

HETEROGENEITY: A THREAT OR A BLESSING?

THE IMPACT OF DIFFERENT DISTRIBUTIONS OF POWER ON ACCESS RIGHTS OF COMMONS POOL INSTITUTIONS IN THE CAMPINE AREA, THE BRECKLANDS AND THE GEEST REGION.

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Peasant communities, engaged in collective action, tend to be considered as quite homogeneous and congenial communities, who co-operated to secure their common interests against shared threats and challenges. However, an ever increasing amount of research into institutions for collective action, especially within the field of sociology, but also from a historical point of view, has indicated that commoners formed a far more heterogeneous group than usually supposed.¹ The impact of heterogeneity on the viability of collective action has already been highly disputed. On the one hand it is stated that socio-cultural or wealth disparities will reduce the willingness of a particular society to cooperate.² Especially when the interests of appropriators differ, achieving a self governing solution and institution appears challenging.³ On the other hand, Ostrom and poteete stress that the relationship between heterogeneity and collective action is non-linear and contingent to other factors. Several case studies have indicated that merely the presence of heterogeneity is not sufficient to predict whether collective action is viable or not.⁴ Varughese stressed that while too much disparity in wealth distribution diminishes shared interests, some inequalities provide incentives for certain individuals in the community to bear a disproportional share of the costs. Therefore they can assume leadership and provide an authority structure for rule enforcement.⁵

Even so, it is hard, or even impossible, to find communities that were not heterogeneous in nature and yet innumerable institutions for collective action have existed and will continue to do so. Especially social and economic disparities were ubiquitous and defined almost all communities, either small scale peasant villages, or metropolitan cities.⁶ Despite the

¹ DE MOOR, T. (2010) Participating is more important than winning: the impact of socioeconomic change on commoners' participation in eighteenth and nineteenth century Flanders. *Continuity and Change*, 25, 405-433.

² FEARON, J. D. & LAITIN, D. D. (1996) Explaining interethnic cooperation. *American political science review*, 90, 715-735.

³ VARUGHESE, G. & OSTROM, E. (2001) The contested role of heterogeneity in collective action: Some evidence from community forestry in Nepal. *World Development*, 29, 747-765.

⁴ POTEETE, A. R. & OSTROM, E. (2004) Heterogeneity, group size and collective action: The role of institutions in forest management. *Development and Change*, 35, 435-461.

⁵ VARUGHESE, G. & OSTROM, E. (2001) The contested role of heterogeneity in collective action: Some evidence from community forestry in Nepal. *World Development*, 29, 747-765.

⁶ Especially if we consider taxable wealth, even societies that are labelled egalitarian do not display gini coefficients lower than 0.5. Moreover as for example Van Zanden and Curtis have shown, gini coefficients between 0.55-0.7 or even 0.65-0.75 were common. CURTIS, D. R. (2012) Pre-industrial societies and strategies for the exploitation of resources. a theoretical framework for understanding why some settlements are resilient and some settlements are vulnerable to crisis. *History*. Utrecht, University of Utrecht, CURTIS, D. R. (Accepted) 'Is there an 'agro-town' model for Southern Italy? Exploring the diverse roots and development of the agro-town structure through a comparative case study in Apulia. *Continuity and Change*, VAN ZANDEN, J. L. (1995) Tracing the beginning of the Kuznets Curve: Western Europe during the early modern period. *Economic History Review*, 48, 645-647, ALFANI, G. (2010) Wealth inequalities and population dynamics in early modern

challenges these inequalities may have posed on historical and nowadays societies, Elinor Ostrom has convincingly shown that successful and sustainable co-operation was possible. Not the homogeneous character of communities, but rather their ability to effectively implement the basic design principles of co-operation, determined whether institutions of collective action could be founded and sustained.⁷ It remains however undecided what the effects of social and economical heterogeneity were on a community. Once again, this question was first put forward within the field of sociology. By analysing contemporary forest communities Poteete and Ostrom concluded that institutions can affect the level of heterogeneity or compensate for it.⁸ On the other hand José Miguel Lana Berasain claimed that the historical commons did not involve equity, rather on the contrary, the benefits from the commons were enjoyed in a very unequal way. These social and economic inequalities stemmed from the feudal system. Nonetheless, this equilibrium generated a form of co-operation which secured a sustainable communal system. The formation of common pool institutions therefore eternalised these disparities, while legitimising them.⁹ Despite the rather contradictory findings of these two studies, both ascribe a certain level of agency to common pool institutions, since they moulded and influenced society in a fundamental way. Tine De Moor however, discovered that common pool institutions were highly affected by changes in the social layout and economic structures of rural communities. When during the 18th century an increasing amount of the rural population became dependent on wage labour and non-agricultural activities, the willingness to collectively manage the commons declined, with far reaching adjustments to the regulations and functioning of the common pool institutions and finally the dissolution of the system altogether.¹⁰ Not the heterogeneity itself, but occupational shifts transformed the basic layout of the institution, rather than vice versa.

It is therefore safe to say that a consensus regarding the effects of social heterogeneity has not been achieved. Are institutions able to steer the course of communities involved with collective action, or are they mere instruments of the stakeholders, legitimising their particular claims and interests? Due to the complexity and vastness of this particular topic, a limited scope is required. 'Social heterogeneity' in itself is after all a relatively fuzzy concept. Therefore the focus will lay on the effects of different social distributions of power on the access rights within common pool institutions. Inclusiveness is one of the aspects of a society, that is most sensitive to social heterogeneity. While the management of the resources, the demarcation of physical boundaries, the formulation of rules and punishments could be influenced by heterogeneity, the ecological and local circumstances play a vital role as well. The decision who to grant access on the other hand, depended less on external or ecological factors, but rather on the social layout and balance of power

Northern Italy. *Journal of Interdisciplinary History*, 40. Income inequalities on the other hand show different coefficients, as they regularly dip below 0.5, but this debate will not be fully discussed here.

⁷ OSTROM, E. (1997) *Governing the commons. The evolution of institutions for collective action*, Cambridge, Cambridge University Press.

⁸ POTEETE, A. R. & OSTROM, E. (2004) Heterogeneity, group size and collective action: The role of institutions in forest management. *Development and Change*, 35, 435-461.

⁹ LANA BERASAIN, J. M. (2008) From equilibrium to equity. the survival of the commons in the Ebro Basin: Navarra from the 15th to the 20th centuries. *International journal of the commons*, 2, 162-191.

¹⁰ DE MOOR, T. (2010) Participating is more important than winning: the impact of socioeconomic change on commoners' participation in eighteenth and nineteenth century Flanders. *Continuity and Change*, 25, 405-433.

within a particular community. Therefore the access rights are an ideal case to measure the real impact of social heterogeneity or social shifts on society.

In addition a comparative case study approach was chosen. While large scale studies, including thousands of communities, provide ample material to compare and deduct an analytical model, exactly a micro approach gives the opportunity to detect subtle changes in the formal and informal access rights and day to day practices, which otherwise would stay under the radar. Therefore three regions within the North Sea area, which were known for their age-long communal practices, namely the Campine area within the Southern Low Countries, the Brecklands of Norfolk, England and finally the Geest region in Schleswig Holstein, Germany/Denmark were picked out. To be able to compare the impact of different social distributions of power, the basic characteristics of agrosystem had to be similar. Therefore all of them are textbook 'marginal economies', being dominated by infertile, light sandy soils, low population densities, vast common waste lands and a mixed farming system, combining arable production with animal husbandry. Due to the ecological fragility and challenging agricultural circumstances, the exploitation of the natural resources had to be monitored strictly. Access rights were therefore the core element and one of the most important responsibilities of these communities. In contrast with their similar ecological and agricultural characteristics, these communities displayed a fundamentally different social layout. All of them were of course heterogeneous, since both landless labourers, cottagers, independent peasants, large scale farmers, landlords and sovereign monarchs claimed the management of and access to the commons. The balance of power was however quite divergent. Within the Campine area, not one stakeholder group was able to dominate the other groups within society. The feudal lords' claims were from the very start relatively weak, large scale farmers were only a minority and did not fundamentally overshadow their peasant neighbours, while the peasant communities were well organised and enjoyed strong property and communal rights. In the Brecklands of Norfolk, however, the power constellation was seriously unbalanced. The feudal lords had a strong grip on their seignories and from the black death onwards, they were able to enlarge their holdings and feudal claims, to the detriment of the small tenant farmers.¹¹ Finally in the Geest area in Schleswig-Holstein, lords were able to implement 'renterschaft', but the dominant stakeholders within the rural communities were the true 'gemeine männer' or original farmers that possessed a 'full farmstead'. The growing amount of cottagers and landless labourers, was not able to fundamentally stir society and redistribute power.¹²

Due to this comparative micro analysis it will be claimed that social heterogeneity as a conceptual tool is rather limited. Measuring the influence of different social distributions of power is of greater significance, since almost all medieval and early modern societies were

¹¹ WHYTE, N. (2011) Contested pasts: Custom, conflict and landscape change in West Norfolk, c. 1550-1650. IN HOYLE, R. W. (Ed.) *Custom, improvement and the landscape in Early Modern Britain*. Farnham, Ashgate, BAILEY, M. (1990) Sand into gold. the evolution of the fold-course system in West Suffolk, 1200-1600. *Agricultural history review*, 38, 40-57.

¹² POULSEN, B. (1999) Landesausbau und Umwelt in Schleswig 1450-1550J. IN JAKUBOWSKI-TIESSSEN, M. & LORENZEN-SCHMIDT, K.-J. (Eds.) *Dünger und Dynamit. Beiträge zur Umweltgeschichte Schleswig Holsteins und Dänemarks*. Neumünster, Wachholtz Verlag Neumünster, RHEINHEIMER, M. (1999b) Umweltzerstörung und dörfliche Rechtssetzung im Herzogtum Schleswig (1500-1800). IN JAKUBOWSKI-TIESSSEN, M. & LORENZEN-SCHMIDT, K.-J. (Eds.) *Dünger und Dynamit. Beiträge zur Umweltgeschichte Schleswig-Holsteins und Dänemarks*. Neumünster, Wachholtz Verlag Neumünster.

fundamentally unequal and heterogeneous.¹³ When measuring the impact of differences in the social distribution of power on the accessibility of the commons, it appears that common pool institutions were not able to freeze nor fundamentally compensate for social divergences. Common pool institutions have no agency of their own, but are rather instrumental in realising power claims and were changed by the dominant stakeholders according to their particular needs.

THE CAMPINE AREA, LOW COUNTRIES

SOCIAL DISTRIBUTION OF POWER

The Campine area was characterised by a balanced distribution of power. Despite a wide variety of stakeholders and unequal socio-economic relations, not one particular stakeholder was able to monopolise the management of the community nor commons.¹⁴ The sovereign lords, from the 15th century the Archdukes of Burgundy and later on the Habsburg monarchs, did not actively interfere.¹⁵ The local feudal lords, were better off regarding their position, yet possessed rather weak feudal claims on their peasant communities. From the start, the peasants were able to obtain strong property rights, the privilege to represent themselves in the village government, and more importantly to use, manage and regulate the commons.¹⁶ In addition, no subgroup within the peasant communities, was able to usurp dominance within the village. Big, powerful tenant farmers were able to outshine their peasant neighbours by their farm sizes, cattle and sheep breeding and commercial opportunities, but were a minority within society.¹⁷ As a result they were not able to tip the scale in their favour. Next, what I would call the upper 30% of the village or 'independent peasants', being small holding peasants, yet owning significant flocks of sheep, some cattle and the means of production such as ploughs, were the real core of the Campine communities. They supplied the majority of the village aldermen, were determinant for the village regulations and practices and were also actively involved in

¹³ Moreover, inequality seems to be quite uniform on the countryside. Be it England, the Low Countries, Italy or Scandinavia, a gini-coefficient of around 0,6 was common. Only exceptional regions developed a more fundamental polarisation. MILANOVIC, B., LINDERT, P. H. & WILLIAMSON, J. G. (2010) Pre-industrial inequality. *The economic journal*, 121, 255-272.

¹⁴ The fiscal inequality even rose to 0.65 in 1576, which was quite high in comparison with the average coefficient of pre-industrial societies. SEGERS, Y. (2012) Ongelijkheid op het platteland in de zestiende eeuw: Onderzoek naar sociale polarisatie in Brecht tussen 1523 en 1593 aan de hand van belastingsgegevens. Antwerpen.

¹⁵ DEKKERS, P. J. V. (1995) Brandend zand. Hoe de hertog van Brabant zijn heerschappij op de kempense zandgronden verwierf ten koste van de lokale en regionale adel. *Noordbrabants historisch jaarboek*, 12, 10-40.

¹⁶ VAN DER HAEGEN, H. (2009) Hoe de Kempense gemeenschappen hun aard verkregen, gebruikten... en verloren. Een overzicht. *Post Factum. Jaarboek voor geschiedenis en Volkskunde*, 244-245, STEURS, W. (1993) *Naissance d'une région. Aux origines de la Mairie de Bois-le-Duc, Recherches sur le Brabant septentrional aux 12e et 13e siècles.*, Bruxelles, Académie royale de Belgique.

¹⁷ With farms ranging from 20 till 80 ha, and flocks of sheep of around 90 sheep, these tenant farmers were giants among dwarfs, as the average Campine peasant owned around 2 -5 ha of land. DE KEYZER, M. (2012) The common denominator: the regulation of the community of users within the Campine area during the 16th century. Antwerpen.

commercial circuits because of their sheep breeding.¹⁸ Despite their central position within the village, the numerical majority was still made up of cottagers and land labourers or artisans. Since the local and regional lords granted the communal privileges to the entire community, they were a group to reckon with. Moreover, they were not helpless, as they were full members of the juridical village community, attended the village meetings and possessed equally strong claims on their small plots of land.

This equilibrium was formed during the 13th century, but actually remained relatively stable throughout the ages. Even though the population grew and peasant holdings were subdivided, no fundamental shocks in the distribution of power occurred.¹⁹ After the eight-years-war, especially the independent peasants or the upper 30% of the village community was hit hardest, and some of them degraded to the status of cottagers.²⁰ However, their position as core of the village community was shaken but not taken over by another stakeholder. The tenant farmers were not able to fundamentally enlarge their holdings to their detriment, nor did the gap between the cottagers and the independent peasants completely disappear. While the rest of the Low Countries, witnessed an increasing dependency of the peasants towards rural elites or urban burghers,²¹ the Campine peasants did remain quite independent.

ACCESS RIGHTS

This particular distribution of power, which was a true equilibrium, was directly translated into the access rights to the Campine commons. Within this 'marginal economy' the commons were made up of the waste lands or heath lands and common hay meadows. Together these uncultivated lands covered 60-90% of the village surface.²² Within an overwhelming majority of the European commons, the access was reserved for only a part of the community. Normally the rights were either attached to certain privileged farms or families, obtained through the purchase of a license or the contribution of a high entrance

¹⁸ VAN ONACKER, E. & DE KEYZER, M. (2012) Beyond the flock: sheep farming, wool sales and capital accumulation in a medieval peasant society: the Campine area in the Low Countries. *ESSHC*. Glasgow. VAN ONACKER, E. & DOMBRECHT, K. (2012) Rural elites and local officeholding in late medieval Flanders and Brabant. *Bürgerlich-bäuerliche Eliten im 17.-19. Jahrhundert*. Oldenburg.

¹⁹ CUVELIER, J. (1912) *Les Dénombrements de foyers en Brabant (XIV-XVI siècle)*, Brussel, Librairie Kiessling et C.P. imbreghts.

²⁰ SAA, Ancien regime Archief van de stad Antwerpen, Andere overheden, Lokale overheden en heerlijkheden, België, Hertogdom Brabant, Toestand der dorpen in het markgraafschap in 1593

²¹ LIMBERGER, M. (2008) *Sixteenth-century Antwerp and its rural surroundings. Social and economic changes in the hinterland of a commercial metropolis (ca. 1450-1570)*, Turnhout, Brepols, THOEN, E. (2001) A 'commercial survival economy' in evolution. The Flemish countryside and the transition to capitalism (Middle Ages - 19th century). IN HOPPENBROUWERS, P., VAN ZANDEN, JAN LUITEN (Ed.) *Peasants into farmers? The transformation of rural economy and society in the Low Countries (middle ages-19th century) in light of the Brennerdebate*. Turnhout, Brepols, VERMOESEN, R. & DE BIE, A. (2008) Boeren en hun relaties op het Vlaamse platteland (1750-1800). *Tijdschrift voor geschiedenis*, 121, 430-445.

²² These percentages were calculated by subtracting the registered cultivated lands from the total surfaces of the seigniories. Sources: <http://www.hisgis.be/>; SAA, Ancien regime Archief van de stad Antwerpen, Andere overheden, Lokale overheden en heerlijkheden, België, Hertogdom Brabant, Toestand der dorpen in het markgraafschap in 1593.; RAA, OGA Gierle, 344.; RAA, OGA, Tongerlo 896.

fee, or restricted to farmers or peasants owning a certain amount of land or livestock.²³ This was even the case for most common pool institutions within the Low Countries, as for example in Drenthe and Het Gooi.²⁴ The Campine area, however, was a true exception to this rule. Despite the fact that the commons were not inexhaustible, or completely isolated from cities or market influences, the commons were open for all members of the community. Outsiders such as city dwellers, vagabonds or immigrants were excluded, but all residents that lived for more than 5 years within the community had access to the commons.²⁵ Moreover, despite the ecological fragility, no stinting or limiting the amount of cattle and sheep was introduced. The responsibility to sustain the commons, was put on the community as a whole and safeguarded by strict herding rules and locations.²⁶ As Tine De Moor stated, rights of access did not necessarily mean that every household actively used their rights.²⁷ But according to an administrative account of Zandhoven, a typical Campine village, on average 79.5 families out of the 80 present households, registered as active users to graze their animals on the commons, or collect peat and heather.²⁸ Since at least 25% of the households were listed as being dependent on poor relief, even these members of the community were granted access.²⁹

As was the case with the distribution of power, the accessibility changed little over time. After the war casualties, the communities became stricter in accepting newcomers within their villages, yet none of the newcomers seem to have had restricted access.³⁰ In addition, except for some attempts by a couple of feudal lords or clerical institutions, not one of the stakeholders was a real threat to exclude the other subgroups. The juridical records, do give witness of struggles between different parties, when they tried to enclose or monopolise certain parts of the commons,³¹ but then the other stakeholders appeared to be flexible in forming coalitions with the other stakeholders, to avert such attempts. When all informal conflict resolutions failed, the local and sovereign courts were effectively used by all

²³ DE MOOR, M., SHAW-TAYLOR, L. & WARDE, P. (Eds.) (2002) *The management of common land in north west Europe, c. 1500-1850*, Turnhout, Brepols.

KOS, A. (2010) *Van meenten tot marken. Een onderzoek naar de oorsprong en ontwikkeling van de Gooise marken en de gebruiksrechten op de gemene gronden van de Gooise markegenoten (1280-1568)*, Hilversum, Verloren, BIELEMAN, J. (1987) *Boeren op het Drentse zand 1600-1910: een nieuwe visie op de 'oude landbouw'*, Utrecht, Hes uitgevers, SPEK, T. (2004) *Het Drentse esdorpenlandschap. Een historisch-geografische studie. De belangrijkste resultaten*, Utrecht, Stichting Matrijs.

²⁵ VAN DIJCK, G. (1965) *Het landbouwleven in de Antwerpse Kempen volgens de dorpskeuren (Speciaal de Hoofdbank van Zandhoven)*. Leuven, Katholieke Universiteit Leuven.

²⁶ DE KEYZER, M. (2012) *The common denominator: the regulation of the community of users within the Campine area during the 16th century*. Antwerpen.

²⁷ DE MOOR, T. (2003) "Tot proffijit van de ghemeensaemheijt". *Gebruik, gebruikers en beheer van gemene gronden in Zandig Vlaanderen, 18de en 19de eeuw. Geschiedenis*. Gent, Universiteit Gent, DE MOOR, T. (2010) *Participating is more important than winning: the impact of socioeconomic change on commoners' participation in eighteenth and nineteenth century Flanders. Continuity and Change*, 25, 405-433.

²⁸ RAA, OGA Zandhoven, 148.

²⁹ CUVELIER, J. (1912) *Les Dénombrements de foyers en Brabant (XIV-XVI siècle)*, Brussel, Librairie Kiessling et C.P. imbreghts.

³⁰ Renting or selling a house to immigrants was prohibited unless they could proof their good conduct and obtain the approval of the village government. See for example: PEETERS, K. C. (1933) *De Wuustwezelsche Dorpskeuren (XVe-XVIIe eeuw). Wesalia, Tijdschrift voor plaatselijke Geschiedenis en Folklore*, 8, 2-48.

³¹ AAT, Section IV, Bundle of KALMthout-Essen-Huibergeren, 79-89, 206-208.

stakeholders. Here the communal claims were often favoured and supported by especially the ducal courts.³²

INSTITUTIONS

One of the most remarkable aspects of the Campine society, however, is their attitude towards institutions. Even though Ostrom has pointed out that institutions, safeguarding the basic principles for collective action, are of vital importance, formal institutions were of minor importance for the Campine communities.³³ From the 13th century onwards, the management and regulation of the commons was granted to the village governments, therefore creating 'meenten' or real common pool institutions.³⁴ They in return did formulate and later write down byelaws, containing all the regulations concerning the good order of the village and the communal practices, rights and obligations. Nonetheless, some of the most important aspects were left implicit or extremely vague, of which the access rights were one. As has been shown for England, writing customary rights down, may be beneficial to prescribe one's rights, yet leaving them unwritten and vague, and therefore flexible, could be in the best interest of lords, or their tenants. Since then they could actively use memory, practice and litigation to steer and influence the rules to their own interests.³⁵ In the case of the Campine area, this tactic seems to have been used by all stakeholders within society. For the rural elites it could have been beneficial to exclude the majority of the community and reserve the commons for themselves, as happened elsewhere. On the other hand, it would have been detrimental, that a maximum amount of livestock was introduced, since they possessed huge flocks of sheep and cattle as one of their only commercial opportunities. For the cottagers and independent peasants the exact opposite was in their best interest. A restricted access based on property, wealth or inheritance, would exclude practically all of them, but a restricted amount of animals on the commons, would lessen their economic disadvantage in regard with the rural elites. As a result a common denominator, being an inclusive access regime and unlimited flock size, was obtained and left implicit in order to change it when their interests would change. Since no fundamental threat from the side of the feudal lords was expected, these informal institutions could survive until the 18th century.

Therefore normative sources alone, are insufficient to grasp the complexity and functioning of the common pool institutions during the medieval and early modern period. Only by taking a peak in administrative and juridical sources, the access rights and their evolution or attempted adaptations become visible.

³² ARA, Raad Van Brabant, Archief van de Griffies, Algemene vonnisboeken, 596, sentence 111, 594, sentence 134.

³³ OSTROM, E. (1997) *Governing the commons. The evolution of institutions for collective action*, Cambridge, Cambridge University Press.

³⁴ HOPPENBROUWERS, P. (2002) The use and management of commons in the Netherlands. An Overview. IN MOOR, M. D. (Ed.) *The management of common land in North West Europe, c. 1500-1850*. Turnhout, Brepols.

³⁵ HOYLE, R. W. (Ed.) (2011) *Custom, improvement and the landscape in Early Modern Britain*, Farnham, Ashgate.

COMMON PRACTICES AND USES

As a result of these distributions of power, access rights and informal regulations or rather compromises, the use of the commons was quite flexible as well. Tine De Moor has shown that in Flanders, the *gemene Looweiden* were strictly regulated and a constant amount of animals had to be grazed on the commons. Otherwise even outsiders were attracted to provide additional animals.³⁶ This was not the case in the Campine area. After the eighty-years-war, the number of sheep steeply declined, and yet no alterations to the formal regulations were introduced. Simply the use of the commons must have shifted from predominantly extensive grazing, towards a more intensive collection of sods to mix and use as manure.³⁷ The same principle as the access rights applies here, by leaving the allowed use rights implicit, they could be changed easily and flexibly whenever shifts in the socio-economic or power balance occurred.

THE BRECKLANDS, NORFOLK

SOCIAL DISTRIBUTION OF POWER

The Brecklands in Norfolk, could be considered as the complete opposite of the Campine area. Instead of a balanced distribution of power, the scale inclined completely to the advantage of the feudal lords. Here these lords were more involved and actively claiming their right to govern and manage village affairs and most importantly they had the exclusive right to determine the right of foldcourse.³⁸ The peasants therefore had a much smaller power base. First of all, they remained unfree subjects for much longer, but even afterwards, they became tenants, enjoying less strong property rights. During the high middle ages, however, this situation did not look too bad for the peasants. Until the black death they were the ones involved with commercial sheep breeding together with intensive arable farming on their small to middle sized plots. In addition they were able to obtain favourable communal rights since the lords, were not that interested in commercial sheep breeding.³⁹ During the Black death, however, the tenants were hit hard, with the middle classes dropping out of the picture. As a result the feudal lords reclaimed the land into their

³⁶ DE MOOR, T. (2010) Participating is more important than winning: the impact of socioeconomic change on commoners' participation in eighteenth and nineteenth century Flanders. *Continuity and Change*, 25, 405-433.

³⁷ BASTIAENS, J. (1994) Bodemsporen van beddenbouw in het zuidelijk deel van het plaggenlandbouwareaal. Getuigen van 17de-eeuwse landbouw intensivering in de Blegische provincies Antwerpen en Limburg en de Nederlandse rovincie Noord-Brabant. *Historisch geografisch tijdschrift*, 3, 81-90, LINDEMANS, P. (1952) *Geschiedenis van de landbouw in België*, Antwerpen, De Sikkel, VANHAUTE, E. (1992) *Heiboeren: Bevolking, arbeid en inkomen in de 19de eeuwse Kempen*, Brussel, VUBPress.

³⁸ Fold course is the right to erect temporary fences on the open fields or waste lands to restrain the sheep in a certain area to graze and in return fertilise the land; This right was strictly reserved to the feudal lords, yet could be granted to certain individuals. ALLISON, K. J. (1957) The Sheep-Corn Husbandry of Norfolk in the Sixteenth and Seventeenth Centuries. *The agricultural history review*, 5, 12-30, BAILEY, M. (1990) Sand into gold. the evolution of the fold-course system in West Suffolk, 1200-1600. *Agricultural history review*, 38, 40-57, POSTGATE, M. R. (1962) The field systems of breckland. *The agricultural history review*, 10, 20-101.

³⁹ POSTGATE, M. R. (1962) The field systems of breckland. *The agricultural history review*, 10, 20-101, BAILEY, M. (1990) Sand into gold. the evolution of the fold-course system in West Suffolk, 1200-1600. *Agricultural history review*, 38, 40-57.

demesne estates and transformed their rather passive economic strategies into capitalistic sheep breeding centres. They hired professional flock masters and reserved all the fold courses for their own particular use.⁴⁰ Moreover, the few sheep that remained in the hands of the peasants had to be put on the demesne lands, so that the feudal lords' arable fields were exclusively fertilised. As a result the middle classes were pushed out and degraded in their social economic position.⁴¹ Moreover they were increasingly placed in a vertical dependency relationship with the feudal lords.

In entire Norfolk from the sixteenth century onwards, unbalanced distribution of power led to increasing conflicts and tensions, even escalating in the Kett's rebellion in 1549. It was the result of an alliance between a class of wealthy, protocapitalist manorial tenants and a larger, more radical class of poor and landless against a disorganised, divided but commercially advanced lordly class.⁴² In the Brecklands, most grievances were battled out in court, but only with the result that the feudal lords could legitimise their claims with juridical sentences.⁴³

ACCESS RIGHTS

Even though the exclusiveness of the commons, has often been contributed to the ecological state or size of the commons,⁴⁴ the light sandy soils and ecological fragility in the Brecklands led to an entirely different access regime than the Campine region. First of all, within the Brecklands, the focus was placed on the open fields. Due to the light sandy soils, intensive manuring was required in order to get satisfying yields. Therefore the fallow lands and in addition all arable lands had to be opened for the demesne and peasant sheep, so they could graze on the stubbles and fertilise the exhausted land.⁴⁵ Next to these open fields, the waste lands were common the entire year through. These waste lands were needed when during the summer the arable pasture was almost reduced to nothing. In some parishes, the surface of heath lands was triple the size of the available open fields, but mostly less.⁴⁶ During the later middle ages, the feudal lords did not formally grant the access rights to the commons to the village communities. Except for the waste lands, the communal practices were combined in the fold course system and the lord had the exclusive right to determine who could obtain a fold course.⁴⁷

⁴⁰ BAILEY, M. (1990) Sand into gold. the evolution of the fold-course system in West Suffolk, 1200-1600. *Agricultural history review*, 38, 40-57.

⁴¹ ALLISON, K. J. (1957) The Sheep-Corn Husbandry of Norfolk in the Sixteenth and Seventeenth Centuries. *The agricultural history review*, 5, 12-30.

⁴² WHITTLE, J. (2010) Lords and tenants in Kett's rebellion 1549. *Past & Present*, 207, 3-52.

⁴³ WHYTE, N. (2011) Contested pasts: Custom, conflict and landscape change in West Norfolk, c. 1550-1650. IN HOYLE, R. W. (Ed.) *Custom, improvement and the landscape in Early Modern Britain*. Farnham, Ashgate, POSTGATE, M. R. (1962) The field systems of breckland. *The agricultural history review*, 10, 20-101.

⁴⁴ DE MOOR, M., SHAW-TAYLOR, L. & WARDE, P. (Eds.) (2002) *The management of common land in north west Europe, c. 1500-1850*, Turnhout, Brepols.

⁴⁵ BAILEY, M. (1989) *A marginal economy? East Anglian Breckland in the later Middle Ages*, Cambridge, Cambridge University Press.

⁴⁶ In Eriswell only 3500 acres were used as arable land, while 10500 acres were made up of heath land. POSTGATE, M. R. (1962) The field systems of breckland. *The agricultural history review*, 10, 20-101.

⁴⁷ BAILEY, M. (1990) Sand into gold. the evolution of the fold-course system in West Suffolk, 1200-1600. *Agricultural history review*, 38, 40-57.

During the high middle ages, the lords were however not preoccupied with sheep breeding and animal husbandry in general, therefore being quite liberal and flexible in granting fold courses to their tenants. As a result the peasants had access to the waste lands the entire year, and could easily put their animals in the communal flock to graze on the fallow and open fields. After the consolidation of the deserted lands, because of the black death, the feudal lords however invested in enlarging their flocks and restricted the fold course rights for their own professional flock masters.⁴⁸ Without ever fundamentally changing the concept of the fold course system, they excluded the peasants by monopolising the rights because of their immense flocks.⁴⁹ Since these fold courses covered also large parts of the waste lands, the peasants simply did not retain sufficient grazing grounds to sustain their commercial sheep breeding. Therefore, by the 17th century, the small tenants were almost completely pushed out and were restricted to arable farming.⁵⁰ As a result, the tenants were in favour of enclosure, as this was the only way to safeguard their plots of land from overexploitation of the demesne flocks. Nevertheless the feudal lords effectively used litigation to uphold the fold course system and succeeded in keeping the open fields unenclosed and subject to grazing. To make things worse, apparently the sheep grazed on the open fields belonging to the peasants, but nevertheless were exclusively kept on the demesne lands at night, so that the indispensable manure was predominantly deposited on the demesne lands.⁵¹

INSTITUTIONS

The fold course system was from the very beginning registered and clearly written down. In addition byelaws were drawn up to regulate all the communal practices, obligations and rights for both the community as well as the lords. As was the case for large parts of England, written normative and legal documents were wide spread. In addition Angus Winchester has shown that these were not static or rigid regulations, but rather evolved according to the particular ecological, demographic and economical needs of the society.⁵² On the other hand, not writing any formal regulations down, could be beneficial as well. This way rules could evolve more quickly, practice could overrule the normative reality and different stakeholders could attempt to transform custom according to their interest.⁵³ In the case of the Brecklands, it were the feudal lords who chose not to alter the formal institutions, but rather enlarged their power through operational adjustments rather than through

⁴⁸ Ibid.

⁴⁹ WHYTE, N. (2011) Contested pasts: Custom, conflict and landscape change in West Norfolk, c. 1550-1650. IN HOYLE, R. W. (Ed.) *Custom, improvement and the landscape in Early Modern Britain*. Farnham, Ashgate.

⁵⁰ ALLISON, K. J. (1957) The Sheep-Corn Husbandry of Norfolk in the Sixteenth and Seventeenth Centuries. *The agricultural history review*, 5, 12-30, WHYTE, N. (2011) Contested pasts: Custom, conflict and landscape change in West Norfolk, c. 1550-1650. IN HOYLE, R. W. (Ed.) *Custom, improvement and the landscape in Early Modern Britain*. Farnham, Ashgate.

⁵¹ WHYTE, N. (2011) Contested pasts: Custom, conflict and landscape change in West Norfolk, c. 1550-1650. IN HOYLE, R. W. (Ed.) *Custom, improvement and the landscape in Early Modern Britain*. Farnham, Ashgate.

⁵² WINCHESTER, A. (2008) Statute and local custom: village byelaws and the governance of common land in medieval and early-modern England. *IASC Global Conference*. Cheltenham.

⁵³ HOYLE, R. W. (Ed.) (2011) *Custom, improvement and the landscape in Early Modern Britain*, Farnham, Ashgate.

constitutional ones.⁵⁴ In theory the fold course system was already implemented during the high middle ages, therefore placing the monopoly to regulate communal grazing with the feudal lords. Nonetheless in practice, the peasants were able to obtain rights and interfere with the day to day practices and access rights.⁵⁵ During the 16th and 17th centuries, no fundamental institutional changes regarding this system were introduced. Some rules concerning grazing spots and the absolute numbers of sheep may have been rephrased in the byelaws, but the core of the fold course system was not really addressed. Instead they by and large quit granting rights of fold course to peasants, restrained their sheep on their particular demesne lands and fulfilled the maximum allowed number of livestock on the commons with their sheep alone. This way, they did not have to convoke a general meeting or confront the community by a unilateral alteration of the village byelaws.⁵⁶

Peasants were however no passive victims to lordly whims, and therefore the Norfolk tenants often turned towards the courts to defend their communal rights and to press charges against lordly transgressions.⁵⁷ Nevertheless, the courts often favoured the lords and provided them with juridical sentences, which could as easily function as normative sources to back up the claims of the feudal lords, as a charter or byelaw could.⁵⁸

COMMON PRACTICES AND USES

Following the changes in the distribution of power and changes in the accessibility, the use of the commons changed drastically. During the high middle ages the small to middle sized peasants dominated on the commons. They could graze their flocks of sheep on the waste lands and were able to put their sheep in the communal herds. Their flocks were probably accompanied by demesne flocks and professional flock masters of the lord, but they constituted only a minority. This way, the small tenants were able to develop a mixed farming, where the communal rights were necessary to uphold their arable production. After all sheep manure was indispensable for the peasants agricultural strategies.⁵⁹ After the black death and especially from the 16th century onwards, the variety of users had changed fundamentally. The herds wandering around in the fold courses were almost completely owned by the lords and their manorial tenants and herded by their flock masters. Peasants were excluded and therefore mostly restricted to arable production. Consequently the introduction of Brecks and the enlargement of outfields – arable fields with a less

⁵⁴ There are three levels within institutions: First the constitutional level, which defines who can determine or change the rules, next the collective level, which determines the rules itself, and finally the operational level, which determines how the rules are implemented. (Referentie)

⁵⁵ BAILEY, M. (1990) Sand into gold. the evolution of the fold-course system in West Suffolk, 1200-1600. *Agricultural history review*, 38, 40-57.

⁵⁶ WHYTE, N. (2011) Contested pasts: Custom, conflict and landscape change in West Norfolk, c. 1550-1650. IN HOYLE, R. W. (Ed.) *Custom, improvement and the landscape in Early Modern Britain*. Farnham, Ashgate.

⁵⁷ HILTON, R. (1973) *Bond men made free: Medieval Peasant movements and the English rising of 1381*, Londen, Methuen and co ltd, WHYTE, N. (2011) Contested pasts: Custom, conflict and landscape change in West Norfolk, c. 1550-1650. IN HOYLE, R. W. (Ed.) *Custom, improvement and the landscape in Early Modern Britain*. Farnham, Ashgate.

⁵⁸ WHYTE, N. (2011) Contested pasts: Custom, conflict and landscape change in West Norfolk, c. 1550-1650. IN HOYLE, R. W. (Ed.) *Custom, improvement and the landscape in Early Modern Britain*. Farnham, Ashgate.

⁵⁹ POSTGATE, M. R. (1962) The field systems of breckland. *The agricultural history review*, 10, 20-101.

intensive rotation system as the infields -, were necessary to produce sufficient yields.⁶⁰ As a result the commons were only of minor importance to the small tenants. Therefore they actively tried to enclose their lands and abolish the open field system. This way the fold course would not be such a burden and their wish for a more intensive rotation cycle would be met. It was however only during the long 18th century, when the yeomen had obtained increasingly large holdings that the classic fold course system began to disappear.⁶¹

THE GEEST REGION, SCHLESWIG-HOLSTEIN

SOCIAL DISTRIBUTION OF POWER

The Geest region displays yet a third social distribution of power. Even though it was no peasant republic as could be encountered in the coastal plains of Schleswig and Frisia, the peasants or more specifically the Hufner or original farmers owning a full farmstead, were the dominant stakeholders within the region. As the Geest area, with its light sandy soils, was rather unattractive until relatively late, peasants had to be attracted by the Dukes. In return the peasants, like their Campine counterparts, were able to obtain strong property rights and a remarkable independence towards feudal or sovereign lords.⁶² The lords did manage to retain a form of 'renterschaft', but in contrast to their eastern parts of Schleswig-Holstein, their feudal claims were extremely weak.⁶³ Therefore the 'nachbarschaft' or group of original farmers, generally around 12 households, were in charge of managing, governing and regulating the village affairs. From this small group the village officials were elected, they organised and attended the town meetings and had the sole right to alter the byelaws or village constitutions.⁶⁴

Originally these farmers constituted the majority of the village community. They were the ones 'colonising' the barren Geest lands after they were deserted during the black death and were therefore the core of society. A full farmstead was the basic entity, as was shown by tax registers describing households as a full, half, or quarter farmstead.⁶⁵ By the sixteenth century however, population rose significantly and since no new full farmsteads could be erected, the proportion of cottagers or land labourers grew. Eventually they highly outnumbered the 'hufners', yet they were not able to stir the social distribution of power. As from the beginning, they were formally excluded from the 'nachbarschaft' and had therefore no voice let alone a vote in the village meetings or government. They could not provide officials from their rangs and actually did not own any communal rights. Even when

⁶⁰ Ibid.

⁶¹ ALLISON, K. J. (1957) The Sheep-Corn Husbandry of Norfolk in the Sixteenth and Seventeenth Centuries. Ibid.5, 12-30, POSTGATE, M. R. (1962) The field systems of breckland. *The agricultural history review*, 10, 20-101.

⁶² LANGE, U. (Ed.) (1996) *Geschichte Schleswig-Holsteins von den Anfängen bis zur Gegenwart*, Neumünster, Wachholtz Verlag Neumünster.

⁶³ RASMUSSEN, C. P. (2010) Innovative Feudalism : The development of dairy farming and Koppelwirtschaft on manors in Schleswig-Holstein in the seventeenth and eighteenth centuries *Agricultural history review*, 58, 172-190.

⁶⁴ CARSTENSEN, H.-P. (1924) Die Dorf- und Flurverfassung im Umte Tondern im 17. und 18 Jahrhundert. *Zeitschrift der Gesellschaft für Schleswig-Holsteinische Geschichte* 54, 153-279.

⁶⁵ LANGE, U. (Ed.) (1996) *Geschichte Schleswig-Holsteins von den Anfängen bis zur Gegenwart*, Neumünster, Wachholtz Verlag Neumünster.

cottagers were able to purchase enough land or even surpassed the farmers, they could not obtain the same rights or position within the community.⁶⁶

These unbalanced distribution of power was therefore mostly due to mere juridical or institutional differences, since the economic strategies of cottagers and farmers were quite similar. Both were engaged in a mixed farming system with strips of land in the open fields and commercial cattle breeding. Young oxen were grazed on the waste lands and later transported to the coastal plains in order to fatten them and sell to the nearby towns or even as far as the Low Countries. Economically speaking, the boundary between the two groups was blurred or even imaginary.⁶⁷

ACCESS RIGHTS

The access rights were, like in Norfolk, obviously influenced by the social distribution of power, rather than by the ecological circumstances. The 'Hufner' were in charge of the byelaws and therefore reserved the best rights for themselves. The commons were divided between all the households, according to the amount of land they possessed in the open fields. The exact number of cattle, horses, sheep or pigs was determined per hectare of land in the open fields. In addition the hay meadows were opened up for the communal herds of predominantly cattle after the harvest was finished. Finally the open fields had to be ploughed, sown and harvested simultaneously, so that the cattle could graze on the stubbles and fallow lands.⁶⁸ Until the 16th century, the cottagers and land labourers were a real minority and the pressure on the waste lands was relatively low. Therefore they enjoyed some extensive rights. They could place a limited amount of animals on the commons, collect heather and peat and even erect some buildings on the waste lands. Nonetheless these rights were not as formal and constitutional as of the original farmers. The nachbarschaft rather turned a blind eye to their practices.⁶⁹

When their numbers grew however and they increasingly depended on the commons to collect raw materials and graze cattle, the communities in the Geest region started to react. Measures were taken to discourage immigrants, such as the prohibition to erect new cottages or farms on the commons. In addition the byelaws or 'Dorfornungen' increasingly stipulated and diminished the rights of cottagers and land labourers. For example several villages excluded all community members, apart from the 'Hufner', to graze the commons

⁶⁶ RHEINHEIMER, M. (1999a) *Die Dorfordnungen im Herzogtum Schleswig. Dorf und Obrigkeit in der Frühen Neuzeit*, Stuttgart, Lucius & Lucius, RHEINHEIMER, M. (1999b) Umweltzerstörung und dörfliche Rechtssetzung im Herzogtum Schleswig (1500-1800). IN JAKUBOWSKI-TIESSEN, M. & LORENZEN-SCHMIDT, K.-J. (Eds.) *Dünger und Dynamit. Beiträge zur Umweltgeschichte Schleswig-Holsteins und Dänemarks*. Neumünster, Wachholtz Verlag Neumünster.

⁶⁷ CARSTENSEN, H.-P. (1924) Die Dorf- und Flurverfassung im Umte Tondern im 17. und 18 Jahrhundert. *Zeitschrift der Gesellschaft für Schleswig-Holsteinische Geschichte* 54, 153-279.

⁶⁸ RHEINHEIMER, M. (1999a) *Die Dorfordnungen im Herzogtum Schleswig. Dorf und Obrigkeit in der Frühen Neuzeit*, Stuttgart, Lucius & Lucius, CARSTENSEN, H.-P. (1924) Die Dorf- und Flurverfassung im Umte Tondern im 17. und 18 Jahrhundert. *Zeitschrift der Gesellschaft für Schleswig-Holsteinische Geschichte* 54, 153-279.

⁶⁹ CARSTENSEN, H.-P. (1924) Die Dorf- und Flurverfassung im Umte Tondern im 17. und 18 Jahrhundert. *Zeitschrift der Gesellschaft für Schleswig-Holsteinische Geschichte* 54, 153-279, RHEINHEIMER, M. (1999b) Umweltzerstörung und dörfliche Rechtssetzung im Herzogtum Schleswig (1500-1800). IN JAKUBOWSKI-TIESSEN, M. & LORENZEN-SCHMIDT, K.-J. (Eds.) *Dünger und Dynamit. Beiträge zur Umweltgeschichte Schleswig-Holsteins und Dänemarks*. Neumünster, Wachholtz Verlag Neumünster.

and diminished the amount of heather to be collected from the commons. Whenever they did want to place animals on the commons, they had to be granted access and pay a fixed sum per animal.⁷⁰ In some cases even the rights to harvest sods and heather was abolished all together. As a result these stakeholders were increasingly excluded, even though by then they constituted the majority of the society.⁷¹

INSTITUTIONS

In comparison with the Campine area and Norfolk, the formal common pool institutions played a vital role. Before the sixteenth century no customary rights, communal practices, nor obligations were officially written down. Until then the management of the commons was determined by oral traditions. Yet during the sixteenth and seventeenth centuries a peak in the formulation of byelaws was witnessed. It has been suggested that ecological degradation was one of the vital factors behind this process, yet the population rise and increasing amount of cottagers and land labourers could be explanatory as well.⁷²

In contrast with both the Campine area and the Brecklands, however, practically nothing was left implicit and changes or additions to the rules were frequent. This certainly included the access and use rights of exactly the cottagers and land labourers. There are lists preserved which literally list the amount of animals a particular household, with names of the heads of the families, could place on the commons.⁷³ In order to leave nothing to chance, the byelaws were actively used to prescribe the common use rights and increasingly reserve them for the 'Hufner' themselves. This inclination towards formal, constitutional rules, rather than informal, operational ones in the Campine, is probably a direct consequence of the local distribution of power. While in the Campine area both the land labourers, cottagers, independent peasants, big tenant farmers as well as the representative of the lord had to agree to formally alter any of the regulations in the byelaws, the Hufner in the Geest area had an almost complete monopoly. The meeting was made up of a dozen of 'Hufners' who were quite homogenous but especially shared the same interests.⁷⁴ Therefore they could progressively anticipate on the changing social composition of their communities and use the byelaws to shape the communal regime to their best interests. With powerful juridical documents to fall back on, they were able to withstand the demographic rise and changing proportions of landless, cottagers and farmers and maintain the social distribution of power of the later medieval period.

⁷⁰ CARSTENSEN, H.-P. (1924) Die Dorf- und Flurverfassung im Umte Tondern im 17. und 18 Jahrhundert. *Zeitschrift der Gesellschaft für Schleswig-Holsteinische Geschichte* 54, 153-279.

⁷¹ RHEINHEIMER, M. (1999b) Umweltzerstörung und dörfliche Rechtssetzung im Herzogtum Schleswig (1500-1800). IN JAKUBOWSKI-TIESSSEN, M. & LORENZEN-SCHMIDT, K.-J. (Eds.) *Dünger und Dynamit. Beiträge zur Umweltgeschichte Schleswig-Holsteins und Dänemarks*. Neumünster, Wachholtz Verlag Neumünster.

⁷² RHEINHEIMER, M. (1999a) *Die Dorfordnungen im Herzogtum Schleswig. Dorf und Obrigkeit in der Frühen Neuzeit*, Stuttgart, Lucius & Lucius.

⁷³ CARSTENSEN, H.-P. (1924) Die Dorf- und Flurverfassung im Umte Tondern im 17. und 18 Jahrhundert. *Zeitschrift der Gesellschaft für Schleswig-Holsteinische Geschichte* 54, 153-279.

⁷⁴ RHEINHEIMER, M. (1999b) Umweltzerstörung und dörfliche Rechtssetzung im Herzogtum Schleswig (1500-1800). IN JAKUBOWSKI-TIESSSEN, M. & LORENZEN-SCHMIDT, K.-J. (Eds.) *Dünger und Dynamit. Beiträge zur Umweltgeschichte Schleswig-Holsteins und Dänemarks*. Neumünster, Wachholtz Verlag Neumünster.

COMMON PRACTICES AND USES

Until the later middle ages the commons were apparently not under severe pressure. The villages were relatively small and the natural resources were sufficient to sustain the core of the 'Hufner' and the few cottagers and land labourers.⁷⁵ Therefore the original farmers could place as much as 150 horses, 370 pieces of cattle, 138 pigs and 300 sheep on the commons.⁷⁶ In addition they could collect peat and heather, since the forests were disappearing progressively. The commons included both the common waste lands, the hay meadows after the harvest and the fallow lands and arable fields for stubble grazing. The focus was however placed on grazing and not the manuring of the fields, since most animals were placed on the waste lands and the manure was increasingly used as fuel. In contrast with the Campine area and Breckland, not sheep but cattle was of major importance. The heath fields were used to raise young oxen, which later on would be transported to the coastal plains or more fertile regions to fatten them and eventually sell them for consumption. These practices remained relatively stable throughout the early modern period.⁷⁷

Until the sixteenth century, these communal practices were still enjoyed by all the stakeholders, even though not to the same extent, yet afterwards, the cattle grazing on the waste lands would predominantly be performed by a select group. From then onwards the common waste lands were primarily a place where the cottagers and landless wage labourers tried to obtain small plots of land, which they enclosed and privatised. Even though the "Hufners' tried to discourage these incursions, by obliging newcomers to get a formal allowance granted by the entire nachbarschaft, the enclosed plots were increasing in number.⁷⁸

CONCLUSION

Social heterogeneity was neither good nor bad for collective action in general nor for access rights within historical societies. All communities were fundamentally heterogeneous or even unequal, nonetheless similar levels of diversity or inequality could lead to fundamentally different common pool institutions and inclusiveness. Therefore the concept is too vague to use as an analytical tool. As these case studies have shown, the social distribution of power, or more specifically how many stakeholders could manage the commons and determine the constitutional or operational rules, is more important to understand the development and evolution of access rights.

Medieval and early modern communities common pool institutions were not able to reduce heterogeneity, polarisation between stakeholders nor shifts in the social distribution of

⁷⁵ Ibid.

⁷⁶ CARSTENSEN, H.-P. (1924) Die Dorf- und Flurverfassung im Umte Tondern im 17. und 18 Jahrhundert. *Zeitschrift der Gesellschaft für Schleswig-Holsteinische Geschichte* 54, 153-279.

⁷⁷ Ibid, LANGE, U. (Ed.) (1996) *Geschichte Schleswig-Holsteins von den Anfängen bis zur Gegenwart*, Neumünster, Wachholtz Verlag Neumünster.

⁷⁸ RHEINHEIMER, M. (1999a) *Die Dorfordnungen im Herzogtum Schleswig. Dorf und Obrigkeit in der Frühen Neuzeit*, Stuttgart, Lucius & Lucius.

power. The case of Norfolk showed that despite formal and constitutional rules and institutions, feudal lords were able to exclude the small tenant holders from the fold course system, by circumventing the institutions and instead addressing and altering the informal and operational rules via practice and litigation. The relatively stable distribution of power in the Campine area can also not be explained by formal common pool institutions. The formal byelaws were largely implicit concerning constitutional rules and especially the access rights. Instead the inclusiveness was largely the result of informal practices and can be labelled the common denominator of the interests of all the stakeholders of the Campine communities. Historical rural communities were therefore fundamentally shaped by their specific distribution of power, and the stakeholders used both formal and informal institutions to determine and change the access rights to the commons and therefore safeguard their particular interests. Whenever a society was relatively balanced, and a wide variety of stakeholders, being small holders, farmers and lords alike, could influence the decision making within the village, the common pool institutions remained quite inclusive. On the other hand, when one particular stake holder was able to usurp the government and management of the village or common pool institution, such an equilibrium was disturbed with fundamental alterations to the accessibility and often exclusive system as a result. For this, however, the formal institutions did not necessarily had to change. As the Brecklands show, lords could leave the original constitutional rules as they were, and change the actual operational rules by practice and juridical sentences. Only when the dominant stakeholder group was able to monopolise the formal common pool institution as well, constitutional and written rules such as byelaws were used to change the functioning of the commons and determine the inclusiveness of the common pool institution.