formally expelling other activities and actors, the Outdoor Life Act has given space for an encompassing invasion of the outfields. In this sense, the technological revolution also has a colonial character.

There is also a conceptual colonisation going on. It started with the new Outdoor Life Act in 1957, formalising a new terminology, *friluftsliv* – outdoor life – as a legal term, and further a parlance where the Norwegian nature should be accessible for everybody – it should be a legal *right*. This changed the general thinking about the outfields – in people's minds, the outfields became a common possession, something available for all. The term used, *allemannsretten* – everyone's right – also represents a strong rhetoric, signalling commonality. This was in accordance with Norwegian social democratic thinking, holding a strong position in the 1950s. However, at the same time, this rhetoric reduces the value of local practices, customs and traditions (Backer, 2007; Fedreheim & Sandberg, 2008; Granås & Svensson, 2021). The term also represented a one-world ontology – this was how it should be; we are all in this together. But are we? There are lots of stories indicating the opposite; locals are often annoyed by strangers entering their berry fields, fishing lakes, beaches or private grounds (Granås & Svensson, 2021). There is obviously a misinterpretation of the right to roam and the areas where it is valid. Media often report about people parking on private grounds and people leaving trash or defecating in people's backyards because of a lack of facilities. But this is to break the law; the Outdoor Life Act covers issues of duty, such as taking care and decency; the law does not provide freedom from norms.

The colonial character of the right to roam is particularly significant within a Sámi context. The term *utmark* – outfield – does not exist in the Sámi ontology and language (Schanche, 2002). In Sámi, there is *meahcci*, which is where people are located, wherever this is. This was (and for many still is) where they lived in dialogues with nature, influenced by season, weather and activities (Joks, Østmo, & Law, 2020). This was as much their infield as their outfields. Following this conception, there is no space for the outdoor life of others in the north – as there is no outfield. This has not been a topic in the public parlance, but it may come. An alternative could, for instance, be to transfer breeding areas – when the reindeer are most exposed – to local management regimes. To treat Sámi lands according to Norwegian laws has a patronising and colonising flavour. "Norwegian law has synonymised meahcci with utmark (Joks et al., 2020), but this binds the former, a fluid, context-dependent concept, into the strict limits of the latter's colonial notions of private property," Karam and Shokrgozar (2023, p. 186) maintain. This is the dominating pattern. Norwegian authorities very seldom have specific rules for Sámi lands, with the exception of a law regulating reindeer herding. Sámi grounds have the same status as all other grounds in the country, including how they appear in official Norwegian maps. According to John Law (1986), maps tend to be an ultimate symbol of colonialism.

The terms used for the expansion of the nation-state vary, most often seen as modernisation and development. In a data collection for an article (Suopajärvi, Viken, Svensson, & Petterson, 2020), a representative of Fefo (the ground owner of Finnmark) claimed that the Sámi also should put a share into the ongoing modernisation from which they gain, allowing mining in Sápmi. The Norwegian state has approved mining in several reindeer areas. Critical voices label such projects as encroachment, annexation, displacement or similar. Two of the terms appearing in research about these developments are *green grabbing* and, for the areas where this takes place, *sacrifice zones* (Fairhead, Leach, & Scoones, 2012). This is also used in a characterisation of development in Finnish Sápmi, basically related to mining (Lassila, 2020), and in Norway, related to a windmill project at Fosen (Fjellheim, 2023a, b). Despite protests, the Norwegian government forced the construction of two windmill plants at Fosen, in the middle of reindeer grazing areas. The losers from this development are both the reindeer herders and the outdoor recreationists, Karam and Shokrgozar (2023) claim, calling it colonialism.

From walking to wealth creation

The Outdoor Life Act was part of profound changes in rural Norway after WWII. The ontology of rural Norway changed from agrarian to industrial, play-and-wilderness-based ontologies (Fuglestad & Flø, 2024). Outdoor recreation and tourism are central to this. Tourism involves commercial ventures. When the Norwegian Hiking Association (DNT) was established in 1868, several of those involved had ideas of tourism development, including roads through the inland mountains, inspired both by Switzerland and Great Britain (Slagstad, 2010). According to Bjørn Tordsson (2008), an academic analysing and defending the right to roam in Norway, outdoor recreation in its first period was an upper-class endeavour. This was also the view of the growing labour movement in the early part of the 20th century. The labour movement even established their own organisations related to these activities (Slagstad, 2010). However, in the period between the two world wars, the political cleavages vanished concerning outdoor life, as the labour movement leaders realised its positive impacts. The social democratic movement turned into a defender

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of the right to roam, also because it strengthened the rights of ordinary people (Colby, 1988; Kaltenborn, Haugland, & Sandell, 2001). Thus, as a political matter, the debate related to the right to roam vanished, and outdoor life became institutionalised within the Norwegian political system (Tordsson, 2008; Slagstad, 2010). It took on the character of a national culture (Witoszek, 1998).

With the Outdoor Life Act, customary roaming rights for the inhabitants were weakened, for instance, in relation to the picking of berries, collecting herbs, firewood and more. The new law was also interpreted as a right to make a business of recreational activities (Taraldrud, 2007; Reusch, 2012). The law and the way it was implemented also created expectations and demands concerning the use of the outfields; they should be developed and prepared for outdoor recreation and sports, also in profitable ways (Vikene & Sanderud, 2024). Since 2003, this has also been the mantra for protected areas (The Mountain Text, 2003). Whereas the rural landscapes had earlier merely been subject to rather soft exploitations, they are today transformed into playgrounds for technical and commercial activities (Fuglestad & Flø, 2024). As a consequence, there is a huge variety of stakeholders in the outfields and a series of institutions involved in recreational exploitation and management. The policies are based on a political ontology where economic development is at the centre, often colliding with local traditions and environmental concerns. As a consequence, stricter regulations and visitor management regimes are suggested (NOU, 2023: 10), probably reducing local community control even more.

Since the 1970s, the development of outdoor life must be seen in the light of economic development and an ideology that has placed the individual, well-being, prosperity and hedonistic lifestyles at the forefront (Tordsson, 2010). This reflects the emergence of neoliberal ideology (Brown, 2011). It has also been a period during which environmental problems have turned into a massive climate crisis, and the differences between rich and poor have become greater than ever. In outdoor life, neoliberalism appears in several ways (cf. Beams, Mackie, & Atencio, 2019). Firstly, growth and scale thinking is more or less accepted. The public mantra is that outdoor life must grow and that everyone should participate – it benefits public health, and it has given us an extending field of consumption and a large economic sector. Secondly, neoliberalism celebrates individual freedom, self-realization and competition. Competition has transformed outdoor life into competitive sports: cross-country running and -skiing, orienteering, mountain marathons, mountain and terrain cycling, river paddling and so on. People even compete while walking or hiking alone, with themselves or people they know, based on apps designed for the purpose. Altogether, this is a multi-billion-dollar industry, with a significant public agenda factor. An expansive commercial sector, celebrating neoliberal values, tends to suppress other values in the field (Beams, Mackie, & Atencio, 2019). The open outfields have been the arena for this. However, growth for some tends to mean losses for others. As a general trend, one may say that outdoor activities are less relational and more instrumental than before – many people do not care for nature as much as for health and body-shape purposes.

Thirdly, as already mentioned, more and more commercial outdoor life is based on technological inventions, including activity equipment, better (and lighter) outfits and technical installations in the landscape. Such measures often have a strong tourism component. Gondolas to spectacular viewpoints attract tourists, and investors take part in the financing, with local politicians as enablers. In such processes, the outfields resemble commercial battlefields. Again, the local roamers and the non-humans tend to be displaced. Fourthly, privatisation has also left its mark. An example is the coast of southern Norway, where the beach areas are blocked by cottage facilities, private harbours, private beaches and tourist resorts. It also seems to be a culture in certain regions and circles that decent people should have at least one, often two, cabins or second homes (one at the sea, another in the mountains). Outdoor life requires space, and the Outdoor Life Act does not hinder developments that are of great importance to local economies. Fifthly, and perhaps paradoxically, the right to roam is a right adapted to visitors more than to locals. Thus, the right to roam has been a frame for doing business and making private fortunes. This often implies external ownership and the disempowerment of local people. Somehow such developments have substituted small-scale farming, which also is in line with national farm policies (Flø, 2024). The result is displacement pressure. The outmigration from rural places in Norway is higher than ever (Høydal, 2023). One of the negative side effects of this development is that there are too many mobile people who invade nature and circulate in ways that are not environmentally friendly, contributing to a global climate crisis and to the displacement of living creatures, including local people. Therefore, there is an urge for new regulations, regulations that will reduce the freedom that in our time is valued so highly.

Conclusion

This article is split in two; the first half focuses on the theory that deals with the antagonism between the right to roam and property rights, basically being an issue in parts of Europe and America. This is presented as a background for the second part, the analysis of the right to roam in Norway, where it always has existed as everyone's right and that has not been seen as a problem. However, with recent development, some places have experienced too many visitors, and there is a need for more encompassing management. But what sort of management, and by whom? Should nature areas be closed, or closed for particular activities? Or should certain equipment be forbidden? Such questions involve issues related to ethics, social norms, and fairness. Thus, the tension and balance between inclusion and exclusion have become a vital issue in the Norwegian debate, as addressed in the sections above. The overarching answer to this is yes, there is always a need for balancing, but only rare cases of strong or unfair imbalance. Thus, Norway is probably a suitable example of balancing these issues. The right to roam as a principle has a high public standing, a principle not causing much trouble, neither for ground owners nor the authorities. The accounts show some obvious advantages related to the right to roam and some, often more hidden, disadvantages. Among the positive sides is that the principle is a sort of social fact, part of the social order in Norway, something that is not really disputed. And then there are gains related to health, wellbeing, and public (health) budgets. During a year, about 80 per cent of the Norwegian population walks in the forests or mountains, and 55 per cent go on longer trips, according to the statistics (Norwegian Environment Agency, 2025b). Further, the principle is seen as a symbol of freedom and democracy and a strong element in people's identity (Ministry of Climate and Environment, 2018). The negative sides of the law and principle are only occasionally discussed: congestion, wear and tear in nature, the encroachments it represents and its colonial character, as addressed here. It is, in fact, difficult to set the negative aspects up against the positive ones, as they appear as incommensurable dimensions: displacement of local customs and management regimes or shrinking grasslands versus better public health. From

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an anthropocentric point of view, the public reduction of untouched land is defendable, but from an ecological or non-human perspective, it is not. The field is full of dilemmas related to recreational activities and nature preservation. Human activities in nature always leave traces.

The implementation of laws is an ongoing process. For the Outdoor Life Act in Norway, this has been a process of commoning – new activities and allowances are constantly being added to the practices of the outfields. As a universal principle (Granås & Svensson, 2021), all outfields are managed according to national standards, natural science knowledge and one-world world thinking – a hegemonic ontology not giving much space for alternative worldviews. Local or indigenous ontologies are not treated as reciprocal positions in the negotiations of policies for the outfields and outdoor life. Thus, even where the national state is a democracy, local and minority interests tend to be the losers. This is most obvious in relation to Sámi interests and reindeer herding. The state land-ownership, originally based on an assumption that nomads cannot own land, is today an anachronism but is still defended by the authorities in the courts, by opponents identified as strategic ignorance (Fjellheim, 2023a), and by colonialism (Karam & Shokrgozar, 2023).

As in most countries, modern development in Norway expands at the expense of nature, but still, the areas for free roaming are huge. And they are facilitated. This has raised questions of balancing – many think the facilitations for outdoor activities have gone too far (Aasheim, 2022; Anker, 2022; Benonisen & Viken, 2024). Concerning nature, such facilitations represent encroachments similar to other modern advancements, such as urban expansions and infrastructure developments. International corporations and national authorities create and promote industrial and infrastructural projects invading and perverting nature, often affronted by local roamers' protests. Their concern is most often local nature, but also nature at large – the nature experience is also the scenery and nature's vastness. For nature, grazing and wild animals, the general trend has the character of a creeping and silent displacement. The roamers appeal to the responsibility of the sovereign state but rarely manage to stop modernising projects. The state rhetoric is often that the activities do not exclude roaming – or, as has been an issue in the north, reindeer herding. The one-world rhetoric tends to legitimise actions that by many are felt to be unjust or abusive. However, modern development is supported by the Norwegian public. Those who are most sceptical of the current development are those adhering to traditional soft outdoor recreation – walking, hiking and cross-country skiing. Together with the non-humans and nature as such, the traditional and light recreationists are the losers.

1 Even today it is called everyman's right, although it also has been a right for women. The law in 1957 did not address the differences between the genders concerning outdoor recreation. It was treated as a masculine endeavour. Later this has changed significantly (Gurholt, 2008).

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