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# Studying Small Medieval Communities in the Light of the Historiographical Revival of the Commons

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## Reading Cluj 2023

# Studying Small Medieval Communities in the Light of the Historiographical Revival of the Commons

### introduction

[Slide 1, title]

Thank you very much for the invitation and the organization, I'm delighted to present this lecture here in Cluj. Let's start with a definition of commons.

[Slide 2, concepts]

Roughly speaking, Commons can be defined from two perspectives, the ownership and the type of good. It is a particular kind of ownership, neither private nor public/state ownership, but it belongs to the community. Considering the type of goods, of asset, commons are rival assets used by communities, by its members individually or collectively. In other words, behind the form of ownership, the main issue is accessing resources, more precisely rival resources. In economics, rivalry is a property of a good whose consumption by one agent reduces the quantity of the good available to other agents. Rivalry concerns the amount of resources, which are limited to a certain extent. For example, fishermen taking fish from the sea limits the amount taken by others. Nowadays, the environment in its whole can be considered as a common good.

Hence, the main issues are to control the access to the goods, to regulate conflicts and increase the efficiency of resource allocation. This regulation can take different forms and is a great part of the community political life. Generally, commons are managed jointly or with specific management. Regarding the medieval small communities I'm studying, commons can be grazing land or collective facilities such as irrigation canals.

This phenomenon has different names, structures and operating methods, and relates to various resources in different times and places. Commons refers to a complex and evolving reality that has been subject to various interpretations in humanities and especially in history. For a long time, the dominant historiography regarded the commons as a form of archaism. In recent decades, however, they have been reinterpreted and re-evaluated. Recent medieval historiography has entered into a fruitful dialogue with modernists in order to place commons in a long-term perspective, to study how they were created, managed and evolved, and to

show their fundamental role in the history and functioning of communities, taking into account the contributions of other social sciences under the influence of Anglo-Saxon research.

Sorry for this quite long and conceptual definition, it is necessary to study commons handle by the small communities I'm working on.

[slide 2, map of the region and a circle on the map of Europe]

I am studying political life in the small communities of the lower Rhône valley, in the Avignon region, between the end of the twelfth and the beginning of the fifteenth centuries. These small communities were part of a context of urban expansion and forms of local autonomy from the early thirteenth century, followed by a takeover by the princely powers fifty years later. The region was situated between different political areas: to the west, the Kingdom of France; to the south-east, the County of Provence, which became a possession of the Angevins in the mid-thirteenth century; and to the north, the Comtat Venaissin, which passed from the hands of the Counts of Toulouse to those of the Papacy in 1274. In this paper, I'm concentrating on Saint-Rémy de Provence, a small community north of the Alpilles. The Counts of Provence were also lords of the town, giving them a strong hold over the community. They held half the rights to the *castrum*, while the Church held the other half.

Between the end of the 12th century and the middle of the 13th century, small communities gradually appeared in the sources. The inhabitants of Saint-Rémy are mentioned for the first time in 1198. Over the course of a century, the communities gradually began to structure themselves around tax issues and the demarcation of their territory, particularly around common pastures.

[slide 3]

My aim here is to show how the historiographical revision of the commons is very useful for studying the relationship between these communities and their environment. I will begin by outlining the evolution of historiography on the subject, and then show what this allows me to study in relation to Saint-Rémy de Provence.

## The commons in historiography

### Economic and juridical approaches during the 19th and 20<sup>th</sup> centuries

[slide 4]

The commons refers both to the question of collective ownership or collective use, or even civic use, and to both resources and the common nature of management. The law has focused on the legitimacy, origin and legal instruments of this other form of ownership.

Consequently, the law can study the issue from two angles: from a private law perspective, as a particular relationship between a private subject and an object, or from a public law perspective, as a way of possessing and managing an asset or resource belonging to the State or public authority.

The development of bourgeois law and liberalism, based on free individual initiative as the sole and full manifestation of man and the bearer of benefits for the community and the State, led to a negative interpretation of collective property, which had to be liquidated, both for the bourgeoisie and in academic circles. However, from the 19th century onwards, both positivism and romanticism were critical of bourgeois property and took an interest in collective property. (p. 580)

In the 1870s and 1880s, the European historiographical debate centred on the anteriority of collective property over individual property, with the work of the Englishman Mayne, the Belgian Laveleye and Fustel de Coulanges in France. This debate took place in the context of socio-political developments at the time, with the emergence of scientific socialism and the defence of bourgeois ideology. The debate then turns to the relationship between public property and Roman and/or Germanic law as it was known throughout the Middle Ages. Ennio Cortese shows that under the Carolingians, 'strategic' public assets such as roads, bridges, ports, salt works, etc. gradually came under the authority and ownership of the king. Under Frederick II, these assets became *regalia* and *demanium* (public property).

[Slide 5]

The historiography of the commons is marked by the publication of an article by Garrett Hardin in 1968, *The Tragedy of the Commons*. It refers to a thought experiment: a pasture is used in common by farmers. It is always in their interest to add an extra animal, because they will earn income from it after fattening. However, each addition has a negative effect: the grass is shared between more animals, so each one puts on less weight. But because this effect is spread across all the farmers' animals, and the benefit of adding an animal is individual, it is always profitable to add an animal. But as the pasture becomes more and more populated, it is over-exploited and then destroyed. Hardin concludes that common ownership of a resource is, in essence, incompatible with its sustainability. For him, the solution is limited to a closed alternative: only private appropriation or centralised management (by the state, for example) can ensure sustainable exploitation. Common property is the excluded third party in this binary logic, which will do much to ensure the success of the tragedy. The reasoning will be used just as much by the advocates of state action as by the zealots of the free market, whose solitary confrontation it enshrines.

"The process set in motion by the lack of government is inescapable and ignores values and awareness. Even if he is aware of the deterioration, it is always in the farmer's interest to

add another animal, and he will do so. (p. 1319) It is in this sense that we must understand the term tragedy, in the Greek sense.

## New approaches

Hardin sees the commons as open-access spaces with no institutional regulation by communities, which is historically unfounded. Hardin is part of the liberal tradition and, as well as criticising the commons, he points out the deficits of government, particularly in the United States, in relation to parks and land: both the "socio-ecological entities" (pp. 1318-1319) appropriated by overly permissive states (the central state in the United States on the question of national parks or federal land in the West), and resources that are not appropriated but are freely accessible, such as the high seas or the atmosphere.

This 1968 article was written against a backdrop of debate about the causes of the environmental crisis: for some, the origins of the crisis lie in the Judeo-Christian matrix, for others in capitalism, and finally in consumerism. The hypothesis on which the article is based is that of an actor, \*homo oeconomicus\*, driven entirely by rational choices. We can draw a parallel here with game theory and the stowaway strategy. Fabien Locher speaks of an 'individualistic and agonistic social cosmology' (p. 1320).

Hardin has never hidden his neo-Malthusian commitment: the animals put down by breeders are also the children. *The Population Bomb* was published the same year by someone close to him.

Against this approach, Elinor Ostrom has shown the importance of structures built by local players, the importance of the long term, the optimal exploitation of resources, and the limitation of irresponsible appropriation without compensation. Elinor Ostrom stresses the importance of finding a variety of institutional solutions for different problems in changing contexts. She is part of an Anglo-Saxon way of thinking that is empiricist, liberal, anti-ideological, individualist and neo-institutional. It presents various cases of local self-government for the exploitation of different resources, analysing institutional structures, construction methods, relationships with the environmental context and the resource itself, and the weight of external factors. The joint exploitation of grazing land or irrigation systems is more effective and works better than the examples of fishing. Success depends on good practice or the characteristics of the resource. —the most important is the definition of 7 characteristics necessary for the proper functioning of commons according to Ostrom.(p. 588)

The question Elinor Ostrom asks is: why do some communities manage to "devise rules and [rely on] social norms to enforce sustainable resource use, while others do not?"

[@sethi2016]

It identifies a series of principles necessary for sustainable resource management. It stresses the importance of letting stakeholders decide between themselves, and the factors that facilitate trust. The importance, too, of sanctions for deviant behaviour. Elinor Ostrom calls these principles polycentric games, between the individual (1, 2), the collective (3, 4, 5) and the State. —Ricardo Rao stresses the importance of crossing political and economic history. In the Italian cities of the late Middle Ages, the

## Reconsidering Saint-Rémy's commons in the light of new historiography

### The importance of commons in the political life of the community

My approach was initially purely political, to study the organisation and gradual structuring of communities. In the sources, these communities take the political form of an *universitas*. According to Michaud-Quantin's definition, this is a "legally constituted group with the express or tacit authorisation of the competent superior", in this case the inhabitants, the members of a territorial community, which means that they had representatives in court and a common treasury. The use of the term is tantamount to asserting the existence (or recognition) of a "genuine community possessing as such an institutional consistency that ensures a real collective life for all its members". However, such a community does not erase the social antagonisms that may exist within it. The importance of these conflicts in the history of communities has long been well documented. In the case of rural communities in particular, the work carried out by Joseph Morsel's team has clearly shown that the creation of these communities should not be understood as opposition to the power of the princely administration, but rather as their integration into the exercise of political domination, in this case by the administration of the Counts of Provence.

The development of the Angevin administration severely limited the political possibilities of the *universitas*. For small communities such as Saint-Rémy, the management of the commons was a central aspect of their activity, not only because of the practical issues involved in managing resources and conflicts, but also because it justified their political existence.

The approach in terms of the commons makes it possible to bring together political, economic, social and environmental history, and to build a bridge between the institutional history of small communities and their economic life, which has been separated for too long. This has led me to take a new look at the problems of defining territory and sharing the commons. I analysed the question of ownership, whether collective or individual, and conflicts

over access to resources. In this way, I was able to integrate the study of *universitas* into new issues: the dynamics of community formation depend not only on problems of taxation and defence, but also on the management of rural life.

The regulation of these communal relationships provides an opportunity to examine the internal workings of the community, the *universitas*. This applies in particular to a commune to the east of the *castrum*.

[slide : map of Saint-Rémy]

Prior to 1325, the community purchased the palud from the Count of Provence, in exchange for a cens of 100 pounds. This common was appropriated by the inhabitants, who sought to share the land concerned. However, the division took time, probably due to internal dissension. It wasn't until 1335 that the community got serious about sharing out the land. On this occasion, it produced communal statutes. Statutes are normative documents that communities of inhabitants produce or receive, providing for internal organisation in a certain relationship to the lord or princely administration. The production of these statutes helps us to understand their internal workings: it is notable that the most detailed procedure preserved in the sources concerns the commons.

On 3 March 1335, the baile of the court of Saint-Rémy, the representative of the administrative authority, convened the representatives of the inhabitants at their request. This was followed by a series of eight articles, organising the appointment and specifying the mandate of the representatives, in fact the notables who held all the positions: these were twelve "exacteurs de taille", a restricted "council" of six members, who were also *procuratores* of the *universitas*, including a nobleman, a knight and two notaries, one of whom belonged to the Porcelet family<sup>1</sup> - who had dominated the *universitas* since the end of the THIRTEENTH CENTURY<sup>e</sup>. Of these six, four were exactors and five were syndics or *procuratores* in the first half of the XIV<sup>e</sup> century. From 1<sup>er</sup> April, these representatives produced nineteen articles, which were proclaimed on 17 May, thirteen of which concerned provisions that I would describe as environmental, in other words regulating the relationship between the inhabitants and their environment, around conflicts of ownership and rural use. The relationship between these communities and the non-human environment is built through the appropriation of resources and territory and the regulation of withdrawals. To manage conflicts, the community controls access to this environment, distinguishing between the nature of the areas, the different activities and the animals that can access them. Most of the articles concern the palud (or

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<sup>1</sup> See Martin Aurell, *Une Famille de la noblesse provençale au Moyen âge, les Porcelet*, Avignon, Aubanel, 1986.

palun), which was not shared between the inhabitants in 1335. The 1335 statutes were only valid for a short time, until the beginning of October<sup>2</sup>, which may be explained by negotiations or restrictions imposed by the Count of Provence.

The care taken in the drafting process, given its duration, suggests that these statutes may have been more important to the community's representatives than to the community itself. The fact that the drafting process was spread over three months, as well as the numerous meetings mentioned, suggests possible negotiations, between residents or with the administration. The representatives took the opportunity to organise a small council, and their mandate was limited to producing the 1335 statutes and planning the division of the rent for the following year and future statutes. In 1336, new statutes were enacted at the time of the division of the palud, which had been granted by the royal court since the early 1320s in return for the payment of a cens. In addition to confirming the role of the council, the 1336 statutes included articles from the previous year, but not without amendments and additions. For example, charcoal burning in the Alpilles was henceforth prohibited, which meant that this area was wooded and belonged to the inhabitants. Individual use was no longer possible.

### Regulate or dismantle the commons?

The Saint-Rémy statutes of 1336 are the most important element in addressing this issue. It is a *rotulus* preserved in the Bouches du Rhône departmental archives, and is extremely long and detailed. It contains the legal procedure for sharing the palud, the new communal statutes and the result of the sharing, with the names of all those present.

The division in 1336 was unequal, favouring the great families at the head of the *universitas*, such as the Porcelets.

The statutes of 1335 distinguished between a divided part, in which the inhabitants appropriated the resources, and an undivided part, where the resources were shared and access to them regulated. Once the division was made the following year, the stakes changed. The community organised the access roads to the palud (article 5), restricted entry to ploughing and pack animals only (article 6), limited grazing to certain areas in the autumn (article 7), and prohibited the lighting of fires, presumably in view of the risk of fire caused by burning (article 10). The inhabitants organised the private management of former shared areas for new use, in return for an annual fee to the Counts of Provence, in the form of long leases.

The intended use is agricultural, ploughing rather than grazing, and may have led to the gradual drying out of this wetland. The other paluds of Saint-Rémy were probably not shared out, as they were intended for grazing and belonged to the Count of Provence. The community

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<sup>2</sup> *quod omnia ista durent hinc ad quindenam post festum Sancti Michaelis* (AC Saint-Rémy FF 1C).



regulated the use of the environment by organising the area and controlling access and use, both internally and externally. Conflicts were reduced through private and collectively controlled appropriation, as was the extension of agricultural land.

Little is known about these commons: they do not belong to the community, even though their members use them individually to graze their flocks. There is therefore little mention of them in the archives of Saint-Rémy, or even in those of the Counts of Provence. They were generally located on the edge of the community's territory, and were a source of conflict with neighbouring communities.

One of the few mentions of the communal areas can be found in the communal statutes of 1335. In the statutes of 1335, articles 1 and 3 mention the pastures, communal areas and *defens*, in which the grazing of foreign herds or the cutting of grass is prohibited, following a dispute and a lawsuit against a nobleman from outside Saint-Rémy who was grazing his herds there. Grazing and mowing in the unshared *palud* were subject to the payment of a fee, which was higher for non-inhabitants. This distinction was made as a result of the territorial demarcation procedures introduced in the 1260s, following conflicts over access to grazing land between neighbouring communities. The aim of controlling access to grazing land was to prevent overgrazing and the depletion of resources.

Overgrazing was a real problem in Provence. In 1345, the administration of the Counts of Provence launched an investigation into overgrazing, which was destroying the pastures of rural communities, particularly in the eastern part of the region. Is this a case of the tragedy of the commons? Yes, because of the over-exploitation of resources, but no, because in Hardin's theory there is no form of regulation, which is not the case here.

After the Black Death of 1348, the sources regularly show the low productivity of this area, which the inhabitants use to request a reduction in the *cens*.