

# I SUCCESSFUL COMMONS | WHAT'S IN A NAME

Dr. Maïka De Keyzer, Utrecht University, History Department

What makes common pool institutions (CPIs) successful? In commons studies this question is only seldom asked. Most often success is implicitly assumed. Elinor Ostrom herself used a rather vague definition. Institutions are successful when they “enable individuals to achieve productive outcomes in situations where temptations to free-ride and shirk are ever present”.<sup>1</sup> Others looked more at endurance. If collective action was institutionalised and endured for a longer time span, CPIs are deemed successful. Only when institutions for collective action falter or are abolished, the question of success or the lack thereof, arises.

Nevertheless, I distinguish two aspects from historiography as characteristics of successful commons. A CPI was successful if it was able to self-organise in order to prevent free-riding or overexploitation and maintained the ecological benefits for future generations.<sup>2</sup> So first of all the endurance of self-organisation or the longevity of collective action from the bottom up is a measure of success. A second measure is the ability to avert a tragedy of the commons or fundamental degradation of the ecosystem. Most scholars adopt a similar perspective.<sup>3</sup> **Van Weeren and De Moor stated that** “although longevity is just one way to measure institutional success, a lifespan of over two centuries at least indicates that the commoners were able to bridge several generations, whilst dealing with changing circumstances, both internally and externally”.<sup>4</sup>

These definitions or preconditions however are too vague and often include CPIs that have a questionable claim on success. First of all the definition of longevity poses some problems. What is the minimum age and can short lived institutions not be successful? More importantly, is longevity at all a measure of success? This is highly contested. Sheilagh Ogilvie found the tendency to explain institutions as an efficient and beneficial response to the needs of the economy (or for that matter ecology), **the view that ‘whatever is, is right’ worrying. Inefficient or unsuccessful institutions could and did last.** Ogilvie refers to feudalism as an example of an institution that had no economic rational, but lasted for a very long time. While all institutions are formed because of rational decisions they do not necessarily have to be the most efficient or successful entities to last through the ages. Following

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<sup>1</sup> Ostrom, *Governing the commons*, 15.

<sup>2</sup> Ibid.

<sup>3</sup> Shaw-Taylor, The management of common land; Van Zanden, 'The paradox of the marks'; Marco Casari and Charles R. Plott, 'Decentralized management of common property resources: Experiments with a centuries-old institution' *Journal of Economic Behavior & Organization* 51, no. 2 (2003); Angus Winchester, 'Common land in upland Britain: Tragic unsustainability or utopian community resource?', in *Umwelt und geschichte in deutschland und grossbritannien - environment and history in Britain and Germany*, ed. Franz Bosbach, Engels, Jens Ivo, Watson, Fiona (Munich: Prinz-Albert-Studien Band 24, 2006); Winchester and Straughton, 'Stints and sustainability'.

<sup>4</sup> René Van Weeren and Tine De Moor, 'Controlling the commoners: Methods to prevent, detect, and punish free-riding on Dutch commons in the early modern period' *Agricultural history review* 62, no. 2 (2014): 260.

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the conflict view of institutional economics, institutions affect not just the efficiency of an economy but also how its resources are distributed; that is, institutions affect both the size of the total economic pie and who gets how big a slice. As long as the dominant groups within society receive their preferred slice of the pie, institutions will last, regardless of the detrimental effects these institutions might have on other parts of society or the general efficiency of the institution itself.<sup>5</sup>

**This is shown for historical commons as well. While CPIs' main functions are to protect the common resources, develop a sustainable management and distribute the benefits among the members of the community, a lot of long lasting historical commons failed to do so. In Premodern Breckland, lords and their lessees were able to monopolise the benefits of the common heath lands and open fields, while disturbing the rights of the small tenants by overgrazing and degrading the landscape.<sup>6</sup> Nevertheless the CPIs survived until the nineteenth century, without significant formal alterations. In addition, in the Netherlands, *marken* or CPIs were constructed to manage forest resources, but were unable to stop progressive deforestation.<sup>7</sup> Having failed in their original purpose, these CPIs were however not abolished. The CPIs then changed their activity range and managed pastures and waste lands in the future.**

Secondly, sustainable management is seldom defined. Maintaining similar levels of ecological benefits is rather elusive. Landscapes changed significantly over time. What is the tipping point or when can one conclude that the ecosystem was degraded enough to label it as unsuccessful management? When Clark stated that open fields were common sense and the most efficient way of organising and managing the landscape, no evaluation of the ecological state of open fields through time was given.<sup>8</sup> The same goes for practically every commons study. While levels of deforestation, erosion and degradation are often described as rising from the later Middle Ages onwards, even in regions with strong and long-lasting commons, the CPIs are almost never considered unsuccessful. Since interdisciplinary research, in the form of pollen analysis and environmental archaeology, is needed to paint a picture of historic landscapes, the issue is rarely addressed at all.

## I Defining success

A clear definition or at least demarcation of successful commons is needed however, for the concept to have any academic value. The conceptual mist that has obscured the past discussion should be cleared by more well-defined preconditions by which standard CPI's and historical commons can be tested

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<sup>5</sup> Ogilvie, "Whatever is, is right".

<sup>6</sup> Bailey, *A marginal economy*; Postgate, *Historical geography*; Whyte, *Contested pasts*; Nicola Whyte, *Inhabiting the landscape. Place custom and memory, 1500-1800* (Oxford: Oxbow books, 2009).

<sup>7</sup> Hein Vera. ... *Dat men het goed van den ongeboornen niet mag verkoopen. Gemene gronden in de meierij van den bosch tussen hertog en hertgang 1000-2000* (Unpublished thesis at Radboud University, 2011); Kos, *Van meenten tot marken*.

<sup>8</sup> Gregory Clark, 'Commons sense: Common property rights, efficiency, and institutional change' *The Journal of economic history* 58, no. 1 (1998).

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and evaluated. I argue that instead of a temporal evaluation, three main criteria should be met in order to define a CPI as successful.

First of all CPIs should be able to reach ecological resilience, or in other words maintain the ecological value of their common pool resources. In order to move beyond a vague definition of maintenance or sustainability, a more rigid evaluation should be implemented. One definition that stands out in its clarity and universal character is ecological resilience, as defined by Folke. “**Ecological resilience** is measured by the capacity of a system to absorb disturbance and re-organise while undergoing change so as to still retain essentially the same structure, function, identity and feedbacks.”<sup>9</sup> This definition implies that a landscape should not be fossilised, but rather that an ecosystem must not be pushed out of its stability domain.<sup>10</sup> The case of a common meadow can illustrate this. The proportion and relationship between grasses and vegetation types may change, but only to such an extent that the same structure and function, namely providing grazing for the same type of animals in similar quantities is provided. A shift towards heather vegetation or a forest landscape because of mismanagement is a shift of stability domain and can therefore not be considered as ecological resilience. Similarly, fish stock levels in a river or ocean could fluctuate, but a fundamental shift between different types of fish populations or the extinction of species, are a reflection of the lack of ecological resilience. Deliberate choices to fundamentally alter the landscape, by draining projects or active clearing of woodlands, however do not constitute faltering management.

Second, the benefits of the commons should be divided fairly among the community of users. Obtaining access to the commons is one thing, acquiring a fair share or useful share of the commons is another. Fair can be defined in two ways. In the first case the same benefits are distributed to every household, regardless of their socioeconomic status or interests. In the second case, each household can use the commons to serve their particular needs within a certain limit, regardless of the fact that different amounts or types of resources are then used per community member. In this definition, an egalitarian division of resources among all the members is therefore no precondition of success, as long as the commons provide benefits that fit the needs of every interest group within the community of users. Such a fair distribution of benefits is not obvious in commons. This becomes clear if we look at historical examples of communal resource management. As Lana Berasain has demonstrated, a very unbalanced distribution of power in the kingdom of Navarra led to an unbalanced distribution of benefits derived from the commons. This unjust system, however, did not lead to the disappearance of the commons, nor to an unsustainable management, but was able to reach an equilibrium on both a social as well as an ecological level.<sup>11</sup> In several cases, for instance the mountain pastures in the Spanish Pyrenees, communal resources such as the best grazing spots and long distance trails were reserved for a handful wealthy farmers, while peasants were limited to smaller and less qualitative pastures in the

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<sup>9</sup> Carl Folke, 'Resilience: The emergence of a perspective for social-ecological systems analyses' *Global environmental change* 16, no. 3 (2006): 259.

<sup>10</sup> Lance H. Gunderson, 'Ecological resilience in theory and application' *Annual review of ecology and systematics* 31 (2000).

<sup>11</sup> Lana Berasain, 'From equilibrium to equity'.

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village and valleys.<sup>12</sup> In Breckland (East Anglia, England), tenants were completely excluded from the communal herds on the open fields by the sixteenth century, therefore ruining peasant sheep ownership all together.<sup>13</sup> In other cases, common rights were available, but of no use to the community members. In the Gemene Loweiden in Flanders, grazing rights were often not used by the community members because of their changed economic profile, forcing the CPI to attract outsiders in order to prevent grazing levels to drop too low.<sup>14</sup> When only an insignificant number of the members is not benefitting from the commons, this does not pose a problem. When, however, this discrepancy becomes too big and large parts of the community are in this way excluded from the commons, this does become problematic. In all these cases, the benefits were not fairly, and less than optimally divided among the members of the CPI. In this definition, this would not be considered a successful common.

Finally communal property and management should proof resilient towards other forms of appropriation or management. Common management of ecological resources has always co-existed with forms of private property and commercialised societies. Attempts to change communal structures into private property have been manifold. Waves of enclosures in practically every century since the 13<sup>th</sup> century have occurred throughout Europe. Successful commons, were however able to fend off such alternative strategies and maintain their communal resources and management. As with ecological resilience, moderate disturbances and changes could be absorbed, such as piecemeal enclosures, without fundamentally changing the function and identity of the system. Communities that had privatised or enclosed 90 per cent of the commons, but still maintained a CPI to manage a small piece of common land, do not answer to the definition however.

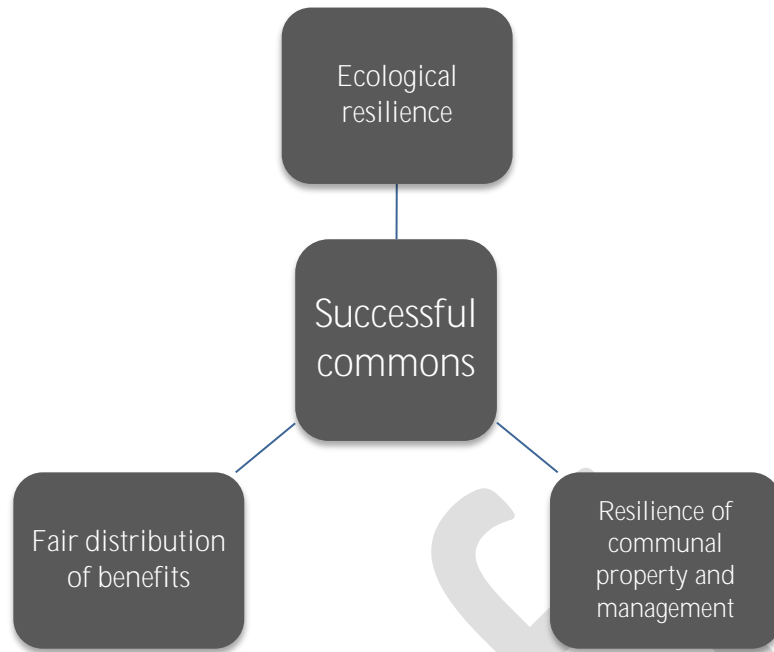
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<sup>12</sup> Esther Pascua, 'Communautés de propriétaires et ressources naturelles à saragosse lors du passage du moyen âge à l'époque moderne ' in *Transhumance et estivage en occident des origines aux enjeux actuels*, ed. P.-Y Laffont (Toulouse: Presses universitaires du Mirail, 2006); Xavier Soldevila I Temporal, 'L'élevage ovin et la transhumance en catalogne nord-occidentale (xiiiie-xive siècles),' in *Transhumance et estivage en occident. Des origines au enjeux actuels*, ed. P.-Y Laffont (Toulouse: Presses universitaires du Mirail, 2006).

<sup>13</sup> Allison, 'The sheep-corn husbandry'.

<sup>14</sup> De Moor, 'Avoiding tragedies'.

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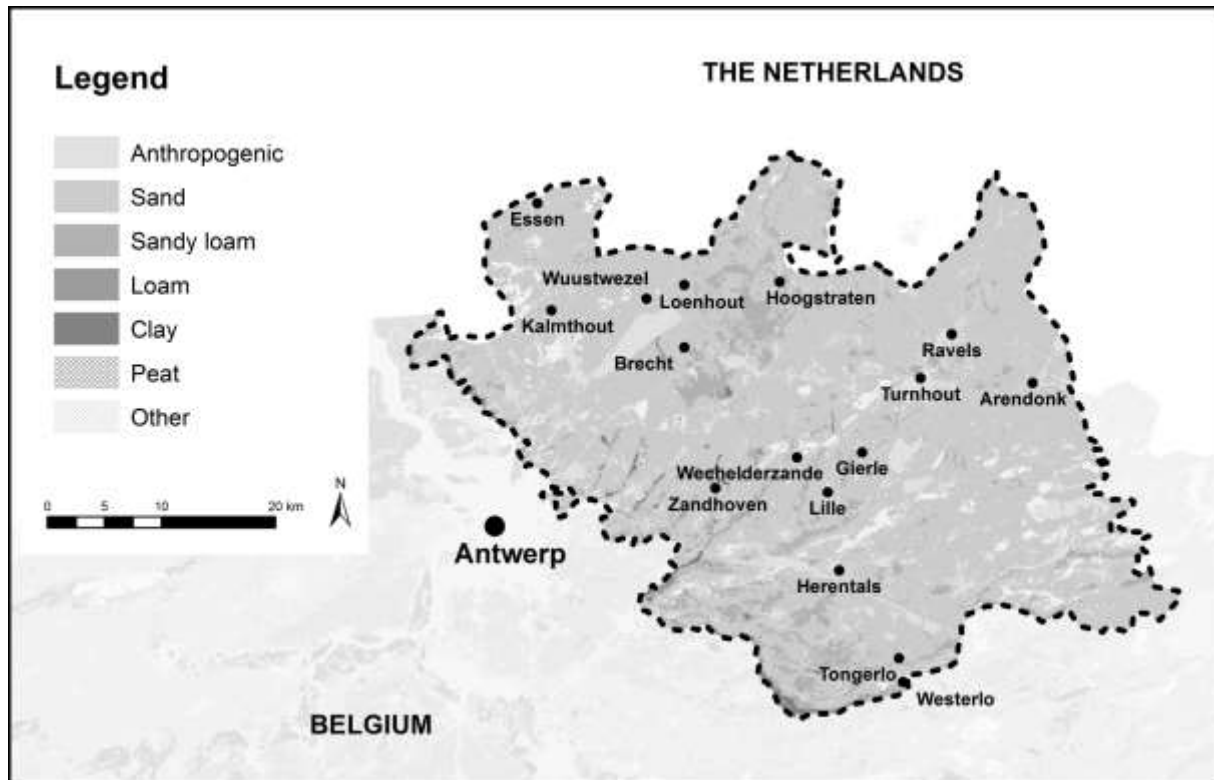


*Fig 1 Model for successful commons.*

## **II The proof of the pudding | Evaluating the Campine case**

To illustrate this model, a historical case study is used: the Campine area (Antwerp, Belgium). Historical societies are ideal as illustrative cases, because their long term development can be assessed from hindsight. Was the Premodern Campine area a successful CPI, in the light of this new definition? In this paper it is claimed that they were.

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*Fig 2. Map of the study area: the Campine area. Map designed by Iason Jongepier.*

First of all, they were able to reach and maintain high levels ecological resilience. One of the most basic characteristics of the Campine area remains the dominance of sandy soils.<sup>15</sup> These sandy soils were very fragile. When the vegetation, was destroyed or degraded, these original sand layers or uncovered top soils could easily start to drift. In addition, once a sand dune had become active, it regenerated itself quite easily, so that it was difficult to stop the process and consolidate it again. Sand drifts did not only erode the soil and destroy productive land, but in the process covered other areas, such as villages, fields and pastures with layers of loose sand. One of the main tasks of the Campine CPIs was therefore to design a system that would prevent the uncovering of the soil, maintain a balanced heathland vegetation, with sturdy vegetation on the wastelands and dunes and limit open spaces that encouraged gusts of wind. The level of sand mobility and the creation of sand dunes is therefore a good indication of the ecological resilience of the region.

The dominant view is that most CPIs in the coversand belt failed in their attempt to obtain ecological resilience. It has been established that the topsoil was exploited and degraded enough to create major drifts from the late medieval period onwards.<sup>16</sup> Due to the expansion and intensification of agriculture through the use of large grazing herds and pluggen fertilisation, the heather and grass vegetation of the

<sup>15</sup> Ibid.

<sup>16</sup> Derese et al., 'A medieval settlement', 340.

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common waste lands was degraded to such a degree that sand drifts started to threaten the region.<sup>17</sup> In addition, the growing number of roads and pressure from increased levels of transport, have been considered as being detrimental.<sup>18</sup> According to Hein Vera, several rent registers and charters indicate that sand-drifting became an acute problem from the fourteenth century onwards. Rent registers listed fields covered with sand and charters from the Duke of Brabant reveal threats against communities that failed to stop the drifting of sand, between the fourteenth and fifteenth centuries.<sup>19</sup> For the provinces of Overijssel, Groningen and Drenthe, Jan Luiten Van Zanden has outlined a similar picture. Examining the disappearance of wood coverage in those regions, Van Zanden stated that it resulted in serious deterioration of the environment particularly during the sixteenth century. The main causes, according to Van Zanden, were a rising population which could not be halted by the Marks (CPIs), as well as the failure to manage or apply rules effectively. Consequently, sand drifts were considered a later medieval and Early Modern phenomenon that was only halted in the eighteenth century.<sup>20</sup> The same goes for the Campine area. It is still widely accepted that the major sand drifts occurred during the late medieval period, from the thirteenth century onwards, exactly the period when CPIs were fully developed.<sup>21</sup> After all, the Campine area witnessed a sustained growth after the thirteenth century, which lasted until the second half of the fifteenth century. The culmination of the ecological pressure was reached in the fourteenth century and continued during the fifteenth century. Both population pressure, arable production, cattle grazing and sod collecting ensured a high level of ecological pressure. According to Jan Luiten Van Zanden, this unstoppable immigration and population growth were the most devastating phenomena for the commons.<sup>22</sup> Consequently, these were the perfect circumstances to induce an ecological crisis.

Historical evidence of landscape degradation, however, is thin on the ground. Vera relies on scarce evidence within a limited amount of rent registers and charters.<sup>23</sup> These are, however, sources that only appear from the fourteenth century and therefore give only a periodisation *ante quem*. Rent registers list all plots once granted by the duke or lord, even though they were lost because of sand drifts. Nevertheless, they can date back to the very beginning of exploitation of the region when the lord got hold of these lands. Furthermore, Jan Luiten Van Zanden links historical evidence of population pressures, intensive agricultural practices and the presumed malfunctioning of the common pool institutions with the acknowledgments that sand dunes were referred to in charters and are visible on historical maps and exist in the present landscape.<sup>24</sup>

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<sup>17</sup> K. Beerten, K. Deforce, and D. Mallants, 'Landscape evolution and changes in soil hydraulic properties at the decadal, centennial and millennial scale: A case study from the campine area, northern belgium' *Catena* 95 (2012); Vera, ... *Dat men het goed*. Josef Fanta and Henk Siepel, eds., *Inland drift sand landscapes* (Zeist: Publishing, 2010).

<sup>18</sup> Beatrijs Augustyn, *Zeespiegelrijzing, transgressiefasen en stormvloed in maritiem vlaanderen tot het einde van de xvde eeuw* (Brussels: Algemeen Rijksarchief 1992), 260-261.

<sup>19</sup> Vera, ... *Dat men het goed*.

<sup>20</sup> Van Zanden, 'The paradox of the marks'.

<sup>21</sup> Ibid. ; Anna Broers, "Drift sand activity phases in nw europe," (2014).

<sup>22</sup> Van Zanden, 'The paradox of the marks'.

<sup>23</sup> Vera, ... *Dat men het goed*.

<sup>24</sup> Van Zanden, 'The paradox of the marks'.

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In addition, new research and especially new methods of dating sand deposits, namely optically stimulated luminescence (OSL) dating, has altered our perspective on Premodern sand drifts.<sup>25</sup> Two important findings have come forward because of the new technique. Firstly, the periods prior to 1250, when village communities and CPIs were not yet fully developed, suffered from the worst disasters before the eighteenth century. In contrast the Campine CPIs that arose after 1300 were able to sustainably manage the landscape, reduce the risk of sand and obtain a high level of ecological resilience, rather than inflict disastrous sand floods.

Geological evidence of a fundamental degradation of the landscape and the occurrence of disastrous sand floods from the later Middle Ages onwards is missing. Sand drifts were certainly a significant risk during the late medieval period, as they must have been in the early medieval period. Nevertheless, I would suggest that to claim that they worsened from the thirteenth century onwards, when CPIs were developed, is difficult to prove. The pre-collective action, early medieval sites that were discovered showed proof of arable fields and farmsteads, huts and wells that were covered by thick layers of sand. The late medieval sand dunes, however, display a fundamentally different pattern. First of all, we do not have evidence for abandoned or destroyed villages after 1000 AD. Historical documents would certainly report such major incidences. For example, Beatrijs Augustyn discovered such sources for the coastal dune villages and cities.<sup>26</sup> In addition, the sand dunes investigated in the Campine villages Mol, Lille and Vosselaar, are all located either in the wastelands surrounding the hamlet and its arable plots or right next to the wooden fences or hedges which protected the arable fields from sand drifts.<sup>27</sup>

While comments over the location of the dunes, might come across as splitting hairs, it is vital to distinguish between a disaster that is beyond human control and threatens the presence and occupation of the local population and sand that was halted and stabilised by windbreakers, hedges and other technological interventions, introduced by the CPIs to manage the landscape and prevent large scale drifts. These prevention measures certainly helped to halt the sand and stabilise the landscape. The thin sand layers discovered in the plaggen soils of the arable plots of late medieval communities such as Mol and Lille were evenly dispersed within the plaggen layers, suggesting that the sand was continuously ploughed into the other layers. Cultivation was therefore permanent and not fundamentally disturbed by a surge of sand. In addition, large-scale sand drifts, depositing thick layers of sand, have not been discovered. As the layer sequence of Mol demonstrated, constant re-sedimentation of thin layers of sand occurred.<sup>28</sup> As Koster claimed, existing sand dunes, were lasting entities that could barely be halted and continued to drift on a small scale.<sup>29</sup> The landscape must have become more closed and the soil better protected by vegetation or wind breakers by the thirteenth century.

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<sup>25</sup> For more information: Ann Wintle, 'Luminescence dating of quaternary sediments - introduction' *Boreas* 4 (2008).

<sup>26</sup> Augustyn, *Zeespiegelrijzing*, 325.

<sup>27</sup> Beerten, Deforce, and Mallants, 'Landscape evolution': Dixit Jan Bastiaens.

<sup>28</sup> Ibid.

<sup>29</sup> Koster, Aeolian environments.



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The Campine communities were therefore able to turn the tide and change a highly disturbed and mobile landscape into a stabilised system. The institutions for collective action that had developed to organise the commoners and manage the environmental challenges were successful in limiting the region's inherent ecological risk of drifting sand, into a manageable hazard. As a result they were able to obtain a high level of ecological resilience, since the diverse and stable heathland vegetation was maintained for centuries. In contrast to previous studies, I would therefore advance the argument that late medieval sand drifts were continuous drifts, but not necessarily disasters. No new dune sites on productive land and habitation sites were created nor did new regions become increasingly eroded or degraded. Existing dune sites were resedimented and caught the traces of drifting sand that was common in the coversand belt. Campine communities knew the risks and problems connected with living in a cover sand belt and acknowledged the presence of sand activity as foreseeable episodes.<sup>30</sup> According to Franz Mauelshagen, strategies for coping with risk environments are based on the expectation of repetition drawn from the experience of repeated disasters.<sup>31</sup> It has been assessed that natural hazards and catastrophes have a history: "They are anticipated long in advance and they are remembered, often for a long time after the actual event takes place".<sup>32</sup> Having learned from the first swift and irreversible drifts from the early Middle Ages, late medieval Campine communities adapted their agricultural practices and infrastructure. Given the disappearance of disastrous sand floods and the stabilisation of the landscape, it is fair to state that the CPIs were successful in their struggle with the landscape and their goal of a sustainable management.

### III A fair share of the pie | The common denominator

The second criterion for a successful common is the fair division of benefits from the commons among the community of users. To most CPIs the distribution of benefits was very important, as is shown by the abundance of rules regulating these issues in the by-laws. In general scholars have considered the distribution of fixed and maximum shares of common pool resources as the main principle to fairly distribute benefits, while maintaining a sustainable management.<sup>33</sup> Numerical limitations on use rights were predominantly implemented on herd sizes, but could equally be applied to other types of use rights, such as timber, peat and hay harvests. Angus Winchester distinguished two principles that controlled and limited the number of livestock on any common pasture. First, there is the rule of "levancy" and "couchancy" which allowed a commoner to place onto the commons as many animals as he was able to sustain over the winter from the produce of his holding. Second, stinting (or the

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<sup>30</sup> Regarding such collective knowledge and subcultures of disaster: Bankoff, *Cultures of disaster*; Bankoff, 'The 'english lowlands''.

<sup>31</sup> Franz Mauelshagen, 'Flood disasters and political culture at the German north sea coast: A long-term historical perspective' *Historical social research* 32, no. 3 (2007): 134.

<sup>32</sup> Uwe Lübken and Christof Mauch, 'Uncertain environments: Natural hazards, risk and insurance in historical perspective' *Environment and History* 17 (2011): 1.

<sup>33</sup> De Moor, Shaw-Taylor, and Warde, eds., *The management*, Winchester and Straughton, 'Stints and sustainability'.

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numerical limitation of grazing rights) could be applied. The first rule was more focussed on equitable access, while the second actively responded to the carrying capacity of the common field and divided the benefits on a reduced but egalitarian way.

Other distribution strategies existed as well however. In those cases benefits of the commons were clearly defined and demarcated while prevention measures of overexploitation introduced, but community members were not granted a fixed share of the benefits. This meant that different types of resources and diverging quantities could be used per household or member. Almost all communities, nevertheless introduced specific rules to limit overexploitation. In addition, according to McCarthy, engaging in collective action immediately restricts individual peasants from over-stocking and has a negative effect on herd sizes.<sup>34</sup>

The first option to introduce fixed stints and even increasingly restrictive stints per households is often considered to have become dominant in Premodern Europe from the fifteenth and sixteenth centuries onwards. Only upland regions, or areas with vast commons such as Sweden, refrained from introducing such restrictions because of the extent of their wastelands.<sup>35</sup> Nevertheless, the second option was more common than assumed. For example as much as 46 per cent of England and Wales remained stint-free.<sup>36</sup> The Campine area also belonged to the stint-free regions, despite the fact that it was exactly the sort of area where one could have expected stinting to be introduced.

The by-laws do not refer to lavancy or couchancy neither. The community did not formally limit the amount of animals in any way. In practice, however, the extent of private land and fodder production did limit the amount of sheep each household could sustain. Sheep remained outside for most part of the year, but shelter and additional fodder were always required and therefore restricted the size of flocks. In addition, informal regulations regarding the number of animals could have been introduced and thus escaped our attention. As McCarthy had indicated, “the capacity of co-operation is critical. Co-operation has a direct negative impact on stock densities and land allocated to private pastures”.<sup>37</sup>

In the Campine area the benefits were distributed unevenly but tailored to the needs of all interest groups. The common pool resources were inventoried and the manner of exploiting them was strictly regulated. Especially for depletable resources maximum shares were introduced. The absence of fixed stints, did not prevent a fair distribution of the benefits of the Campine commons however. Equitable rather than equal access was preferred. Farmers with larger flocks or bigger arable plots were able to put more cattle units on the commons and collect more turves, than micro-smallholders without any animals. Nevertheless, rich farmers and rural elites were not able to dominate or monopolise the commons, by overstocking or prohibiting the other interest groups from obtaining benefits as well. During the late medieval period, every subgroup had very specific interests and basic needs, which were met thanks to the inclusive as well as unrestricted access to the commons.

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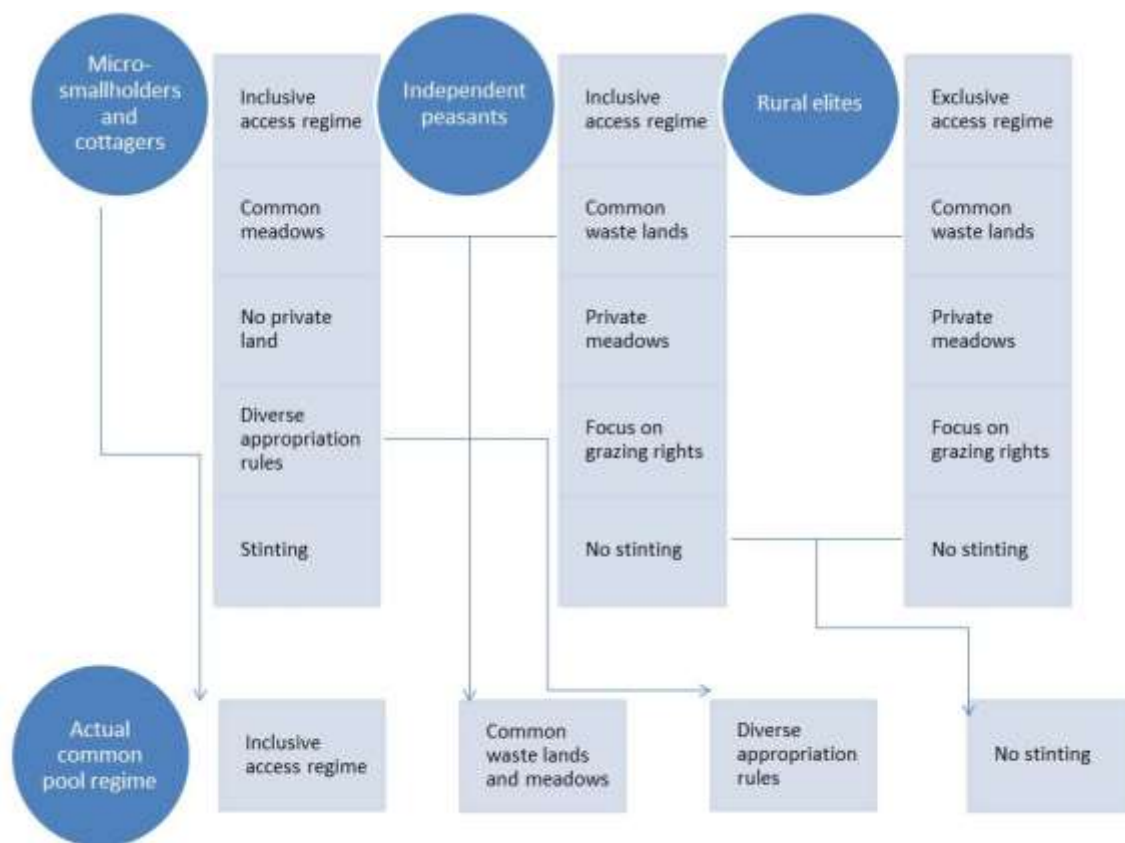
<sup>34</sup> McCarthy, Kamara, and Kirk, 'Co-operation', 236.

<sup>35</sup> Ibid.; Winchester and Straughton, 'Stints and sustainability'.

<sup>36</sup> Ibid

<sup>37</sup> McCarthy, Kamara, and Kirk, 'Co-operation', 236.

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*Fig 3 Diagram depicting the interest groups' interests and the actual common property regime, suggesting which group was able to influence which aspect of the CPI.*

The way benefits from the commons were distributed followed the principle of a common denominator. There were largely three main interest groups: Peasant smallholders (cottagers and micro smallholders), independent peasants (the middle class of society) and the rural elites. In the Campine area the commons comprised heathland and meadows. Not all groups had the same interests in the commons. While the smallholders wanted to use the commons for fodder from the meadows, grazing ground for a limited amount of cattle and to dig for sods, the elites were mostly interested in grazing land for their commercial herds. The common rules that were eventually decided on, were a mix of all their interests. It was not an equal system, where all interests groups received an equal share. Rich tenant farmers were able to put more sheep on the commons than their poorer neighbours. In other words it was, an equilibrium that combined the most important interests of each subgroup while not fundamentally hampering any other group. The micro-smallholders and cottagers were able to secure inclusive common pool institutions, the survival of common hay meadows for the entire community, together with a diverse range of appropriation rights on the common wastelands. They, nevertheless, were not able to steer the common pool institutions towards a stinted system, where the upper stratum of society would be restricted in their commercial strategies. The independent peasants and rural elites consequently accepted inclusive CPIs and common hay meadows, but enforced the

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acceptance of unstinted common wastelands so as to graze their extensive flocks of sheep in order to engage in commercial activities. This is a less egalitarian system than a stinted system, but as all interest groups received the benefits they needed, the distribution mechanisms are to be called fair.

#### **IV To enclose or not to enclose?**

The third criterion was the ability to fend off alternative modes of appropriation. In the case of premodern commons, that usually meant enclosures or privatisation waves. For historical, European CPIs, the enclosure movements were often highly contested. Hedges and walls which emerged within the former open fields of central England were forcefully introduced by seventeenth century manorial lords and their tenants.<sup>38</sup> As a reaction angry mobs of peasants filed complaints or attempted to destroy the enclosure infrastructure.<sup>39</sup> Throughout Europe, most of these enclosure movements were not easily fended off, and led to a fundamental transformation of the communal land, or even the abolishment of communal rights all together. In the Low Countries, the majority of the commons were privatised and enclosed by the end of the later Middle Ages. The same was true for large parts of other European regions. Despite the image of Europe as an exceptional region of collective action, only a few of the privatisation waves was stopped by the local peasants or farmers.

Prevention of such large scale attempts was more realistic. In the Campine area these scenes were non-existent. In the Campine area no fundamental enclosure movements or privatisation attempts took hold between the formation of the common pool institutions and their demise during the eighteenth century, when Maria Theresa abolished the common wastelands in 1772 because of the physiocratic philosophy that extensive heathlands should be turned into productive arable land.<sup>40</sup> By the end of the sixteenth century, at least between 60 and 90 per cent of the total surface area of the Campine area was still full time common. In addition, common rights were attached to other types of land, such as hay meadows. This basic layout did not fundamentally change during the later Middle Ages apart from some exceptions.

Even though privatisation and enclosure often went hand-in-hand, it is important to define them clearly. Privatisation refers to the buying, leasing or the renting of land which was formerly part of the "bona vacantia"<sup>41</sup> or communal land owned or managed by a community or common pool institution.

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<sup>38</sup> Allen, *Enclosure and the yeoman*; Humphries, 'Enclosures'; R.I. Hodgson, 'The progress of enclosure in county durham, 1550-1870,' in *Change in the countryside: Essays on rural england, 1500-1900*, ed. H. S. A. Fox and R. A. Butlin (London: Institute of British geographers 1979); Leigh Shaw-Taylor, 'Parliamentary enclosure and the emergence of an english agricultural proletariat' *The journal of economic history* 61, no. 3 (2001).

<sup>39</sup> Heather Falvey, 'Voices and faces in the rioting crowd: Identifying seventeenth-century enclosure rioters' *The local historian* 39, no. 2 (2009); Stephen Hipkin, "Sitting on his penny rent': Conflict and right of common in faversham bleas, 1595-1610' *Rural history: economy, society, culture* 11, no. 1 (2000).

<sup>40</sup> Van Looveren, 'De privatisering van de gemeentegronden'.

<sup>41</sup> A component of the royal domain

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Enclosure is the action of closing off property, either common or private land, from the surrounding environment with a hedge, ditch, fence or other delineation.

The longevity of the common pool regime does not preclude the existence of actors within society who believed that they would benefit equally, or even profit, from privatising and enclosing those commons for their own particular use. When looking for those actors, landlords are often the main suspects. Mostly living from their estates via rents, dues and taxes, **landlords'** earnings could be increased by enclosing arable fields or meadows which resulted in higher rents. Nevertheless, Nicola Whyte has stressed that lords could even be the champions of open field systems, as has been shown for late medieval and Early Modern Breckland in Norfolk. Being involved in capitalistic sheep breeding via the customary practice of fold course, the manorial lords in Breckland fiercely opposed peasant efforts to enclose their arable fields in order to be able to continue grazing their manorial sheep herds on the open fields, brecks and wastelands.<sup>42</sup>

Historiography shows, therefore, that pinpointing one interest group as the main driving force is difficult to achieve. While in one region during a certain timeframe, lords granted charters, privileges and by-laws providing access and control over the commons to their communities, their successors could turn out to become the greatest opponents of communal rights. Equally, peasants were most often supporters of communal systems, yet could just as well plead for the division and enclosure of commons. Therefore, we cannot simply refer to enclosure as a fixed process driven by the same type of interest groups. Instead we need to focus on the different types of enclosure and the actors behind those diverging movements.

In the Campine area three attempts to change the structure and use of common property occurred. Only few attempts succeeded, and in all cases they constituted only a small fraction of the total common surface area. The first attempt to enclose, happened during the sixteenth century. It was started by the wealthiest independent peasants and rural elites with the goal to enclose their common hay meadows from communal grazing. They were private plots of land that remained common for most of the year. Only during spring were the meadows enclosed so as to allow the hay to grow.

By the sixteenth century this practice was put under pressure. Hay meadows, providing valuable hay as fodder for cattle that was kept inside, were the most expensive and sought after plots of land in the Campine area.<sup>43</sup> Such fields, not grazed by communal herds, were therefore able to provide more harvests of hay than just the first portion in May. As such, hay owners increasingly pressured the common pool institutions to limit these common rights and abandon collective grazing.

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<sup>42</sup> Whyte, *Contested pasts*.

<sup>43</sup> In Loenhout in 1602 a hay meadow cost, on average, 525 stuiver per bunder. In comparison with arable (245 stuiver/bunder), pasture (216 stuiver/bunder) and poor grazing land (208 stuiver/bunder), this amount was huge. RAA, OGA Loenhout, 3823, Land book, 1602. Eline Van Onacker found similar high values for Wuustwezel in 1581, while Gierle and Tongerlo show average values. Van Onacker, *Leaders of the pack?*, 96-97.

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These enclosure attempts did not pass without contestation.<sup>44</sup> Enclosing one meadow does not, of course, fundamentally change the common use rights of the other community members, but in some cases they could disturb the performance of the privileges of certain community members.

In the Campine area in the end some hay meadows were gradually being transformed from private property that was unenclosed (apart from the communal fence around the entire complex), towards a system resembling arable fields. It was, however, not a uniform process that happened in all Campine villages. In total the largest proportion of hay meadows remained common after the first harvest. This is shown by by-laws of other villages. For example the village of Vorselaar, explicitly introduced a new rule in 1544, stating that the meadows would have to remain common after the harvest.<sup>45</sup> Most villages retained communal rights after the harvest, despite grumbling rural elites and the wealthiest independent peasants.

While the first attempt to change the common property regime and communal use rights arose from within the village communities, other threats to the commons, came from outside the village communities. Lords were not the main driving forces in carrying them out between the thirteenth and fourteenth century. Yet, from the late fourteenth, and especially during the fifteenth and sixteenth centuries, **the Campine lords'** attitudes changed. In general, lords were not involved with active agricultural practices and most of them did not even have farms that were managed by tenants. Consequently, most lords were not seeking to enclose land, rather they supported new rents and incomes resulting from peasants' initiatives. Like the case of the Midlands in England, it was a select club of lords who wanted to get involved in commercial agriculture, that championed the privatisation, consolidation and enclosure of land.<sup>46</sup>

In the Campine area, it was largely the initiative of one lord: the abbey of Tongerlo. The abbey was one of the most powerful and wealthy institutions. The abbey did have a very pro-active agricultural policy. They were interested in exploiting the rich peat layers located in the common heathlands of their seignories. Peat was one of the most valuable fossil fuels since, by the later Middle Ages, the majority of woodlands had been cleared in the entire Low Countries.<sup>47</sup> In Flanders, the exploitation of peat started much earlier, but once those peat layers became increasingly scarce, Brabantine reserves came into the picture.<sup>48</sup> This strategy however affected the local peasants and their communal privileges, which led to a long term conflict, stretching between the fifteenth and seventeenth century.

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<sup>44</sup> RAB, VB, 565, 9 (1509) Turnhout.

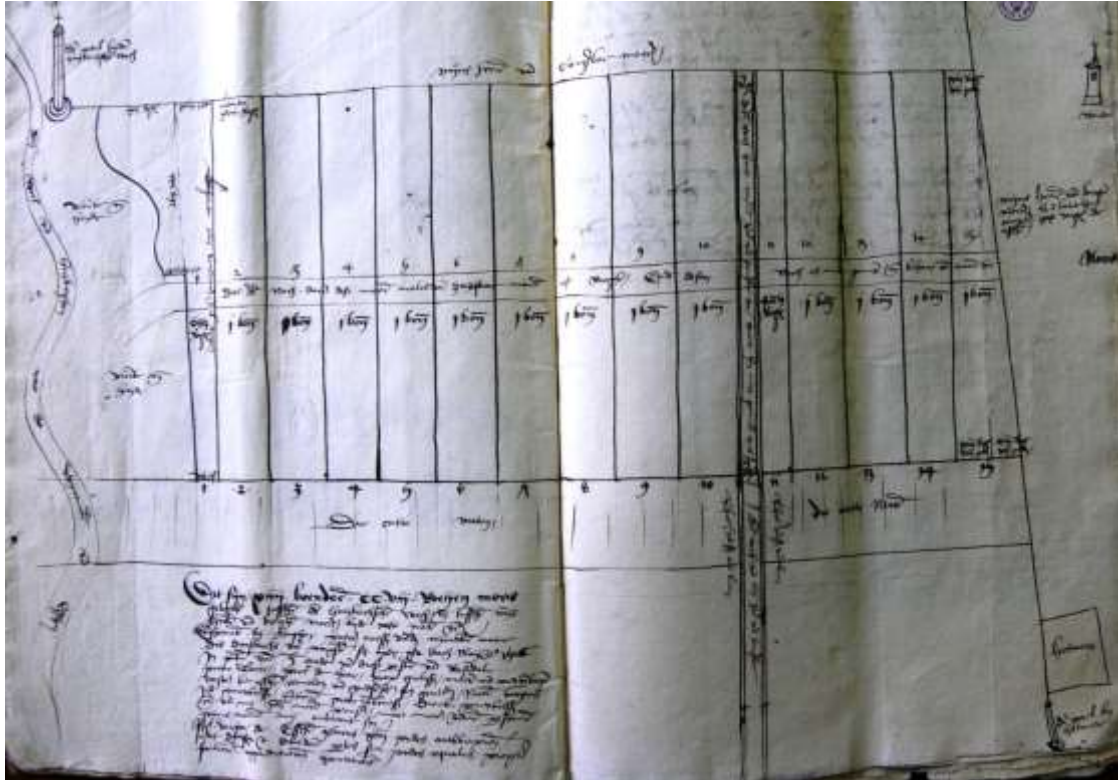
<sup>45</sup> "Er is gesloten en door de gemeente overgedragen bij consent van de meier en schepenen dat men het broek zal omheinen en bevrijden zoals de andere vrede beemden en dat men in hetzelfde broek zal mogen voor de oogst hooien en dat niemand zijn beesten daar in zal stouwen zolang er 3 lieden hooi in het broek hebben. Als de lieden hun hooi daaruit hebben zal het wederom gemeen zijn. Dit zou drie jaar duren om dit mede te proeven. 17 januari 1544" source: VAN OLMEN, "De keuren van Vorselaar".

<sup>46</sup> Allen, *Enclosure and the yeoman*.

<sup>47</sup> Bastiaens and Deforce, 'Geschiedenis van de heide'.

<sup>48</sup> Karel A. H. W Leenders, *Verdwenen venen: Een onderzoek naar de ligging en exploitatie van thans verdwenen venen in het gebied tussen antwerpen, turnhout, geertruidenberg en willemsstad 1250-1750.*, ed. Gemeentekrediet, *Historische uitgaven* (Brussels: Gemeentekrediet, 1989).

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*Fig 4 Folio from the nova census of Kalmthout-Essen, depicting the peat concessions near the "huybergse weg".<sup>49</sup>*

This commercial process did fundamentally affect the extent and outlook of the Kalmthout commons. In 1518 alone, 70 hectares of moor and heathland was privatised and registered in the rent registers of Kalmthout-Essen.<sup>50</sup> In addition, 90 hectares of peat was given into concession in the same timeframe, mostly around Hotmeer.<sup>51</sup> The total surface area exploited between 1300 and 1600 has not been calculated, but as indicated by the map of Leenders, the area affected was huge. Whereas some, and probably most, parts of the former peat bogs were given back to the communities as common wastelands after the peat had been extracted, the areas around Nieuwmoer for example were transformed into private, enclosed and exploited fields and pastures.<sup>52</sup> As such, large parts of the commons were effectively privatised with the incentive of the abbey. As stated before, Kalmthout and Essen, cannot really be seen as a representative case, for the valuable peat was a trigger for a privatisation wave. In addition, the seigniorship of Kalmthout-Essen, is only a fraction of the Campine area. In the other parts of the Campine area, no such large scale exploitation and privatisation took hold.

<sup>49</sup> AAT, II, 377, Nova census Kalmthout-Essen, 1518, f° 9.

<sup>50</sup> AAT, II, 373, Rent register of Kalmthout, 1518.

<sup>51</sup> AAT, II, 377, Nova census Kalmthout-Essen, 1518

<sup>52</sup> Apart from the land that was registered as arable, pasture or meadow, the remaining waste lands were not all transformed into tenancies. As the village of Nieuwmoer possessed the same rights to the commons as the community members of Kalmthout, Essen and Huybergen did, the remaining uncultivated patches of land, must have been restored as common waste lands.

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The third and ultimately unsuccessful attack on the commons was launched by the governess of the Low Countries. In addition, she was the Lady of Turnhout, direct landlord to the core area of the Campine area.<sup>53</sup> Under her rule, a more active involvement in the management of the ducal domains and earnings was clearly felt. This was manifested through encouraging, one could say practically forcing, the privatisation of parcels of land from the "gemeente" of Turnhout.<sup>54</sup> Like the manorial lords in Breckland, the Governess decided that an active commercial enterprise was to be pursued in her domain. This endeavour to start a commercial farm on the privatised waste lands, was performed by a manager: called Willem Wils.

From the beginning of the period of exploitation in 1550, Willem Wils was able to invest large sums. He started with as many as 900 sheep and, as a result, he was able to secure 70000 denier of earnings that year which corresponded to 100000 litre of rye. Costs, however, were just as substantial as earnings. In 1554 these expenses amounted to no less than 30764 deniers.<sup>55</sup>

As a result Mary of Hungary had to act. In 1552 she pushed the aldermen of Turnhout and Arendonk to grant her the right to privatise a part of the wastelands that her forefathers had given to those communities.<sup>56</sup> Therefore they granted her 260 ha of wastelands that could no longer be used by the members of the community who were subject to the standard fine for trespassing. The plots of wasteland were privatised and most probably enclosed, since trespassing was fined. Discontent must have been rising however, but no court records or sources survive to reveal any tensions. Despite this more or less forced act of kindness, Willem Wils was unable to maintain a profitable estate. From the very start the quantity of animals declined, as did earnings. The costs of keeping such an intensive, capitalistic estate running, even on a plot of more than 260 ha of land, were simply too high. This is immediately visible in the amount of sheep held by Willem Wils. Enthusiastically starting with 900 sheep, the number had already dropped to around 600 in 1554, only to plummet to 370 in 1557 and to disappear entirely a year later.

In 1556 a final act of despair caused the community of Turnhout and Arendonk to grant an additional parcel of 12 ha of wasteland. Nothing could save the enterprise, and later that year Mary of Hungary was forced to acknowledge the facts, returning the land to the aldermen of Turnhout and Arendonk by stating:

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<sup>53</sup> De Kok, *Turnhout*.

<sup>54</sup> This fitted into a more general policy of pushing for greater control over the region generally. For more information see: Wim Blockmans, *Keizer karel v. De utopie van het keizerschap* (Leuven: Van Halewyck, 2001); H. De Schepper, 'Vorstellijke ambtenarij en bureaucratiesering in regering en gewesten van 's konings nederlanden, 16de -17de eeuw' *Tijdschrift voor geschiedenis* 90 (1977); Maarten Van Dijck, 'Tussen droom en daad. De beperkte invloed van de centrale overheid op de rechtspraak in antwerpen en mechelen gedurende de 15de en 16de eeuw' *Justitie- en rechtsgeschiedenis: een nieuwe onderzoeksgeneratie* 3 (2008).

<sup>55</sup> Ibid.

<sup>56</sup> Original text: "goede begeerte vanden majestyte vande coninginne van hongarien end evan bohemien regente, als vrouwe van turnhout van zekere quantiteyt van vroenten ten eynde die tot hoeven landt ende andere culturen gelabeurt te worden" ARAB, Chambre des Comptes, Administrative files, "Cartons", 83/2, 37B.



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**“We restitute the 144 bunder that we received from the “vrijheden” Turnhout and Arendonk in the state that it was before it was granted by those “vrijheden”, so as to use them in common as before, to graze animals and mow, without any further claim from us or our descendents”.**<sup>57</sup>

Mary of Hungary and Willem Wils had probably learned the lesson that during the Ancien Régime in the type of ecosystem present in the Campine region, a capitalistic enterprise, focused on animal husbandry on a parcel of transformed and privatised wasteland, was not a very profitable strategy. As Clark stated for the Midlands in England, transformations required large-scale investments in the form of labour as well as capital which was not returned via higher yields.<sup>58</sup> When the books did not register any profits therefore, and tensions in the village would have been intense, the vision of a successful enterprise had vanished and Mary of Hungary returned to Spain, the experiment was called off, and the 260 ha of land was reinstated as commons.<sup>59</sup>

To sum up: The Campine peasants were not able to fend off all privatisation and enclosure attempts. The abbey of Tongerlo and a couple of rural elites were able to reach their goal and privatise or enclose plots of land from communal practices. Nevertheless, this affected only a tiny proportion of the Campine area, such as the village of Kalmthout. The seignior of Kalmthout could then be labelled as unsuccessful, but the Campine region in general showed a remarkable resilience towards commercial incentives and privatisation waves. In other villages the communal response to prevent enclosures was strong enough to resist similar challenges, such as for instance the village of Koersel shows. The Campine CPIs were therefore successful in fending off alternative modes of appropriation, although only narrowly.

## Conclusion

It is important to define concepts clearly, in order to make significant comparisons and assess common pool institutions in a systematic way. In this paper, I argue that commons until now have been labelled successful, too liberally. The endurance of the institutions, or the absence of a true tragedy of the commons, renders almost all commons successful. Instead I put forward three distinct categories to measure the level of success of CPIs: Ecological resilience, a fair distribution of benefits and a resilience towards privatisation incentives. In this paper, a historical case study, the Premodern Campina area (Belgium), was selected to evaluate the CPIs on their level of success. Despite some

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<sup>57</sup> “welcke voirseide hondert vierenveertich bunderen wy de voirseide vryheyden van Turnhout, ende Arendonck restitueren als vooren tot sulcker naturen als die te vooren waeren eer die voirseide vryheyden ons die gegeven ende gegunt hadden om die selve te gebruycken soe wel int gemeyne voeren ons als voeren onse gemeyne ondersaten beesten te beweyen, mayen ende gebruycken sonder ons ofte onse naecomelinghen enich besunder recht meer aen oft in te behouden, aen doen hanghen”. ARAB, Chambre des Comptes, Administrative files, “Cartons”, 83/2, 37B.

<sup>58</sup> Gregory Clark, 'Common sense: Common property rights, efficiency and institutional change' *Journal of economic history* 58, no. 1 (1998).

<sup>59</sup> ARAB, Chambre des Comptes, Administrative files, “Cartons”, 83/2, 37B.

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failed attempts to avert privatisations from important interest groups within the Campine society, the Campine are showed a high level of success. The communal benefits were distributed fairly among its members, and all of the inhabitants were allowed access to the commons. This inclusiveness, nevertheless did not lead to a degradation of the landscape. For several hundreds of years, the ecosystem was managed in a sustainable way, which was tested via interdisciplinary research, analysing the signs of degradation: sand drifts. With this paper, I hope to have shown the importance of a clear definition, which could be applied to other case studies.

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