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COMPARING LEGAL MECHANISMS FOR MANAGING RESOURCES IN NON-ARABLE LANDS IN NAVARRA, SPAIN, AND NORWAY

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Abstract

Institutions governing the usage of non-arable rural lands, including forest, grasslands and shrublands in Navarra will be compared to equivalent institutions in Norway. About 47% of the land areas of Navarra are lands held in common. About one third of the surface of mainland Norway can be classified as some type of commons. If nothing else, the size of the areas and their long history make the commons important for these two societies.

The Fueros of Navarra were first written down in 1155. Before that time they were customary law. The name, “fueros”, means codified local customs. Also other parts of Spain got their Fueros at that time. They are comparable to the landscape laws of northern Europe, which also were being codified at about the same time. When Ferdinand of Castile and Aragon annexed Navarra in 1512, the Navarra people were promised that the Fueros would be respected. They kept their powers of self-governance more or less intact until 1841. However, for the management of non-arable rural land used in common they survived in many parts of Navarra as customary law well into the 20th century.

The Norwegian landscape laws were in 1274 replaced by a common law code. During the union with Denmark (1380-1815) and Sweden (1319-1363, 1814-1905), the rules governing the utilization of the non-arable rural lands called commons (or King’s commons) were basically unchanged until 1857 even though important amendments were introduced and the area covered by the rules much diminished. In 1857 new legislation, later rewritten several times, lastly in 1992, defined 3 types of commons.

The preliminary investigations and comparisons of Navarra and Norway have raised two profound questions. The first puzzle is the large amount of commons in Navarra; or rather, the almost complete failure in Navarra of the 19th century Spanish privatisation policy, both relative to the rest of Spain and relative to 18th century Norway. Why is Navarra special? The second puzzle grows out of the comparison of allocation procedures for the resources of the commons. If both societies champion equality, why does it take so different forms? In Navarra the first priority of the legislation on the village commons is to secure a distribution of the access that can help achieve a more equitable income distribution. The rules of distribution give a strong preference to the poorest of the village families. In Norway there is nothing resembling efforts at compensatory distribution. On the contrary, those with the largest farms will also have the largest rights in the commons. Yet, Norway is known as a very egalitarian society. What does this difference in implementing a common value really mean?

We will not in the present paper be able to answer these questions. The questions are more in the line of conclusions to the paper. We start by outlining the major institutions governing one type of commons in each society, the village commons of Navarra, and the state commons of Norway. We will look for similarities and differences in types of legal procedures: the formal rules of the institution governing the commons. We end by discussing some of the collective action problems encountered and types of solutions enacted. And conclude that more work will be needed to answer the basic question of what kind of values the institutions embody.

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Introduction

About 47% of the land areas of Navarre are lands held in common by municipalities (ayuntamientos), villages (concejos) or particular collective bodies recognized by law. About one third of the surface of mainland Norway can be classified as some type of commons. If nothing else, the size of the areas makes the commons important for these two societies.

The management of the commons is not controversial, neither in Navarre nor in Southern Norway. The commons are in both regions considered sustainable, and there are no large-scale conflicts around their management. Compared to state parks or private lands the commons do not seem remarkable in any important matters.

The preliminary investigations started by looking for legal mechanisms conducive to overcoming collective action problems in resource governance. But the comparison of Navarre and Norway soon raised two profound questions.

The first puzzle is the large amount of commons in Navarre; or rather, the almost complete failure in Navarre of the 19th century Spanish privatisation policy, both relative to the rest of Spain and relative to 18th century Norway¹. Historians have amply documented the course of privatization of common lands in Spain (see Iriarte-Goñi 2000), but the lack of success in Navarre (and partly Galicia) has not been given a satisfactory explanation. Why is Navarre special?

The second puzzle grows out of the comparison of allocation procedures for the resources of the commons. If both societies champion equality, why does it take so different forms? In Navarre the first priority of the legislation on the village commons is to secure a distribution of access that can help achieve a more equitable income distribution. The rules of distribution give a strong preference to the poorest of the village families. In Norway there is nothing resembling efforts at compensatory distribution. On the contrary, those with the largest farms also will have the largest rights in the commons. Yet, Norway is known as a very egalitarian society. What does this difference in implementing a common value really mean?

We will not in the present paper be able to answer these questions. We can only speculate. The questions are more in the way of conclusions to the paper. We start by outlining the major institutions governing one type of commons in each society, the village commons of Navarre, and the state commons of Norway. We will look for similarities and differences in

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¹ In the 18th century Norway was in union with Denmark. There is more about the privatisation in “Historical background” below. The driving force in Norway was the fiscal need of the Crown. In Spain it seems more like an ideologically motivated economic policy.

types of legal procedures: the formal rules of the institutions governing the commons. We end by discussing some of the collective action problems encountered and types of solutions enacted. And we conclude that more work will be needed to answer the basic question of what kind of values the institutions embody.

Theoretical considerations

A property rights system can, short and imprecise, be defined as an institution determining: Who will legitimately benefit how much for how long and in what ways from which resource(s)? Or in the words of Demsetz (1967:347) property rights "help man form those expectations which he can reasonably hold in his dealings with others"

The allocation of rights and duties in relation to particular resources determines whose goals will count by how much in the choice of management goals, the timing and duration of extraction, the application of technology, and the intensity of effort expended to achieve the goals. Thus a management system involves decisions about the beneficiaries, and the timing, means, and purpose of human interaction with ecological systems. In answering such questions, people perform a series of balancing acts. They assign relative weights to various goods and services, make decisions about the timing and duration of harvest, harvesting procedures, and determine the distribution of associated benefits and costs. Answering the "who" question will identify who will legitimately be able to withdraw resource units and make decisions about management. That is: it determines who holds property rights over the resources.

In deciding on who will benefit, what kind of technology is appropriate, and how much may be harvest at any one time, one also has to be informed of the constraints posed by the ecosystem dynamics. If the resources are insufficient for everybody, how do you limit the number of people with rights? If those with rights have incentives to overexploit the resource how do you stint their usage? If there is limited capacity of monitoring and enforcement, how do you make regulations more self-enforcing?

The confounding between open access and commons is today left behind. The general questions asked today are: Why is not the land public property managed by the state? Or why is not the land privatised individual property? Thráinn Eggertsson observes: "In most communities the uses of scarce and vital resources tend to be constrained by some form of exclusive rights." (1990:263), and "The social mechanisms for constraining open access and establishing exclusive rights fall into four interrelated categories:

1. Exclusion by means of force or threats of force
2. Values systems or ideologies, which affect individual incentives and lower the cost of exclusion
3. Custom and customary law, such as the rules in pre-state societies that define the clan, vengeance group, or eligible brides for a man and other forms of behaviour
4. Rules imposed by the state and its agencies, including constitutions, statutes, common law, and executives decrees." (1990:284)

He also observes: "With rising marginal costs of enforcement and falling marginal benefits, exclusive rights are seldom complete." (1990:263).

The first step of introducing some form of exclusive rights to the resources of forests and pastures, have been taken. The resources are seen as commons by all people and are defined that way by statutory law. The force of the state protects the rights of the commoners. But this

force could hardly be effective unless it was supported by customary practices and ideology. As noted for Navarre above, the legislation and force of the Spanish state was not sufficient to achieve the privatisation of these lands. And in Norway, after the King sold that which was his part of the commons, the commoners and their rights of common remained. A hundred years later the democratic state recreated the commons, it did not complete the privatisation.

It will also be seen from the discussion below that the only feasible alternative to the commons is private ownership. The local state in Navarre and the state of Norway are both heavily involved as potential, de facto, or real co-owner with the group of commoners. At what point to define state ownership as opposed to commons is difficult to determine, and it is also rather uninteresting to do so, since without a proper legitimisation² it would lead to rising monitoring and enforcement costs without adding anything to the benefits.

CASE I: VILLAGE COMMONS OF NAVARRE, SPAIN

Historical background

The “Fueros” of Navarre were first written down in 1155. Before that time they were customary law. They were first written down in Spanish and the name, “Fueros” means codified local customs. Also other parts of Spain had their “Fueros” written down at that time. They are comparable to the landscape laws of northern Europe, which also were being codified at about the same time.

When Ferdinand of Castile and Aragon in 1512 annexed Navarre, the people of Navarre were promised that their “Fueros” would be respected. This promise is known as the Charter of Navarre (Ley Foral de Navarra). It is the historical backdrop of the current Ley Foral (Ley 1/1973, de 1 de marzo), and in 1982 one may say the promise was renewed in “El Amejoramiento del Fuero de Navarra”.

The Navarre people kept their powers of self-governance more or less intact until 1841. After 1841 the powers of self-governance were removed and returned in an on-and-off fashion. In between the spells of self-governance from the late 1840ies and far into the 1940ies the central government of Spain was trying to encourage the privatisation of all lands of Spain. In general the powers of the central government to legislate and regulate increased in most areas throughout the period. However, for the land management institutions this did not come easily. In most parts of the country the privatisation policy was fairly successful, but not in Navarre³ and Galicia. The historical process of privatisation in Spain has been outlined by Iñaki Iriarte-Goñi (2000) and will not be repeated here.

Today the powers of governing the common lands are again formally acknowledged as belonging to the regional governments. The powers of the central government in land use matters are today mostly exercised through regulations on environmental matters and in areas where the Forest Administration owns the land.

² Compare the long process of defining new nature reserves as exclusive state property. See also the discussion in CPR Digest no 60, spring 2002.

³ Between 1866 and 1935 the breakup of the commons of the municipalities of Navarra amounted to only 8.76% of the areas declared as municipal commons in 1866. But there was significant internal variation, ranging from 1.36% in Montaña, 8.7% in Navarra Media, and as much as 37.94% in Ribeira. In Ribeira most of the transfer occurred between 1910 and 1920. (Iriarte-Goñi 1996:326).

However, in Navarre the many and persistent efforts to privatize lands against the will of the majority of the people have left a legacy affecting also current legislation. One may describe it as a kind of entrenchment of values, and sensitivity to all kinds of processes transferring land from the public domain to private governance. We shall comment more on this later.

Managers of the public lands of Navarre

While the formal powers of managing public lands lie with the autonomous government of Navarre, legally autonomous local public bodies with varying degrees of self-determination are the executors of most of these powers. The administrative structure of Navarre consists of several types of units differing radically in size and, for most purposes, also in powers. The basic difference is between “municipios” and “concejos”⁴. However, in the matter of managing public lands they are equal⁵.

The most important local entities are the 272 “Ayuntamientos”. Cities, big towns, and, in general, most “ayuntamientos” are simple (211)⁶. They do not have autonomous administrative units within them. The rest of the “ayuntamientos” (61) are not simple but compound (or complex) entities consisting of a number of different types of autonomous public bodies. Most typically these are among the 365 “concejos”⁷, villages recognized as public bodies. The “concejos”⁸, derive their legal standing not only from public law, but also, and primarily, from old customs as recognized by the civil law. The land areas governed by these smaller public bodies do not have to add up to the total area of the “ayuntamiento”. Also, there may be villages not recognized as municipal bodies. Thus many “ayuntamientos” will have the same responsibilities for common lands as the “concejos”.

⁴ Municipios: son las entidades locales básicas en que se organiza territorialmente la Comunidad Foral de Navarra. Concejos: son entidades locales enclavadas en el término de un municipio, con población y ámbito territorial inferiores a éste, con bienes propios y personalidad jurídica para la gestión y administración de sus intereses en el ámbito de las competencias atribuidas a los mismos por la legislación vigente.
<<http://www.cfnavarra.es/WebGN/sou/navarra/ar/ayunta0.htm>>

⁵ In the legislation the commons of the “concejos” are defined as public property and not seen as different from public lands owned by the “Ayuntamientos”, “Distritos”, “Valles”, or other public bodies. The legislation on the property of Navarre local authorities just refers to unspecified local government entities by the expression “local entities of Navarre” (las entidades locales de Navarra): see “Ley Foral 6/1990, de 2 Julio. Régimen de la Administración Local de Navarra” and “Ley 1/1973, de 1 de Marzo, Por la que se Aprueba la Compilación del Derecho Civil Foral de Navarra”.

⁶ “Actualmente, de los 272 ayuntamientos navarros, mayoría (211) son simples, pero existen 61 municipios compuestos que agrupan un total de 364 concejos, así como entidades tradicionales y específicas de Navarra. El Fuero navarro se rige por los principios de subsidiariedad - una entidad de orden superior no debe interferir en otra de orden inferior – pero si es necesario cabe la ayuda entre entidades.

Otras entidades locales que se articulan en Navarra son :

- Las cinco merindades históricas (Pamplona, Tudela, Estella, Sangüesa y Olite) reconocidas en el Amejoramiento como una subdivisión territorial aunque carecen de competencias.
- Las mancomunidades, o unión de entidades locales con fines concretos se ocupan de gestionar servicios.
- Las juntas organismos relacionados con la gestión de montes y pastos comunales.” (see <http://www.cfnavarra.es/FUEROSEXPO/tema12.htm>).

⁷ According to <http://www.cfnavarra.es/WebGN/sou/navarra/ar/ayunta0.htm> there are, as of 1-1-2002, 365 concejos in Navarre

⁸ Together with several other specially recognized bodies, among them “La Comunidad de Bárdenas Reales de Navarra, la Comunidad del Valle de Aézcoa, la Mancomunidad del Valle de Roncal, la Universidad del Valle de Salazar y el resto de corporaciones de carácter tradicional titulares o administradores de bienes comunales existentes a la entrada en vigor de esta Ley Foral”, Article 3c of the 1990 “Ley Foral 6/1990, de 2 Julio. Régimen de la Administración Local de Navarra”, also see “Ley 1/1973, de 1 de Marzo, Por la que se Aprueba la Compilación del Derecho Civil Foral de Navarra”, §1, Ley 43 in Alonso Olea et. al. (eds.) 2000:28;

The existence of “concejos” as legally recognized administrative units grows directly out of the need for a legally recognized administration of the village commons: the public lands now recognized as owned by these villages⁹.

The “concejos” can be very small. The minimum requirement is 15 permanent residents and three families¹⁰. We shall limit our investigation to such village commons as those owned by the municipal “concejos” even though the state of Navarre (Comunidad Foral de Navarra), the “ayuntamientos”, the “valles” and the “distritos” also own public lands governed by the same legislation.

Property rights to land in Navarre

The legislation of Navarre recognizes two types of property in land: public property and private property. However within each class there are several varieties. This means that the rules governing the various types of public property vary systematically.

Those lands classified as public property can usefully be divided into

- Lands governed by the Spanish state (mainly forest land, the high mountains, and areas set aside for nature protection). Currently there are no such lands in Navarre.
- Lands governed by the Navarre state (forest land and areas set aside for nature protection)
- Commons (mainly agricultural and forest land owned by local public bodies)
- Public lands at levels used for special purposes such as streets, roads, railroads, parks, schools, hospitals, and other types public goods or services.

In Navarre the bulk of the non-arable lands are commons. Even in relation to the total surface of Navarre, the common lands amount to as much as 47%. The distribution is skewed. Most of the commons are located to the north and east. Here we find several municipalities where more than 2/3 of the surface is held in common.

Table 1.1 Ownership of land in Navarre¹¹

Owners	Area in ha	Area in %
Private owners and Navarre government	552.100	52,98
Commons owned by Consejos (villages) and Ayuntamientos (municipalities)	411.000	39,44
Land owned in common by Montes Comunidad Foral, Facerías, Bardenas	79.000	7,58
TOTAL area	1.042.100	100,00

⁹ Here and later “village” will be taken to mean an incorporated “concejo”.

¹⁰ Art 37.2 in Ley Foral de la Administracion Local de Navarra

¹¹ Figures were provided by Srta. Nuria Osés Eraso, Departamento de Economía, Universidad Pública de Navarra. Also see Samanes 1995

The property of local authorities in Navarre¹²

Local authorities may hold three types of property: public property, community property and private or patrimonial property (Ley Article 97.2). The village commons are of course community property (“bienes comunales”). But for community property it is said that it shall be treated according to the rules for public property unless something else is positively stated in the legislation on community property (Ley Article 99.2). The exact implications of this paragraph are at the moment of writing unclear¹³. But a reasonable interpretation might be that the residual¹⁴ is defined as public domain property with the state of Navarre as the owner.¹⁵

The law on local authority property, the Ley, is concerned with the long-term status of the commons owned by the villages and for which purposes and how it is exploited. It defines the commons as public property and in the cases where the Ley does not specify rights and duties the legislation on public property obtains. In matters not covered by the Ley village authorities have the power to decide what to do with their property subject to other relevant legislation¹⁶. In most matters the Ley is fairly specific about what has to be done and how it should be done. In some matters the Ley presents a framework that needs specification. Some of this is provided in the accompanying Regulations. But many specifications have to be done by the villages.

The village commons is for the use and enjoyment of all the residents of the village. The Ley specifies residence requirements¹⁷ to be fulfilled to qualify for such use and enjoyment as the

¹² “Navarre Law 6/1990 of 2 July, on local administration of Navarre”, the part concerning local authority property is available at http://www.cfnavarra.es/agricultura/legisla/1_LF_Admon_Local.html. This is an excerpt containing the paragraphs relevant for the management of common property, prepared by the Ministry of Agriculture, Livestock Farming and Food (“Departamento de Agricultura, Ganadería y Alimentación”). The excerpt will henceforth be referred to as the “Ley”. Also see “Regulations on Local Authority Property in Navarre”, Decree 280/1990 of 18 October, available at http://www.cfnavarra.es/agricultura/legisla/2_Regto_bienes.html. Also this reference is an excerpt containing the paragraphs relevant for the management of common property, prepared by the Ministry of Agriculture, Livestock Farming and Food (“Departamento de Agricultura, Ganadería y Alimentación”). This excerpt will henceforth be referred to as the “Regulations”.

It has been discovered two possibly problematic differences between the text published on the web and the text published on paper. Article 103.4 in the web version uses the term “usurpación” while the paper version consulted says “usucapación”. Article 140.6 in the web version uses the term “cláusula de revisión” while the paper version consulted says “cláusula de reversión”. The paper version is confirmed as correct (Álvarez 2002).

¹³ It has been reported that in one village commons the growing number of urban mushroom pickers caused the villagers to put up signs warning off the would be mushroom pickers. Some of these took the case to court and the village was sentenced to remove the signs. The court case has not been verified. Hence, the reasoning in the sentence is unknown. But it follows from defining mushrooms as public domain property.

¹⁴ The residual is that which is left of goods in the village commons after all the goods positively described by the law is accounted for

¹⁵ And following this line of reasoning to its end: If the villages own the ground, the definition of the residual of the community property as public domain property makes the residual goods of the commons into a rights of common for the inhabitants of the state. Alternatively, if also the ground is public domain property it will make the positively described rights of the villagers into rights of common.

¹⁶ Article 139 of the Ley.

¹⁷ To benefit from the commons there are 4 qualifications to be fulfilled. The beneficiary must

1. Be an adult person or emancipated minor or legally eligible,
 2. Have been in the register of inhabitants between 1 and 6 years (authors comment: exact residence requirement is a matter of local choice),
 3. Reside in the municipality at least 9 month each year, and
 4. Not be in arrear with payment of taxes.
-

law stipulates. The village authorities are also charged with a duty to ensure that the common lands enter into production, are improved, and that they are optimally exploited.

The Ley stipulates three major ways of exploiting the lands:

- As cropland,
- As pasture, and
- As a source of wood and timber.

In addition the Ley mentions hunting, which is heavily regulated by Navarre, Spain and EU; and quarries, which will be regulated by case specific rules made by the village authorities. For each type of major exploitation the Ley stipulates three modes of allocation to beneficiaries (Table 1). The three modes are prioritised.

The classification of resources is standard. The interesting aspects of the usage of the village commons are found in the modes of allocation, in particular the detailed rules directed at redistribution effects, and the uses of auctions to find the market price of the resource or maximise its monetary return. It is also interesting to note that redistribution is a major concern for allocation of agricultural land, and for wood and timber rights, but only marginally so for pasture¹⁸. For pasture the customary uses take precedence.

Table 1 Exploitation of village commons in Navarre

Type of exploitation ¹⁹	Mode of allocation		
	First priority	Second priority	Third priority
Crop production	Redistributional exploitation by inhabitants	Direct leases to inhabitants	Public auctioning of leases
Pasture	Direct leases to inhabitants	Leases based on customary rules	Public auctioning of leases
Wood and timber	Redistributional exploitation by inhabitants (but not for sale)	Exploitation based on customary rules (but not for sale)	Public auctioning of exploitation rights

First priority exploitation of cropland

The village is charged to allocate at least 50% of its cropland to the first priority mode of exploitation. To qualify for allocation a person must fulfil the residence requirements and “have income for each member of the family unit below 30% of the national minimum wage or total income of the family unit below one and a half times this wage.” (Ley, article 145.1). If a family has members with physical or mental incapacities they are stipulated to have an income of 60% of the national minimum wage. The local authorities have to determine how to measure income and they have to determine the size of a plot needed to generate an income of 50% of the national minimum wage. Those qualifying for first priority allocation will be awarded areas as a multiple of this standard plot and according to family size. The contracts will run from 8 years and up to the working life of the crop plants. The rent to be paid is

Thus there is not quite identity of inhabitants and beneficiaries. The seniority clause will probably help towards building trust and reputation among the users of the commons. Completely unknown players may not enter the game.

¹⁸ Nothing is said in the Ley but see regulations articles 192 and 201a.

¹⁹ The village authorities have the power to define the type of use suitable for various areas. It is not to be expected to find all types of lands in all villages.

limited upwards to 50% of the going rent for similar lands and downwards to the costs of the local authority.

Concerning the organisation of the exploitation the Ley stipulates that the plots have to be cultivated “directly and personally”, and sharecropping and transfer of crop to others is forbidden under pain of being immediately dispossessed of the lease and being fined a sum equal to the profits obtained from the deal. It is worth noting that organising the exploitation through participation in a collective (or cooperative) exclusively consisting of persons fulfilling the conditions for exploitation awards will count as “direct and personal” exploitation.

Second priority exploitation of cropland

Land left from the first priority allocation can be leased directly to inhabitants at a rent no less than 90% of the going rent for similar land. The size of the allocations will be inversely proportional to the net income of the persons being awarded the plot. Also these persons have to cultivate the land directly and personally.

Third priority exploitation of cropland

If there is land left over from first and second priority allocations, the village authorities will proceed to lease it through a public auction.

Allocation of pasture

The detailed regulation in the Ley of how to allocate cropland to achieve compensatory income distribution contrasts with the broad guidelines of how to allocate pasture. The Ley does not say anything about compensatory allocations. However, the Regulations accompanying the Ley, provides the admonition that “Family units with lower total income will be considered to have preferential rights” (article 201a). But this is only relevant in case there is too little pasture to feed the livestock of the village (regulations article 192).

There are no clear distinctions between direct leases to inhabitants and traditional customs. Auctions are used, as for cropland, only if there is pasture left over from direct/ customary allocations. Allocations can be done only to persons fulfilling residence requirements, leases can be awarded for periods between 8 and 15 years, exploitation have to be direct, and no subletting is allowed. Some areas, up to one fifth of the municipal pasture, may be reserved for annual leases in case new beneficiaries appears (residence requirement will give some advance warnings). The rest is basically left to the village authorities to determine in their bylaws.

The regulations provides details and further guidelines both on procedural questions, such as on the requirement to publish information about reserved areas and pastures for lease, the allowed types and required rotations of livestock, valuations of grassland, periods of usage, sanctions, etc., and also on some substantive issues such as how to optimise the return from the pasture by allowing entry of extra livestock in cases of over-production of fodder. However, the extra income falls to the local authority, not the leaseholder.

Exploitation of wood and timber

The exploitation of the forests of the village will be done according to the technical and professional prescriptions of the Department of Agriculture, Livestock, and Forestry after prior authorisation from the Administration of Navarre.

Local authorities manage, according to local customs, the exploitation of the forest for firewood under two stipulations: 1) that the areas to be exploited have to be approved by the Administration of Navarre, and 2) that the firewood cannot be sold.

Customary exploitation of forest areas (again requiring the approval of the Administration) can to be awarded only to persons fulfilling residence requirements and then only according to the rules of redistribution mentioned under first priority exploitation of cropland²⁰. But the actual appropriation of forest products cannot be done in isolation as the cultivation of the cropland could be. It has to be done jointly. To achieve this the Ley stipulates that the exploitation will be sold in an auction and the proceeds from the auction (minus the cost of the auction), rather than the right to cut timber will be handed over to those who were allocated the benefits originally.

The impact of history

The legacy of a century of privatisation efforts shows in the Ley. It obviously hides behind the very definite statement of Article 100: “Public and community property is inalienable, imprescriptible, non-seizable²¹, and not subject to any internal tax.” And as if that is not clear enough it is added: “Community property will not undergo any change in its nature and legal treatment, whatever the form in which it is used and enjoyed”²². But history is more clearly visible in a couple of other paragraphs.

Article 111 refers obliquely to “unduly lost property” and how to recover it. However, the idea of “unduly lost property” would seem strange without the history of forced privatisation²³.

Articles 118 and 173 refer to “fern covered hills” (“helechos”) in ways that would seem to be designed to further their reversion or re-inclusion to the community property. The fact that these fern covered hills are given attention at all is understandable only in view of the historical process. The ferns were in earlier times cut, dried, and used as something cattle could lie on during the wet cold season. Besides improving the health of the animals it also made a valuable contribution to the amount fertilizer available. Individuals were awarded rights to exploit the ferns of specific hills. In the years of privatisation these rights of exploitation were often used as pretext to register the hills as private property. Several court cases have been fought over this. In most cases the villages won and had the land returned to them. But apparently, still, when this Ley was enacted in 1990 it remained a sensitive issue. Also other rights encumbering public or community property are assumed to be or in the process of being extinguished, one way or another (Ley, article 119).

²⁰ The rules about “standard plot” are a bit different, and there is an upper limit on the area that can be allocated. Its productivity cannot exceed 25% of the annual productivity of the forestland.

²¹ Imprescriptible means that the land cannot be taken by adverse possession (long time usage in good faith), non-seizable means that it cannot be taken through legal action like expropriation.

²² However strongly this paragraph is worded there are, of course, procedures to take community property out of its status and into other uses (Article 140). In some ways the wording reminds one of the pre 1992 rule of the Norwegian law: “The King's Commons shall remain as they have been of old, ...”. The rule never prevented the commoners from changing them if they found it to their advantage. But it could, sometimes, be used to stop any particular person - even the King - from encroaching on the rights of others.

²³ Also in Norway there are current legal battles over “unduly lost property”. But here it is private citizens who are suing the state to recover rights they say the state usurped in the seventeenth century. More of this later.

The other side of history lies in the development of the usage of auctioning and compensatory distribution of benefits. Exactly when these elements were introduced to the legislation has not been investigated. But the practice is older than the current law. Auctioning was previously used only for forest products. Its use in the allocation of cropland and pasture is more recent.

Summary

The current legislation on the village commons of Navarre exhibits several interesting features.

- Their definition as public property entails that residual rights belong in the public domain. In many ways this would seem to have the same consequences as the all people’s rights in Norway and Sweden (except that these rights also apply to private lands in these countries). But it also means that any genuinely new type of exploitation will be the property of the people of Navarre rather than the local community.
- The emphasis on compensatory distributional processes for the allocation of benefits from the commons and the usage of auctions to find price levels and maximise income. This is emphasised also in older rules.
- The usage of auctioning to establish price levels and maximise income from certain assets. Previously auctioning was used for forest products. Now its use has been extended to cropland and pasture.²⁴
- The strong rules designed to recover lands or rights “unduly lost” during the privatisation process. These speak of strong feelings of community both at the village level and at the state level (Navarre) with concomitant animosity towards those who took advantage of the central policy of privatisation in its various forms. The mostly successful defence of the village commons, particularly in the middle and northern part of Navarre, must have strengthened the feelings of community, and, it would seem, generated an institutional structure much more conducive to collective action than for example in Norway.

CASE II: THE COMMONS OF NORWAY

Historical background

The Norwegian landscape laws were in 1274 replaced by a common law code. During the unions with Denmark (1380-1815)²⁵ and Sweden (1319-1363, 1814-1905), the rules governing the utilization of the non-arable rural lands called commons (or the King’s commons) were basically the same until 1857 even though important amendments were introduced, and the area covered by the rules much diminished. In 1857 new legislation on forest commons, by today rewritten several times, lastly in 1992, defined 3 types of commons: state commons, bygd commons, and private commons. The last type is now mostly extinct²⁶. The 1857 legislation were written to accommodate the many changes in actual

²⁴ Narpat Jodha (2002, personal communication) reports that he 20 years ago encountered the usage of auctions in Indian villages in two ways:

“1. Rights to collect cow dung for making dung cake (fuel) from village commons were auctioned, and the competitors were village poor mainly. This was done annually. This was a practice in Dry zone of Rajasthan state.

2. The mature trees from the catchments of common tanks, watering points (CPRs) were auctioned when the village needed money for some community construction etc. I saw this practice in the villages of Rajasthan and Gujarat.”

²⁵ The law of 1274 was in 1687 replaced by a new law code, but the rules governing the commons were mostly kept unchanged.

²⁶ The act from 1857 on forest commons introduced a management system for forest commons other than state

usage of the old commons areas caused by the sale of commons to private interests. The King's decision to "privatise"²⁷ the "King's commons" had repercussions on several levels. The King could sell only what was his: the ground and the remainder. He could not sell the rights of common. The rights of common remained (in theory) undisturbed. The fallouts from these sales are felt even today²⁸. Besides creating new legal realities, the sales also initiated intensive exploitation processes of the forests followed by efforts at rectifying the ensuing deforestation (Solnørdal 1958:43-46).

By the mid nineteenth century many farmers had come to see themselves as owners of parts of the old commons, not just customary users. The new legislation recognized that in many cases those with rights of common (or a subgroup of them) had come to be seen as owners of the ground (and then also the remainder after the rights of common were accounted for). This seems to have come about in three ways:

- 1) Through the recognition that long use of a part of the King's commons in other ways than what was implied by the rights of common, defined property rights to the ground for the users (adverse possession), or
- 2) Through buying of a part of the King's commons from the Crown during the periods of sales, or
- 3) Through buying the ground from the investors the King first sold it to after they had taken out the timber.

In the legislation these new realities were organized into three types of entities based on ownership of the ground. If those who had bought the ground represented more than 50% of those with rights of common the area burdened with rights of common would be known as "bygd commons"²⁹. If they were fewer than 50% they were called "private commons". The rest of the King's commons are today known as state commons.

commons. In an act from 22 June 1863 on forestry, private commons were required to go through a land consolidation process dividing the forest area between the owners of the ground and the commoners. If an area was left with rights of common, it became a bygd commons. All private commons where the rights of common included rights to timber and fuelwood, are believed to have been dissolved in this way. However, there exists private commons with rights of common to pasture, fishing and hunting of small game. One such, Meråker almenning, is discussed in NOU 1985:32, pp.36-38. Presumably there are more of them. How many is not known and the acts enacted since 1863 have to an increasing degree disregarded their existence, since their significance was declining.

²⁷ The relationship between what we would call the King's private property and the extent of his control over the property he managed as the sovereign is an interesting topic. The expression «the King's commons» should not be taken to mean anything like his private property. In Denmark-Norway the distinction between the private property of the king and the property of the sovereign was kept clear. It is also clear that the sovereign throughout the centuries after 1687 rather consistently worked to increase the share of profit falling to the state to the detriment of the commoners. It also seems clear that the Swedish king had more success in this than the Danish-Norwegian king during the important 18th and 19th centuries.

²⁸ For example, the case of Skjerstad was judged in the special court on the mountains in Nordland and Troms 26 April 1990, and in the High Court of Norway 19 November 1991 (Norsk Retstidende Vol 156, 1991 part II: 1311-1334). The origin of the case can be traced to 1666. In 1666 the Crown sold its lands in Nordland and Troms to Joachim Irgens, but already in 1682 they were bought back. This sale was in the 19th century used as argument for the stipulation that the state lands in Nordland and Finnmark were not state commons. The conclusion of the Skjerstad judgement, crudely put, is that while the state lands of Nordland and Troms today must be considered to be state commons, the injustices done during the preceding 200 years by preventing the local population from enjoying their former rights of common, has removed all rights of common except the rights of pasture which. The right to pasture has been exercised all the time. The legal doctrine of adverse possession ("Usucapion") reigns supreme.

²⁹ The denotation "bygd commons", however, is older. Tank (1912) traces the expression to the middle of the 18th century.

Managers of public lands in Norway

The proximate responsibility for managing land in Norway is allocated to the (legally recognized) person owning the ground and remainder. The ultimate responsibility lies with the state. For the lands owned by the state the management responsibility has been delegated to a specially created company, Statskog SF. This company holds title to all state commons and takes care of the material interests of the state in relation to commoners in their exercise of their rights of common. Some municipalities own non-arable lands, mostly forest. The municipal council manage such areas, as they want to. Even though the areas are public lands, no special rules obtain, and they are subject to all legislation relevant for such lands (forest or other non-arable). But for both state commons and bygd commons special rules supplant, supplement, and modify the ordinary ownership rights.

Property rights to land in Norway

Basically, the institutions governing the use of lands are differentiated along a division of public vs. private owners of the ground on the one hand, and on the existence of rights of common on the other. A third important differentiation is whether rights are attached to persons or to cadastral units (rights appendant). All rights of commons except hunting and fishing rights are attached to cadastral units, meaning they cannot be alienated separately from the farms or herding units (for reindeer herding Saami³⁰) they are attaching to.

In Norway the lands which reasonably can be classified as commons, can be divided into 6 classes and comprise in the order of 1/3 of the surface of mainland Norway. Of the 6 classes in table 2 the class of Farm commons³¹ is not in Norway recognized as “true commons” since there are no rights of common on these lands (except where they are located within the reindeer herding areas), and since they are owned in common and not jointly as the “real” commons. The two next classes, the private commons and the bygd commons have been defined above (note 27). The difference between the state commons in the north and south of Norway is still significant. Only recently were the state lands in Troms and Nordland recognized as state commons at all (see note 29 above). The main difference is in the structure of management. The legislation governing the state commons of southern Norway does not apply to northern Norway. The state lands of Finnmark may also be destined for a change in status. A government report has proposed to transform them into a special type of local commons (see Austenå 1998). The proposal was presented in 1994. Since then nothing has happened. But the strong wish of the Saami population to have more power over the resources they depend on, has not disappeared. The proposal will not be forgotten.

³⁰ Within areas defined as reindeer herding areas, without regard to land ownership, the herding units of the Saami hold rights of common to pastures and other resources, including wood, hunting, and fishing, needed in their industry.

³¹ Called “sameige mellom bruk” in Norwegian, see also Sevatdal 1998:150

Table 2 Commons of Norway

	Ground-ownership	Rights of common	Special legislation	Area in Km ² (Approximate ³²)	Area in % of total
Farm commons	Private	No	No	Unknown ³³	
Private commons	Private	Yes	Yes	(1.000 ³⁴)	
Bygd commons	Private	Yes	Yes	5.500	1,8
State commons southern Norway	Public	Yes	Yes	26.600	8,8
State commons northern Norway	Public	Yes	No	20.000	6,6
State lands in Finnmark	Public	Yes	Yes	48.000	15,9
Total area of mainland Norway				301.500	100,0

The state commons of Norway

The local authorities of Norway do not own or manage common property to in the same manner as the local authorities of Navarre. The lands owned directly by municipalities are not recognized as having special significance. The category of table 2 most resembling the Navarre case is the state commons of southern Norway. We shall describe their most interesting features and compare them to the village commons of Navarre. The one point they have in common is the definition as public lands. In Norway this means that the state owns the ground and remainder. The ownership is managed through the state company Statskog SF. Most of the land is burdened with rights of common to pasture, and for forest areas also to fuelwood and timber. There are, however, two acts, one for the management of fuelwood and timber³⁵, another one for the management of rest of the resources of the commons³⁶.

The rights to other benefits from the commons than pasture and wood can best be described as belonging in the public domain. But some of the benefits, such as hunting and fishing, are strongly regulated.

The rights of common to pasture, or to wood, or to both, are attached to farms and the rights are conditioned on active farming. If there is no active farming, the rights are suspended but not lost.

The people with rights of common, represented by an elected board, and the state, represented by Statskog SF, manage timber rights jointly. The municipalities manage the rest of the resources. Each municipality elects a body called the “Mountain board” to monitor that the rules of the mountain law are observed, and to supplement its rules as the law mandates.

³² Figures except for private commons are from Sevatdal (1998:158-161). They are only approximate, giving the order of magnitude.

³³ But probably in the same order of magnitude as the state commons in southern Norway

³⁴ The municipality of Meråker is 1191 km², see footnote 27 above

³⁵ Act of 19 June 1992 no 60, on timber in state commons

³⁶ Act of 6 June 1975 no 31, on rights in state commons ("the mountain law")

Exploitation for cropland

If some farmer with rights of common to pasture wants to till an area and cultivate crops the mountain board can allow this. If the area is not used the permission defaults after 5 years. Areas tilled in this way can also be sold to the farmer to become part of his farm.

The exploitation of pasture in state commons

Farmers with rights of common to pasture can put as many animals on the pasture as they are able to feed on their farms during the winter. If there is unused pastures after all farmers with rights of common have used what they want to use, the mountain board can rent the rest to anyone who wants to use it as long as this does not damage the ordinary usage. This may include reindeer herding. But it will in that case require permission from the Ministry.

If there is high demand for pasture or conflicts over some of the areas, the Mountain board may enact bylaws regulating the pasture into sections, determining the times and durations of their usage, and limiting the number and types of animals to be put out in each section.

The exploitation of fuelwood and timber in state commons

Farmers with rights of common to fuelwood and timber can take as much of these as they can use on the farm in connection with farming activities. This requirement means that the farmers are not allowed to sell any of the wooden produce they take home. If they use timber for building houses on the farm, they can only use it for such houses as are needed in the farming activities. If the needs for wood from the commons exceed the production of the commons, all will have a proportional reduction of what they get.

The board managing the wood rights can choose between single usage where each farmer takes what he needs, and joint usage where the board organises the forest exploitation. In cases with single usage each user needs permission from the board and confirmation from Statskog SF of area to be logged. In cases of joint usage the farmers usually can buy the materials they need to a reduced price, the reduction being equal to the value of the un-logged timber. Also other ways of organising the usage can in certain circumstances be permitted. Commoners may for example be permitted to organise their usage of the wood according the law on bygd commons.

The board of the commons and Statskog SF are also charged with a duty of producing bylaws for the commons, and the legislation gives a detailed table of contents they have to work through. The ensuing rules have to be coordinated with those made by the mountain board.

Other exploitations of the state commons

Any person with a permanent address in Norway has the rights to hunt³⁷ and fish in the state commons if they qualify according to national and local rules governing hunting and fishing. A hunter needs several types of licenses, such as license to carry a gun, a yearly certificate of a minimum practice in using the gun, and for state commons, a hunting licence from the Mountain board of the commons where he or she wants to hunt, detailing the what, when and how of the hunt. The Mountain board may, within the global national regulations, further regulate the technology of hunting, the number of hunters for each type of game, the quantity of game to be killed by each hunter, and the areas and time periods where hunting is allowed. The mountain board is not allowed to give the local population preferential treatment except

³⁷ Generally the most important are moose, reindeer, and ptarmigan. Other types of game such as red deer or hare may be more important in some localities.

in some matters of hunting technology. The rules have to be approved by the municipal council.

Fishing by means of angling without permanent gear is basically open for all with a permanent address in Norway provided they pay the fishing fees to the state and the Mountain board. Use of other types of gear requires special permission and will in general be reserved for the local population. The Mountain board may restrict the rights for all, or expand them to include foreigners.

Other ways of exploiting the state commons not mentioned in the law and not regulated through the legislation on “all people’s rights” (allemannsretten) belong in principle to Statskog SF, but will in practice be in the public domain until the usage creates a demand for regulations. One such usage may now be on its road to becoming regulated, and not only for the state commons. That is the use of the roadside for parking and camping by tourists. The law on all people’s rights allows camping. But parking is so far just open access usage. The most detrimental part of it is probably the release of sewage from large housing vans into nearby waterways.

Summary

The most distinct feature of the Norwegian state commons may be the link of rights of common to cadastral units and how this is used to stint usage. The size of the arable lands of the farm will determine the number of cattle that can be fed during the winter, and hence the size of the flock with rights to pasture. Likewise the size of the farm and the type of crops cultivated will determine the needs for buildings and hence the need for timber. This way of allocating the resources means that those who have the largest farms will get the largest share of the resources of the commons. This is the direct opposite of the intended outcome of the Navarre legislation. Does this mean that the Norwegian society does not care about equality? At least one is led to believe that the local communities of rural Norway think differently about equality of incomes than their Navarre counterparts.

The state commons of southern Norway has a somewhat complicated management system involving the

- Municipal Mountain board with powers defined by law or delegated from the local Municipality,
- The board of the commoners with rights to wood also has powers defined by law and shall in general represent and take care of the interests of the commoners, and
- The company Statskog SF with powers delegated from the Ministry is charged with both with managing the state lands in general and with taking care of the owner interests of the state,
- The state and its general legislation on particular environmental issues such as National Parks, Landscape Protection Areas, Nature Reserves, Nature Memorials, and to some extent also the legislation on all people’s rights.

The kind of joint management this entails might in some circumstances be thought at best difficult if not impossible, and at the very least to be costly in terms of jurisdictional disputes and coordination efforts. The actual cost of transactions in relation to benefits is unknown. However, the level of conflict is seldom high enough to reach the national mass media. The visible conflicts usually are at the margin, such as: should this kind of management system be introduced to Nordland and Troms? Statskog SF would rather not see it introduced; they think they are doing the job well enough. Or, it is in relation to environmental protection proposals,

such as: should access to parts of the state commons be restricted or closed off in order to protect sensitive biotopes?

A somewhat second-hand impression is that the system seems to work smoothly. One reason for this might be that both the parliament and the bureaucracy has a history of sensitivity to local conditions as well as to the needs of the industry³⁸ and always have taken “old” customary usage as the primary guide to what the usage ought to be³⁹.

Discussion

It was noted above that the management of the state commons of Norway seemed unduly complicated involving at least 4 statutory defined groups (the commoners owning the rights of common, the municipality and the local population, the company managing the ownership interests of the state, and the state as representative of the public interest). However, this is only marginally more complicated than the Navarre system. Also in Navarre there is a joint management between the local community and the local state of Navarre. Forestry, hunting, and all matters regarding the use of the remainder⁴⁰ are the responsibility of the Navarre authorities. Navarre do not have a company like Statskog SF, instead there is the state of Spain with its legislation on environmental issues.

The most distinctive features of the Navarre system of commons, the compensatory distribution and the use of auctions deserve some closer investigation than the one we can provide here. But we can add a few comments. Neither of the two elements are “new inventions”, but the exact features of earlier approaches have not been looked into.

The emphasis on redistribution underlines one emerging belief in recent institutional studies (or we should say re-emerging since the same assumption was held by classical institutionalism): at the core of an institution we find strongly held values.

We do not have access to any local studies of villages permitting inferences about their value systems. But some interesting possibilities have been noted. If the value of income equality within the village is not shared and held to be important, the complicated mechanism of redistribution would not work. In fact, one, probably unintended, but nevertheless interesting feature of the Ley, is that the classification of areas as cropland, pasture, or timber lands is left to the village authorities (Article 101). This means that if the compensatory distribution of benefits does not accord with established practice, the village authorities may find it convenient to allocate most cropland to the pasture category. Thus reallocation of cropland to pasture may function as an index of commitment to the income equality value.

The emergence of auctions of timber exploitations is not difficult to understand. The market economy has been around for a long time and experiences with auctions are as long. The use

³⁸ See Landbruksdepartementet 1918:44-60 discussing the management of pastures in the state commons. For example: in the early part of the 20th century transport of cattle by herding them from the valleys and mountain areas to the towns was still an important activity. In the Act of 12 March no 5 1920 it was seen as necessary to regulate the use of the state commons for this purpose. By 1975 this use of the state commons had disappeared. Hence the rules were deleted from the new act.

³⁹ See for example Landbruksdepartementet 1918:33 ”Almuens bruksret i den til bygden tilliggende almenning er ved de ovenhandlede lovbestemmelser klart og greit fastslaat at skulle utøves i henhold til gammelt bruk.” (with reference to older legislation it is concluded that old customary use has so far been the primary guide to current legitimate use)

⁴⁰ See footnotes 13 and 14 above

of auctions in a local context to allocate the use of land outside the redistribution process may be newer, but it is probably a reasonable extension. In terms of values it reveals a keen eye for the most profitable use of a local resource.

The lack of rules about auctions for forest exploitation in Norway state commons may perhaps be explained by the differences in property rights. In Norway the surplus timber after the commoners have taken what they need for their farms belongs to the state. The state has been able to exploit the timber either by auctioning or by its own forest company Statskog SF, as it found suitable. In Navarre the surplus timber belongs to the villages, and the best practices, exploitation by its own manpower or auctioning are usefully incorporated in the legislation.

The really interesting difference is the emphasis on redistribution in Navarre and the equal access value in Norway. One may say that the equal access value in Norway today gives most to those who have the most. But this is a consequence of the way stinting of usage has been instituted.

If also the Navarre village commons started out with equal access as the primary value, one may say they have chosen a different way of stinting usage: first the poorest members of the village get what they need. If anything is left, it is distributed in an equal access fashion. What kind of historical development might lead to such a value system rather than for example like the one found in Norway?

One reasonable factor might be the constant insecurity created by the vagaries of history, and perhaps more the humanly created misfortunes of warfare and hostile armies than the random impacts from weather and other natural forces. A high degree of insecurity emphasising that all might be the victims regardless of personal qualities would inevitably lead to a culture emphasising helping each other and sharing resources with each other. This emphasis is closely related to the basic insurance functions of resource distributions of stateless societies.

Conclusions

The current form of the Navarre village commons taken together with the successful resistance of the privatization policy imply a strong, pre-existing collectivity, a definition of the situation as a threat to the principles of justice governing the collectivity, and low cost mechanisms enforcing the resistance against would be defectors.

In fact it may be interesting to view the primordial village as a primary self-governed group overcoming the initial barrier to collective action by instituting 100% equality in resource access, weak leadership and strong boundary maintenance (Douglas 1987). Basic forces keeping such a structure stable might be 1) a constant external threat (maintaining a high level of insecurity), 2) lack of markets for the village resources owned in common (low level of privatization incentives), and/ or 3) insufficient external sources of funds or incomes to alter the basic local equality (supporting the ideology of equality).

But such speculations have to be followed up by more relevant data than currently available. The most interesting conclusions found so far, are the questions raised about the strong position of commons in the Navarre society, and the different expressions of the value of equality in the organisations of the commons of Navarre and Norwegian society.

APPENDIX TABLES

Table 1 Resource specific property rights regimes in Norwegian state commons

Perspective of the individual appropriator	Ground and remainder	Cropland	Pasture ⁴¹	Timber, and fuel wood	Fishing and hunting of small game except beaver	Hunting of big game and beaver	Pasture and wood for reindeer herding
Rights of common	No	Yes	Yes	Yes	No	No	Yes
Co-ownership	Public domain	Joint	Joint	Joint	Public domain	Public domain	Joint
Unit holding rights	STAT-SKOG SF	Cadastral unit («the farm»)	Cadastral unit («the farm»)	Cadastral unit («the farm»)	Registered persons	Registered persons	Reindeer herding unit registered in the local reindeer herding district
Use and quantity regulation	National	Local	Internal ("needs of the farm")	Internal ("needs of the farm")	Local	Public regulation	Internal ("Needs of the industry")
Alienability	Inalienable	Inalienable	Inalienable	Inalienable	Inalienable	Inalienable	Inalienable
Power of local choice	No	Yes	Yes	Yes	Yes	Yes	No

Source: Schei and Zimmer (eds.) 1996

⁴¹ The right to gather fodder (cutting grass, collecting moss and leaves etc.) have been important, but are not explicitly dealt with in the acts on commons. However, such rights are important in Act of 29 November 1968 on servitudes and it is also mentioned in the Act of December 21 1979 on land consolidation (§36).

Table 2 Resource specific property rights regimes in Navarre village commons

Perspective of the individual appropriator	Ground and remainder	Cropland	Pasture	Timber, and fuel wood	Hunting
Rights of common	No	No	No	No	No data
Co-ownership	Joint	No	No	No	No data
Unit holding rights	Village as public body	Village as public body	Village as public body	Village as public body	Registered persons
Use and quantity regulation	State law	Village authority	Village authority	State authority and village authority	National and state law, local authority
Alienability	Inalienable	Can be rented for 8 years and up to the working life of the crop, based on needs of the family. Sub-leasing forbidden	Can be rented for 8-15 years, based on needs of the family. Sub-leasing forbidden	Value of exploitation rights can be awarded based on needs of the family. Sale of wood forbidden.	No data
Power of local choice	Yes	Yes	Yes	Yes	Yes

Source: Act of 1990 "Ley Foral 1990 de la Administracion Local de Navarra" 2nd Edition, Federacion Navarra,

Table 3 Variables relevant for the study of resource management systems

Characteristic refers to units of management or to their resources.

Applied to village commons of Navarre and state commons of Norway

VARIABLE APPLIED TO MANAGEMENT UNITS	MARGIN OF VARIATION	CATEGORIES OF VARIABLE	COMMENTS (Numbers refers to numbers in column 3)	VALUE OF VARIABLE FOR VILLAGE COMMONS OF NAVARRE	VALUE OF VARIABLE FOR STATE COMMONS OF NORWAY
Type of management unit responsible for resource system	Decision making	1) Actor system 2) State bureaucracy 3) Municipality 4) Co-managed	1. Individual or (private) organisation as recognized by law 2. Public organisation mandated by law 3. Local government or body mandated by local government 4. Shared powers between types 1) and 2) or 3)	Shared powers between types 2) (forest services) and 3) (municipality / concejo)	4) Shared powers between types 1) (board of commoners), 2) (Statskog SF), and 3) (Mountain board of municipality)
Appropriator units	Entities as recognized by law or custom	1) Legal person (citizen, firm) 2) Cadastral unit (farm, fishing vessel, herding unit) 3) Registered person (individual according to registered residence)	2) Economic enterprises not recognized as legal persons 3) Individuals with legitimate residence within a jurisdiction	3) Registered person (individual according to registered residence)	Resource dependent: 2) Cadastral unit (farm, fishing vessel, herding unit) 3) Registered person (individual according to registered residence)
Powers of local choice	Decisions external or internal to the management unit	1) Yes 2) No	Degree of freedom in management decision	1) Yes	1) Yes

Professional administration	Required or voluntary for the management unit	1) Required of appropriator units 2) Supplied by state bureaucracy 3) Both 1) and 2) 4) Not required		For forest resource: 2) Supplied by state bureaucracy	3) Both 1) and 2)
Basic resource classes	Resources seen as distinct, or used and treated separately	0) Ground and remainder 1) Cropland 2) Pasture 3) Fuelwood and timber 4) Timber 5) Hunting of game 6) Hunting of small game (except beaver) 7) Hunting of big game 8) Anadrome species 9) Fresh water fish except anadrome species 10) Salt water fish except anadrome species		1) Cropland 2) Pasture 3) Fuelwood and timber 5) Hunting of game	0) Ground and remainder 1) Cropland 2) Pasture 2) Fuelwood and timber 7) Hunting of small game (except beaver) 8) Hunting of big game 10) Fresh water fish except anadrome species
Rights of common	Recognition of right to take away some substance of value from the ground owned by somebody else	1) Rights of common 2) No rights of common	Relevant only if “ground and remainder” is recognized as a separate resource	Not relevant	1) Rights of common

Economic activity	Regulations on type of organisation of management unit	1) Collective required 2) Individual or collective by choice	By collective it is meant some kind of governing body for the individual persons with legitimate interests in the resource	1) Collective required	2) Individual or collective by choice
Form of ownership of resource	Legal rules for transfer of resource rights upon death or dissolution of decision making unit	Varies by resource class 1) Fee simple 2) In common, fractional interest 3) Joint, equal interest	Specification by resource class	Do not vary by resource class 3) Joint, equal interest	Do not vary by resource class 3) Joint, equal interest
Alienability	Regulations of trade in resources rights	Varies by resource class: 1) Inalienable 2) Alienable 3) Conditionally alienable	Specification by resource class	Varies by resource class: 1) Inalienable 2) Alienable 3) Conditionally alienable	Varies by resource class: 1) Inalienable 2) Alienable 3) Conditionally alienable
Quantity regulation	Regulations of quantity of resource removal by owners or users	Varies by resource class and resource usage system	More details are needed to specify at least yes/ no by resource class	Yes, in general. Varies by resource class and resource usage system	Yes, in general. Varies by resource class and resource usage system.
Technology for harvesting	Regulations of technology of resource removal used by owners or users	Varies by resource class and resource usage system	More details are needed to specify at least yes/ no by resource class	Varies by resource class and resource usage system, notably for cropland	Varies by resource class and resource usage system, notably for hunting
Duties to local society	Duties towards the local community as recognized by law	1) No duties 2) Maintenance of infrastructure 3) Take care of social security		2) Maintenance of infrastructure 3) Take care of social security	1) No duties

Acts

Magnus Lagabøter's Landslov 1274

Christian V's Norwegian Law of 12 April 1687 (NL1687)

Act of 12 October 1857 on forest commons

Act of 22 June 1863 on forestry

Act of 6 June 1975 no 31, on rights in state commons ("the mountain law")

with regulations of

21 April 1983 no 1011, on leases of elk hunting on state lands,

19 April 1988 no 336, on game management on state lands

Act of 19 June 1992 no 59, on bygd commons

Act of 19 June 1992 no 60, on timber in state commons

Act of 19 June 1992 no 61, on private commons

Act of 1990 "Ley Foral 1990 de la Administracion Local de Navarra" 2nd Edition,
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