

COMMON GOODS AND PRIVATE PROPERTIES  
*Traditional and Modern Communal Land Management in Portugal* <sup>CPR</sup>

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**1. Introduction**

Since the publication of Hardin's "Tragedy of the Commons" in 1968, almost twenty five years have passed during which authors have tried to demonstrate the usefulness of communal management of very different types of natural resources: beavers (Berkes 1987), fish (McCay 1980, Berkes 1987), lobsters (Acheson 1975, 1987, 1988, Wilson 1977), irrigation water (Wade 1987), pastures and forests (MacKean 1982, 1986, Bromley & Chapagain 1984, Gilmour, King & Hobley 1989, Fisher 1989, Mol & Wiersum 1991, Brinkman *et al* 1991). Pointing to the long history of common-resource

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management, Cox (1985:60-61) concludes that perhaps "what existed in fact was not a 'tragedy of the commons' but rather a triumph: that for hundreds of years --.....-- land was managed successfully by communities. That the system failed to survive the industrial revolution, agrarian reform, and transfigured farming practices is hardly to be wondered at." In addition to trying to prove its feasibility, communal property and management has also been defended by demonstrating the weaknesses of the alternatives. Fife (1977) demonstrates that it may be perfectly economically rational for a private owner to prefer extermination of a natural resource to conservation, on the basis of maximizing profit. Hardin (1979) himself points out that planting slow-growing tree species like the californian redwoods is an uneconomic use of land for private investors (quoted by Feeny et al 1990:9). Byrde (1992) describes how in Germany, private property right was extended to the right to pollute one's neighbors' property (Byrde 1992)<sup>2</sup>. Also the state is not always capable of managing natural resources. In Nepal, in the 1950's, the government decided to turn community forests into state property. This decision proved to be disastrous, since the state was unable to control access of these forests. As a result, forestry resources were rapidly depleted, so that in 1976 the government started experimenting with the restoration of communal ownership (Bromley & Chapagain 1984). In the Sahel, the failure of state forestry induced development planners to create community forests (Laban 1987, Wiersum 1987). As a result of these negative experiences "[s]tate property regimes in which officials exercise exclusive decision-making powers have been falling into disfavor. Given that there are many situations in which users have the capacity for self-management, it makes administrative and economic sense to involve them in resource-management" (Feeny et al 1990:13-14).

Hardin's 'Tragedy of the Commons' has tuned the debate on common-resource. His claim that a common-resource would be destroyed 'automatically' by rational acting commoners, forced others to get prove to the contrary: that communities were very well able to manage their resources in an ecological and economical sustainable way (c.f. McCay & Acheson eds). The tragic result has been that other aspects of communal resource management have been neglected, for instance the distribution of power over and revenues from the commonwealth over the users. The community has been treated as a black box. There even has been a tendency to idealize the community. Cox (1985:61) for example suggests that the destruction of the commons was the result of a change in perception: "Since it seems quite likely if 'economic man' had been managing the commons that tragedy really would have occurred, perhaps someone else was running the common." Cox does not mention whether this 'someone else' sometimes quarrelled with other community members or

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<sup>2</sup> In 1863 it still was defended that "the owner must not actively, directly or indirectly, interfere with the property rights of one's neighbors". The eight years later revision of the civil code made public authorization overrule neighbors' objections.

within these communities. As tenants lived together with their feudal lords there were structural antagonisms between community members. Cox does not tell us if these antagonisms influenced or not the management of the common or the distribution of its produce. Acharya (1989) in his study of the nepal *Jirel* community forestry management system, declares: "*This system effectively keeps people from fighting again and again over issues. Each settlement is followed by a drinking party in which the litigants are encouraged by their friends and relatives to forget their disagreements.*" But even authors that recognize hierarchies or power structures in communities neglect or deny its influence on communal resource management. Acheson (1988:52 e.o.), for example, describes violent conflicts and differences of power and income within Maine fishermen's communities ('*harbor gangs*') but does not mention whether there is a relationship between the communal lobsters and inequalities in power and private wealth. In his study of community irrigation arrangements in a South Indian village, Wade (1988) denies caste influence on the decisions of the water distribution council and the enacting of the decisions by wardens. Some, however, indicate that private benefits from communal resource management can be unequal. Acharya (1989) refers to inequalities in the sharing of a communal forest in Nepal. Gilmour, King & Hobley (1989:100) mention a Nepal village forest guard who was dismissed because "*he favored the powerful over those who were poor*" and conclude that community forest management is not always identical with social equity. Social equity is an important factor for the functioning of common-resource management. According to Wade (1988:190), some inequality in asset ownership and power is acceptable when landownership is sufficiently dispersed and class relations have not given rise to confrontations. In the Sahel, inequality was one of the factors which led to the failure of community forestry (Deneve *et al* 1988, Kos 1989)

During twenty five years the debate on the commons has been dominated by Hardin's tragedy. During all these years, the community has remained a black box. Now, the time has come to broaden the debate, and to look more closely at the community and its internal structures. This, however, is not an easy operation. In an introduction to a reader on community studies, Elias (1974) stresses the difficulties of interpreting internal relationships by opposing Tönnies' '*Gemeinschaft*' for the description of 'traditional' communities, to Durkheim's '*mechanic solidarity*'. Tönnies idealized the traditional community because of the solidarity between its members, whereas Durkheim stressed the mechanic nature of this solidarity and the constraints it places on its members. Elias also refers to the classical opposition between Lewis and Redfield. Robert Redfield described Tepotzlan in Mexico as a peaceful, harmonious community. Lewis, revisiting it a few years later, arrived at completely different conclusions. He saw a village divided by profound conflicts and social differences, and found disruption, cruelty, disease, suffering, and maladjustment. These contradictory approaches to the community not only make clear that '*community*' is a very dangerous concept, but also force us to look more

closely at its internal organization when discussing communal resource management systems.

In the paper, I describe the evolution of communal land management systems in Northern Portugal. I will explain, that in earlier studies of these systems, the image prevailed of harmonious and internally equal communities, although even then there was already evidence of a less idyllic reality. I will proceed with a case study of 'traditional' management arrangements in a parish in northern Portugal. It will appear that the vast communal areas were used principally by the wealthier farmers in the parish. Further, I will discuss the effect of two interventions in the commons which were directed at their dissolution: partitioning and reforestation of parts of the commons. Each intervention is related to a different view on property. The first defends privatization, and the second nationalization of communal land. It will appear that the privatization process was influenced heavily by existing social inequity, and on its turn reinforced the process of social differentiation. Nationalization for reforestation unwillingly served to save communal property, when radical changes in national politics led to the restoration of the nationalized communal lands. The post-revolutionary government designed a new management structure, which will be discussed in the last section of the paper. It will appear that within this modern system it still is difficult to balance public goods with private profits.

## 2. The origin of the commons in Portugal

As far as historians' knowledge goes back, there have been commons in Portugal. Primitive Celtic tribes seem to have been the founders of common property in the area. After having occupied the Iberian peninsula in the second century B.C., the Romans introduced private property by creating privately owned farms (*villae*) in the more fertile regions. Although according to Soares (1976:10-11), they left large spaces open for communal exploitation (*ager non adsignatus*). After the downfall of the Roman Empire, in the fifth century, the Suevi invaded the area. They copied the Roman property system, and maintained pre-existing communal property arrangements<sup>1</sup>. In the seventh century, the Arabs occupied most of the peninsula. The Suevi kings retreated to the northwest, from where they started to reconquer parts of their former kingdoms. During and after the *reconquista* of the peninsula, the concept of common property was redefined in feudal terms: the king claimed property over all the land (*Obereigentum*), but handed usufruct rights to the church, nobility and to peasants (*fiefs*). In the northern provinces, some of these fiefs were

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<sup>1</sup> Up to the nineteenth century, one could easily reconstruct the original roman *villae* out of modern property and administrative division lines (Sampaio 1923). If the romans did not know common property, these germanic Suevi also might have reintroduced, as they already were familiar with it in their homelands (the *Mark*).

collective; a group of peasant households received the right to reclaim and cultivate a certain area (Dias 1953:19-25, Castro Caldas 1991, Galheiro 1990:20-41). In the 19th century, a civil code was designed in which communal property received an independent place: next to private and public property, the 1867 code acknowledged the existence of 'communal things' (*coisas comuns*). According to art. 381 of this code, "*communal things*" are "*natural or artificial objects which are not individually appropriated and of which individuals included in administrative units or parts of administrative units can take profit, according to administrative regulations*". The civil code was modified several times, but the *coisas comuns* were maintained until 1966 (Caetano 1991:972)\*. Between 1966 and 1976, communal property did not exist legally. After the 1974 Carnations' Revolution, the new constitution distinguished three categories again, called sectors of property of the means of production: the private, the public, and the cooperative and social. The last category, the cooperative and social, includes communal property (art. 82 in the 1989 text, Pinto, 1990:80). In reality, communal property can be identified with communal land. Since 1976, ownership, management and usufruct of communal land are regulated in separate laws, the laws on the commons (Lei 39/76 and Lei 40/76, Galheiro 1990).

The roots of common property are lost in time. Its pedigree starts in prehistory and continues virtually unbroken up to our days, with its juridical existence only interrupted during one decade. This image of continuity, however, should be corrected by two developments. First, the space occupied by communal property has diminished. In 1875, 4.020.000 hectares (about 45% of the country's area) was communal; by 1939, this area was reduced to about 407,544 hectares, or 4.6% of the country's area (Galheiro 1990:73). The reduction was most pronounced in the southern provinces, where large estate holders enclosed many commons for wheat growing. This was an effect of protectionist government policies during the Agrarian Crisis at the end of the nineteenth century (Azevedo Gomes, Barros & Castro Caldas 1948). Second, the forms of exploitation of the commons have changed. Animal husbandry has lost its predominance, whereas other uses virtually have disappeared, such as the making of charcoal. Instead, now most of the commons are used for forestry.

### 3. The commons and 'communalism'

Since the end of the nineteenth century, communal land management has been the object of ethnographical studies. In the 1870's, Oliveira de Martins, a philosopher and politician from the city of Porto, wrote several studies

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\* That year's modification included the abolishment of communal property as a legal category. According to Caetano (1991:972), it was included in the private property of local state administrative bodies, under the restriction of its subjection to communal usufructuary rights.

about what he called primitive communism<sup>5</sup>. He used them to support a Proudhonian critique on modern society. Although primitive communism in his eyes was obsolete and had to be replaced by modern forms of property, it proved that humanity was capable of other forms of property and social organization. Modern communal property, to which he included shareholding companies, would counteract excessive individualism and inequality (Silbert 1970:223-259).

His work was continued by Albert Sampaio and Rocha Peixoto. Sampaio (1923) describes communal land management systems in the north and north-west of the country, particularly in the Geréz region and traces the descent of communal property back to pre-Roman populations (1923:32). Peixoto carried out thorough field studies. In his work *Formas da vida comunalista*, he describes management practices and organizations in the north of the country. One of the regions he studied, was the transmontanian side of Serra do Marao. This area includes the parish that will be discussed later in this paper, Os Campos. Peixoto describes how in this region people joined in meetings, called *chamados*, where they decided to demarcate certain areas for the growth of brush in the village commons. The brush was applied in the stables as a bed for the animals. Each season, before ploughing, it was brought on the fields together with the animals' dung as fertilizer. The villagers distributed their common wealth over the individual households by dividing the demarcated areas in plots which, after being raffled, were assigned to a household for cutting shrubs during the season.

Peixoto's work was continued by Jorge Dias, who did profound anthropological work on two what he called 'communitarian' villages, that had been described briefly by Peixoto: Vilarinho da Furna and Rio de Onor. Dias' work became the archetype in community studies and of communalism in Portugal. He attempted to demonstrate how well integrated communities were capable of organizing themselves independently of modern state institutions, and how they maintained communal property of land and of some other essential assets, such as threshing floors, water mills and ovens for bread baking. These resources were managed by officials who were elected by the population. Community affairs were arranged in a village council, the *chamado* or *conselho*, which served as the ruling body of the community.

Polonah's (1981) study of the life of semi-nomadic inhabitants of the Geréz confirms the image drawn by Dias. It stresses the role of community institutions and maintains the image of an egalitarian society where differences in personal wealth are of no influence at all on one's position within the community. The only important type of social differentiation noted by Polanah is between insiders and outsiders, people visiting or

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<sup>5</sup> For instance: *Portugal e o Socialismo* (1873), and *Quadro das Instituições Primitivas* (1883).

living temporarily in the village, for instance craftsmen of specific trades, such as masons.

Although Peixoto's, Dias' and Polanah's descriptions of the communities managing communal resources are reminiscent to primitive communism, all contain some indications of a less utopian reality. Polanah not only mentions the importance of the insider-outsider division, but also casually refers to differences in influence and wealth within the community. Dias' study on Rio de Onor contains several references to the existence of a group of poorer villagers who were excluded from the village ruling council and commons. Peixoto's (1974:394) description of the distribution of brush in the Marao contains the ominous phrase that "*in several villages, this was done according to one's property as who owns more, needs more fertilizer for his fields*". The authors paid little attention to these observations, but to us they sound familiar. They remind us of George Orwell's *Animal Farm*: "*all animals are equal, but some are more equal than others*". Apparently, also in 'primitive' communities, communism was not for everyone, and there was a clear distinction between common good and private profit.

Later studies on Portuguese communities paid more attention to social inequality. Especially worthwhile is the work by Brian O'Neill. He investigated a village in the northern border region, near to Rio de Onor, the second village studied by Dias. From his introduction it appears that he more or less intended to repeat Oscar Lewis' work in Mexico. By revisiting the Rio de Onor area, O'Neill tried to prove that Dias neglected several basic features of that community. O'Neill concentrated on the relation between biological reproduction and the transfer of property (inheritance). The well-off families in the village were capable of maintaining their patrimony united by a clever matrimonial strategy and by limitation of the number of legitimate heirs. The costs of this system (bastards) were carried by the day-laborers, who had to divide their scarce property among a high number of children, some of them bastards of their landowning patrons. Besides this general point, he also demonstrated a strong interrelationship between private and communal property by describing how a smallholder had to abandon keeping sheep. This smallholder worked as a shepherd for a landowning lady. Together with his patroness' sheep, he also kept a few animals of his own. During summer, he took them to the communal pastures on the surrounding mountains, but during winter, when these were snow covered, both his and her animals were grazed on pastures of the patroness. On a certain day, she decided to quit sheep holding and sell her flock. She fired the shepherd and forbade him to use her winter pastures. As a result, the smallholder had to sell his sheep as well.

O'Neill's story makes clear that having a formal usufructuary right over a communal good is not sufficient. For taking profit, it is also necessary to be able to exercise that right. The case of the shepherd and his patroness

shows, that that ability is determined by the access to certain means of production that are privately owned (in this case winter pastures, but one can also think of tools, or money to buy cattle). Not the formal right of access to a common good, but the private property of these means of production, is the key that opens the door to one's private profit.

The size of one's benefit of a communal resource is linked to one's private property in a similar way: an owner of a large herd takes more profit from a communal pasture than his fellow commoner with only a few heads of cattle. In the case described by Peixoto this difference is even enforced by local law: according to the rules maintained by the population, big land owners received a larger share of brush than smallholders. Irony demands, that this rule was justified by the concept 'need'. The necessary quantity of fertilizer is directly related to the cultivated area. As a big landowner cultivates more land, he 'needs' more brush, than the one that cultivates only a small area.

These examples demonstrate that communal ownership of a certain resource does not impede unequal private profits, and that the rules regulating communal management even may legitimate this inequality. In the following section, this point will be elaborated for a parish in the Serra do Marao, Os Campos.

#### 4. Traditional common-land management in Os Campos

Geographically, the Serra do Marao forms a barrier between the coastal Minho and the interior Trás-os-Montes area. The interior province has always been relatively sparsely populated and little developed. Traditionally, it is a livestock area, where one could find large herds of goats, sheep and cows until the middle of this century. Before the arrival of maize and potatoes from the Americas, wheat, rye and sweet chestnuts were the main staple foods. Animal husbandry and agriculture were strongly dependent on commons covered by shrubs like heather (Erica spp.), broom (Sarothamnus spp.), and tojo (Ulex spp.). Providing fodder and fertility, the commons served as the outfields in an infield-outfield system<sup>6</sup>.

The parish of Os Campos is situated on the transmontanian side of the Marao. Of its history, little is known, because it has not yet been thoroughly studied<sup>7</sup>. Probably, the place has been inhabited for centuries. The existence of a site called 'crasto' suggests a pre-roman origin. This

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<sup>6</sup> According to Slicher van Bath (1960:67, 283) up to this century this system could be found in many Western European countries.

<sup>7</sup> One of the very few studies available on the area is a master thesis at the university of Lisbon (Costa 1959) It contains a detailed description of the parish and also discusses the reforestation and parcelation of the commons. Later references by Baptista (1978) and Castro Caldas (1991) to the area are all based on this study.

term could be derived from 'castro' a word used to denominate Celtic fortifications. Further, small elevations in the land, so-called *mômas*, are allegedly pre-historian tombs. Archeological research has not confirmed this hypothesis. The only undisputed signs of old habitation are the remnants of a roman road, which, crossing the area of the parish, made the connection between the coast and the interior. All buildings are from a later date: none of the years carved in façades of houses and chapels are older than the early eighteenth century.

Although there are signs of a long history of habitation and probably also of communal land management, there are no sources older than the end of last century in the parish. None of these tell us very much about communal land management arrangements or social differentiation. For the period after 1890, we have to rely on records of the parish administration, the short description by Peixoto, and a project study prepared by the *Junta da Colonização Interna* (JCI) on behalf of the secretary of state for agriculture in 1941. The JCI prepared this study for the reforestation and division of part of the commons of Os Campos. Most of the data used below are taken from it.

In 1941, slightly more than half of the parish area was common property. Of the 49% private property, about 763 hectare was used for the growth of brush and wood, and only 510 hectare was cultivated. (Not all the brush used in agriculture came from communal land.) Apparently, communal property and brush land were extremely important elements of the farming system and only a relatively small area was actually cultivated.

The commons provided fodder to the animals that were grazed there, and brush for in the stables. The distribution of brush over the households is described by Peixoto: a certain area was demarcated and divided in plots, which were raffled. In some villages, the size of these plots corresponded to the size of the area one cultivated, in other villages, all plots were equal. Sometimes, more than one division was carried out and the number of plots one could get was related to one's wealth. Sheep, goats and cows were all grazed on the commons. Sheep and goats were herded together and accompanied by a shepherd because of the presence of wolves. In some communities, the individual owners joined their animals in one herd. Cows were also taken to the commons but were often left unguarded. There were separate pastures for goats and sheep and for horned cattle.

Table 1: Communal and private landownership in Os Campos (JCI 1941)

<u>Use and property situation</u>	<u>Area (ha)</u>	<u>% parish</u>
Private property: cultivated	510	20
Private property: brush and woodland	763	29
Communal property:	1342	51
Total area of the parish	2615	100

Table 2: Distribution of land and cattle in Os Campos roughly estimated from household incomes in *alqueires* of maize.

Cultivated area (ha)	<u>&lt;0.1</u>	<u>0.1-0.5</u>	<u>0.5-1.0</u>	<u>1.0-2.0</u>	<u>&gt;2.0</u>	<u>Total</u>
number of households (hh)	74	116	102	113	113	507
cows: total number	10	39	96	164	296	605
average per hh.	0.1	0.3	0.9	1.6	2.6	1.2
goats: total number	8	64	163	158	140	533
average per hh.	0.1	0.6	1.6	1.5	1.2	1.1
sheep: total number	41	211	507	511	415	1685
average per hh.	0.6	1.8	5.0	5.0	3.7	3.3

Table 2 makes clear, that there existed large differences in wealth within the parish. Only in the category of farmers who had more than 2 hectares, the majority of the households probably had at least two heads of cattle and thus owned a ploughing team. This means that these, together with some farmers of the category having between 1.0 and 2.0 hectare, formed the classes of peasants (*lavradores*) and landowners. Therefore, all households farming less than 1.0 hectare and a large number of the category between 1.0 and 2.0 hectares, together at least two third of the population, belonged to the lowest class, the *jornaleiros*. Although the day laborers depended mainly on wage labor, not all of them can be considered full proletarians. Some still supported themselves to a considerable extent by cultivating some land. These should be considered semi-proletarians, as they were not fully dependent on wages for their livelihood. Others, however, had so little land that they should be considered full proletarians.

Table 2 also demonstrates the distribution of cattle over the different categories. It appears that the villagers who owned the smallest areas, also had the lowest number of animals. Many of the poorest households with almost no land for cultivation had no sheep, goats or cows at all. Animal ownership, and especially the ownership of cows, was concentrated in the hands of the wealthier stratum. The direct relation between the average number of cows per household and the cultivated area can be explained by two reasons. First, cows are needed for ploughing. A large landowner cannot afford to be dependent on others for his plough team and therefore will try to keep his own. Second, to maintain cows, access to the shrubs covered commons is not sufficient. One also needs grass. According to O'Neill (1987:80), one needs 1.5 hectares of meadowland to support a plough team. Only people who had access to a sufficient area of meadowland could keep cows.

There seems to be a difference between cows on the one hand and sheep and goats on the other. The average number of cows per household increases with the farm size, the average number of sheep and goats is the highest in the two categories 0.5-1.0 and 1.0-2.0 hectares. So contrary to what is the case with cows, there seems to be no linear relationship between farm size and the number of sheep and goats. This difference, however, is merely

apparent and can be explained by geographic circumstances. The parish is composed of two different parts. The largest part can be described as a bowl, which consists of a plateau on 750 meter above sea-level and the encircling mountains which reach up to 1400 meter. Fifteen of the eighteen hamlets of the parish are located in the bowl, at the foot of the mountains, as the plateau offers the best conditions for meadows and cultivation. In addition to the bowl's interior, the parish also includes the southern outward face of the encircling mountains. The inhabitants of the three villages in this part of the parish, live under quite different circumstances from their fellows in the bowl. Here, there is almost no flat land for meadows or cultivation. As a result, exploitations are smaller, cows rarer, and sheep and goats are more abundant than on the plateau. Approximately all sheep and goat holding in the parish was concentrated in these three villages. If we take this peculiarity into account, the larger farmers had the greatest herds, also in the case of sheep and goat holding.

Animals were mainly owned by the wealthier inhabitants of Os Campos. Sheep, goats as well as cows grazed on the commons, although the latter also were fed on meadows. Therefore, the communal pastures were principally used by the wealthier parishioners: they had the largest herds and thus used it more intensively. They also cultivated more land, so that they 'needed' more brushes. Hence, the wealthier households also took more brush from the commons. The virtually landless poorest strata in the parish did have neither animals through which it could use them for grazing, nor land through which it gained access to brush<sup>10</sup>.

##### 5. Private and public against communal property

Throughout the history of the commons in Portugal, it has been tried to turn the commons into private or public property. As a result, large areas already had disappeared before the start of this century. In the 1930's, the Portuguese government prepared two projects to put an end to the communal area that still existed. The first implied reforestation by the state's forestry services, the second implied enclosure for agricultural purposes by the *Junta da Colonização Interna* (JCI). In the 1950's, the forestry service and the JCI intervened in Os Campos' communal management system. The first occupied 625 hectare for reforestation, the second executed a division of approximately 200 hectares. Through this division, the JCI wanted to increase the area of the farms in the parish to improve their viability. In seven villages or clusters of hamlets, the JCI gave to 169 out of the 483 agrarian households plots with sizes between 0.4 and 5.8 hectares. In this way, a little more than 198 hectares were divided. An area of 216 hectares was reserved for communal exploitation by the 237 households who did not benefit from the division.

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<sup>10</sup> Access to land and access to brush in reality were related in a less direct way, but it takes too long for an exhaustive treatment of the system.

Although officially the division was meant to benefit the poor of the parish (JCI 1939:37), for several reasons usually the rich were selected for a plot. First, as 'capability of cultivation' was an allotment criterion, generally those households received a plot, that already had sufficient means of production for its reclamation. Therefore, the criterion favored the wealthy households over the poor. Second, the manner of application of the criterion reinforced this effect. One of my informants told me that a poor parishioner who had received a plot on a provisional base. He had already started reclamation by making terraces and preparing the soil. Then the distribution of the plots was revised and his parcel was given to a wealthy parishioner who never cultivated it but seeded pines, instead. Third, people did not obtain a plot for free. They to pay a levy to the parish council, so that it became even more difficult for the poor to get one. Therefore, the households that did get a plot, generally belonged to the higher strata of Os Campos' society.

The division of the commons reinforced existing social differentiation not only because the wealthier households received a plot, but also because the sizes of these plots were generally larger than the commoners' shares in the remaining area for communal use. Table 3 shows that in four out of seven villages, the average plot sizes were considerably larger than the area of the commons per remaining commoner. For the parish as a whole, the average plot was 1.17 hectares, whereas the average commoner had 0.91 hectare of communal area. This is less than 75% of the area the other 169 households had received in full property. As a consequence, the division clearly benefitted those who could get hold of a plot at the dispense of those who remained dependent on the communal area<sup>22</sup>.

Table 3: the division of part of Os Campos' commons by the JCI.

<u>Village</u> <u>or cluster</u> <u>of hamlets</u>	<u>households</u> <u>(nr)</u> <u>(1)</u>	<u>divided</u> <u>area (ha)</u> <u>(2)</u>	<u>plots</u> <u>(nr)</u> <u>(3)</u>	<u>average</u> <u>size</u> <u>(4)</u>	<u>communal</u> <u>area</u> <u>(5)</u>	<u>comm.area</u> <u>per head</u> <u>2/1</u>
Beça de Além	52	22.41	25	0.90	25.70	0.95
Beça de Aquém	34	20.71	34	0.61	0.00	0.00
Ribeirinho	58	13.62	20	0.68	20.06	0.53
Freixo	58	35.71	25	1.43	29.73	0.90
Gudim	75	30.76	27	1.14	48.94	1.02
Torgueda	77	12.34	13	0.95	59.00	0.92
Souto	52	62.98	25	2.52	32.78	1.21
Total	406	198.53	169	1.17	216.12	0.91

Although, generally speaking the average share of the commoners was smaller than the average plot, the difference was relatively unimportant in two out of seven villages. Demographic developments, however, have increased

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<sup>22</sup> The outcome of the division of the commons gave rise to popular protests but these were neglected by local and national authorities.

differences between plot-holders and commoners. Law prohibited division of the plots among the heirs. Only one could inherit the plot. Further, it was determined that the exclusion of plot-holders from the commons would only be maintained during one generation. Therefore, all heirs, including the one that inherited the plot, regained access to the communal area.

Demographic development in the villages that participated in the division are summarized in table 4. This table contains the unofficial data of a census held in the 1950's and the official figures of 1960. According to these figures, in the 1950's, not 406 but 483 households lived in the seven villages. This implies that the average share of the remaining 314 commoners was not 0.91 ha, but equaled 0.69 hectare, which is less than 60% of the average plot. By 1960, the number of households had increased to 537, so that the 216 hectares communal area were shared by 368 households (0.58 ha/household).

Table 4. The number of households in seven villages of Os Campos according to the National Statistics Bureau and parish records (INE, 1960)

<u>Village or</u> <u>cluster of hamlets</u>	<u>1911</u> <u>households</u>	<u>1940</u> <u>househ.</u>	<u>"1950"</u> <u>househ.</u>	<u>1960</u> <u>househ.</u>
Beça de Além	44	51	57	68
Beça de Aquem	33	34	34	43
Ribeirinho	67	62	58	65
Freixo	69	62	91	91
Gudim	?	68	93	94
Torgueda	83	79	84	97
Souto	50	60	66	69
Total	?	416	483	537

The average size of the plots was well above the acreage of the remaining communal area per household. Hence, those that depended on the communal area, the poorer households, had smaller pastures and less brush. Thus, the division enforced the inequality between the richer and the poorer households in the parish.

The major part of the commons (625 ha) was submitted to reforestation. Traditional forms of exploitation (grazing sheep and goats) were prohibited at least temporarily. All the revenues of the forests went to the state, although officially the forest service had to pay the parish council a minor compensation for the land it occupied. However, the parish never received any money from the forestry service, at least until 1980. Consequently, reforestation implied diversion of the revenues of the 'communal good' from the community to the 'public good' as perceived by the national authorities in Lisbon. The original proprietors did not have any say in the application of these revenues.

Apparently, in the 1940's communal property in Os Campos essentially benefitted the wealthy people, whereas privatization in the 1950's and 1960's reinforced social inequality. Reforestation strengthened public control over the commons at the detriment of the parish population. In the following section I will discuss the effect of the restoration of communal property after 1974.

#### 6. The commons after their restoration

After 1974, common property was restored as a legal category and the law demanded the restoration of nationalized and privatized commons on the original owning communities (*Lei 39/76* and *Lei 40/76*). The law also created a new management structure which sought to guarantee community management without completely forfeiting state control over the reforested areas. Hereto, it demanded the creation of commoners assemblies and commissions which would be responsible for the management of the commons and its revenues, and which would be submitted to a certain form of control by the state forestry service.

The 1976 legislation allows two types of management by the communities: together with the state, and independent of the state. In the first case, four of the five members of the commons' commission are elected by the commoners, and the fifth is appointed by the state, generally by the forestry service. In the second case, all five members are elected by the population. In both cases, budgets and management plans have to be submitted to the forestry service and the district's governor for approval. In general, villages choose for management in cooperation with the state: of the 79 commissions existing in Trás-os-Montes in 1991, only three did not include a state representative.

In Os Campos, four villages have a legally recognized commission for the management of their commons. Every commission consists of four villagers and the forest guard. Their activity, however, has remained rather limited as the role of the commons has changed as a result of the evolution of the society in general. One of the villages that has a committee is Ribeirinho. To the village belong two neighboring areas of communal land. One is a heath and pine covered area of roughly 20 hectares near the village, which has been destined for communal use by the JCI in 1951. The other is an area of about 40 hectares which has been submitted to forestry in 1956 and which subsequently has been reforested during the 1960's. Most of the forest burnt down during a forest fire in the 1980's. The communal area that was divided in 1951, still is in private hands.

Although formally the commission has jurisdiction over the entire area, it does not interfere with the forestry area. The remaining land is still used for grazing, and for collecting brush and firewood. The commission's activities are merely limited to restrict firewood cutting to a fixed

quantity equal for all households and to its division among the commoners. The commission does not keep any restrictions on grazing and brush cutting.

In this section, I will not answer the question whether the system is sustainable or not. I will only treat those aspects that are related to the process of social differentiation. Some of the relevant information is summarized in table 5.

Table 5: Land and animal ownership in Ribeirinho in 1940 and 1991.

<u>farm size (ha)</u>	<u>0</u>	<u>&lt;0.1</u>	<u>0.1-0.5</u>	<u>0.5-1.0</u>	<u>1.0-2.0</u>	<u>&gt;2.0</u>	<u>Total</u>
	<u>(%)</u>	<u>(%)</u>	<u>(%)</u>	<u>(%)</u>	<u>(%)</u>	<u>(%)</u>	
households 1991	23	0	12	9	30	26	43
cows 1991	0	0	0	11	29	60	118
cows per household 1991	0	0	0	2.2	3.6	6.5	2.7
sheep ,, ,, ,,	0	0	0	0	0	0	0
goats ,, ,, ,,	0.3	0	0	0	0	0	3
households 1941	6	15	17	25	33	4	52

From table 5 appears that the total number of households in Ribeirinho has decreased considerably between 1941 and 1991. This is caused by the rural exodus which has affected the portuguese countryside since the 1960's. The percentage of non-farming households has increased. The dwarf-holders (less than 0.1 hectare) have disappeared. Apparently, since 1941, there has been a process of proletarianization of the rural population. Land ownership seems to have become more concentrated. In 1991, 26% of the population (39% of all farms) cultivate more than two hectares, six times the 1941 figure. Sheep and goat holding virtually has no importance in Ribeirinho: in the 1940's, there were seven sheep and four goats in the hamlet, nowadays, there are only three goats and no sheep at all. On the contrary, the number of cows, has increased from 82 to 118. As in the past, they are concentrated on the largest farms.

The JCI left Ribeirinho an area of 20 hectares for communal exploitation. These are still used for grazing cows, although the grazing intensity has diminished. Nowadays, only three of the farming households take regularly their cattle to the communal area. Although alternatives like artificial fertilizer and gas are getting more and more important, the commons have maintained their value as providers of brush and firewood. Almost all farming households still use to cut brush. The distribution of brush among the households, however, is not regulated anymore. Any of the commoners can go and cut whatever he or she needs. Fuel wood, however, is still distributed by raffle. The number of households entitled to the commons has increased. Instead of 38 immediately after the division, 53 households are fully entitled to the use of the communal area, nowadays. The reason for this growth is the creation of new households and the dying out of old: only the persons that participated in the 1951 division lost communal

exploitation rights. Their heirs, are accepted again as full community members, even if they inherit the plot.

This development can be understood as a restoration of equity: all villagers are equal in the face of their common land. But one should bear in mind that this equity is reestablished on top of inequality. Although the distinction between plot-holders and non-plot-holders may be losing its social or cultural significance, its economic meaning is being strengthened. Now, plot-holders not only benefit from their plot, but also from the communal area<sup>12</sup>.

Nowadays, as the 1940's, communal land use is compatible with inequality. In Os Campos, plot-holders acquire full usufructuary rights over the remaining communal area. In other parishes, after the general decline of animal husbandry, the commons have become the domain of the few that still keep a herd (c.f. Nobre 1987). Here, as Klein & Stok (1986) found in a parish in the Serra de Freitas, the socialist inspired restoration of the commons might well benefit the large farmers who are also the largest cattle holders. The small farmers in the parish would have preferred to divide the common in order to enlarge their farms.

A wry example of how, under the actual legal conditions, a common resource can be used by only a few is the village cooperative of Montezinhos, near Bragança. Lourenço (1981) describes how after the restoration of the commons in 1976, the inhabitants of this village created a cooperative to manage a communal pasture which had been improved by the forestry services. During my visit in 1990, it appeared that by then the cooperative had become the private enterprise of only six persons, who all belonged to one family. Other inhabitants of the village were excluded from the communal pasture and depended on the remaining unimproved and partially forested area, for grazing their sheep and goats. Their exclusion was justified by the fact that they, because of their high age, did not help to maintain the improved pasture. The community's commons commission perhaps could have counteracted this monopolization. But as most of its members had emigrated, it did not function anymore.

An example of a village with an independent commons commission is Cidadelhe de Aguiar. This village decided to manage its commons independently. It controls a considerable area, of more or less 700 hectares, which has been seeded and planted by pines in the fifties or sixties. Actually, these pines offer large profits to the population of the village. Annually, the community receives 15,000 USD from the sales of resin alone. Further, it gets money from occasional thinnings, and it can expect the revenues of the first final cuts within a few years. The commission has invested its money

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<sup>12</sup> On the other hand, nowadays wage labor and pensions have become important sources of income. As a result, inequality now is more determined by variation in these sources than by landownership.

mainly in infrastructure for public benefit (table 6). About 46,000 US dollars (USD) have been used for the improvement of the irrigation system by the creation of a new, cemented nine kilometer water channel, and by the replacement of open secondary channels by concrete tubes. As a result, water losses caused by the transport from the source to the field have been reduced considerably. Further investments are made in improving the amenability of the village, such as foot bridges, and a people's house. The commission has also contributed to the construction of a foot ball field (on communal land), and subsidizes membership fees of the younger players and pays their shirts, etc.

Table 6: Main investments made by the commons commission of Cidadelhe de Aguiar 1980-1991.

13,000 USD	a people's house
40,000 USD	irrigation works (9 km channel)
6,000 USD	tube system
4,000 USD	two foot bridges
37,000 USD	water tank for combat of forest fire
52,000 USD	a football field, cloak rooms and showers
19,000 USD	community milking room
171,000 USD	TOTAL INVESTMENTS

Interesting is the construction of a water tank for the combat of forest fires. Apparently, the commons commission is well aware of the need to protect its wealth against threats like fire. It also opened fire breaks and roads in order to improve access to the forest. The tank already was used during fire combat in 1986.

Although the commission apparently tries to serve the public good of the commoners, one should keep in mind that the commoners do not profit to the same extent. Not every household has access to irrigation water, and those households who do, do not all receive the same quantity. Traditionally, water is divided among water-right-holders (*shareholders*) according to hours. The quantity of water a shareholder receives, is determined by the flow and the time he may use the water. These *shares* can be inherited or bought. Within the group of irrigating farmers may exist large differences in the water quantity one is entitled to. The improvements by the commission have diminished water losses and increased flow. But it neither made new outlets, nor handed out new water-rights, so that people who did not yet have any water-rights (*non-shareholders*) before the improvements, still had none, afterwards, whereas all shareholders saw their water-quantity enlarged. Consequently, differences between non-shareholders and shareholders have grown. But as the shares of the larger shareholders increased more than those of the smaller, absolute differences grew within the group of shareholders, as well. Hence, the 46,000 USD invested in irrigation has reinforced pre-existing differences within the community.

The law on the commons defines in detail democratic procedures which have to be followed at the election of a commons commission and empowers the forestry service and the district governments to supervise the process. Nevertheless, the elections of commons commissions suffer from the diseases which affect many democratic processes. In Cidadelhe da Aguiar, for instance, a key factor in the process seems to be kinship, as one family is able to control the majority of the votes. Although in all democratic systems we see that 'external' factors, such as caste, kinship or love affairs, influence elections, this does not necessarily lead to undemocratic administration or 'excessive' clientelism. I do not know whether in Cidadelhe da Aguiar kinship has affected the administration of the commons and its revenues. Nevertheless, when discussing the merits of communal resource management, we should be well aware of the role these factors might play.

## 7. Conclusion

In the world-wide debate on the commons, generally no attention has been paid to the community and its internal relationships, and the issue of equity. A close look to communities in Portugal, makes clear that these are characterized by strong internal inequalities. Under this condition, traditional common-land management systems principally served the wealthier minority in the community. Contrary to the poorer commoners, the wealthy owned the means of production which allowed them to exercise their usufructuary rights. Although in this way the commons reinforced existing inequity, privatization only worsened the situation for the poor. In Os Campos, state guided division of part of the commons officially was intended to better their living conditions, but in the end it benefitted the rich. State management of the commons did neither benefit the rich nor the poor, as forest revenues were diverted from the community to the state. In response to the failure of the state to provide for equity, communal property was restored. Modern management arrangements not only 'guaranteed' democratic control over the communal resource, but also opened a flow of funds to local communities. However, in some cases, the better endowed took more profit than the poor.

Both traditional and modern common-resource management systems allow inequality within the users' community. The reason is that the capability to take profit from a communal resource is not only determined by formal usufructuary rights, but also by the capability to exercise these rights. This capability depends on the access to specific means of production or other resources. Usufructuary rights may be equal for all, but the final profits are not, as these means of production and other resources are controlled by the individual and not by the community. This conclusion not only urges students of common-resource management to question the internal structure of the users' community, it also forces the defenders of the commons to demonstrate not only the ecological and economic sustainability

of common-resource management, but also that equity is in better hands with the community than with the state or with the individual.

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