Participation versus punishment.  
The relationship between institutional longevity and sanctioning in the early modern times (case studies from the East of the Netherlands)

Tine De Moor & Annelies Tukker

*Paper for the* Rural History Conference, Bern 2013  
*Panel 3.4. Ruling the Commons. Part I*
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In the early modern period, much rule-making took place on the local level, also within the context of institutions for collective action, such as commons. The term commons stood for both a wide range of natural resources, as for the institution, which was characterized by self-governance and self-regulation. Rules on who could access the common, on what conditions, and how the resources could be used were created by the commoners themselves, though agreement of the local lord who had granted the common rights was common practice. In present-day literature on the regulation of the use of collective resources much stress is laid on the role of sanctioning in order to prevent free-riding among on the one hand those who are entitled to use the resources and on the other, freeriding by those who have no rights but try to get benefits from the commons. Another line of literature searches for the holy grail of institutional success, and tries to find out which recipe works best for making institutions such as commons sufficiently resilient to changes such as population growth, economic crises and ecological change. The detailed study of 9 Dutch commons of varying longevity –some survived nearly 700 years- that lays at the basis of this article, and brings for the first time both debates together within a historical framework. Our study demonstrates that the longer an institution survived, the least energy its rule-makers spent on average on creating sanctions to accompany the rules they devised. Contrary to our expectations, not all rules that were created by the commoners were accompanied with a sanction. Moreover, the type of sanctioning that was used changed over time according to a specific pattern whereby it becomes clear that some types of sanctions were only used in extreme cases, when nothing else worked. This article gives a much deeper understanding of how freeriding could be dealt within an institution for collective action in order to ensure the survival of the institution

1. Introduction

Institutions for collective action -as small, self-governing and self-regulating organisations- were in the early modern period in NW-Europe important players in daily life. Urban organisations such as guilds and fraternities dominated the economic organisation in the cities; commons –in various forms and sizes- were in many parts of Europe indispensable for the agricultural production. Organisations such as guilds and commons were self-regulating: during their frequent meetings rules were devised to avoid the overuse of resource by members, to prevent non-members from encroaching upon the collective resources, to organise the daily functioning of the organisation, and to make sure that the daily activities within these organisations were monitored and detected wrongdoers punished. Many of these organisations managed to survive for centuries, though most did not overcome the fierce governmental actions to abolish these self-governing institutions towards the end of the 18th century and during most of the 19th century. Such amazing longevity and the capacity of these institutions to govern resources sustainably has over the past decades drawn the attention of many scholars in various disciplines who are looking for the wholly grail of institutional resilience. Much of their attention has been going to ways to keep control over freeriding, in the first place by designing sanctions that scare-off potential freeriders and if this doesn’t work, punish them severely hoping this prevents further bad behaviour. In the literature on the use and management of institutions for collective action it is generally accepted that there is a need for an appropriate sanctioning system to accompany regulation, in order to prevent freeriding or avoid the repetition of it and to steer the whole group of users towards a satisfactory level of

1 The research for this article was made possible by funding from the European Research Council under the European Community's Seventh Framework Program (FP7/2007-2013)/ERC grant agreement n° 240928 as part of the project "United we stand". The dynamics and consequences of institutions for collective action in pre-industrial Europe (2010-2014) and by the Dutch Science Organisation (NWO) via the grant "Common Rules. The regulation of institutions for managing commons in Europe 1100-1800" (2011-2014). For more information on both projects, see also www.collective-action.info.
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cooperation. It is also generally agreed upon that sanctioning can be expensive, both for the individual as for the group. Members of the common pool institution need to invest time and effort into designing appropriate sanctions, to detect freeriding, to implement the sanction itself and if all of this doesn’t work, to take the defector to court. However, more recent literature also points towards potential negative effects of sanctioning as a tool. Sanctioning may affect the level of trust within a group and create a hostile environment (Nikiforakis, 2008; Fehr and Rockenbach, 2003; Mulder et al., 2006). Generally there is thus consensus about the need for sanctioning, but it should be applied with care.

Many experimental studies have furthermore tried to establish what an effective and efficient sanctioning system should look like by trying to determine the “right” level of a fine, to what extent people are willing to punish each other, what the structure of a fine should be (pool punishment or not; the choice between “carrots” or “sticks”), and to what extent external enforcement can be efficiently used to implement sanctions in an effective way. In the meanwhile, field research has also demonstrated that human beings also in real life are not afraid of determining sanctions and executing punishments in case of freeriding, and it has been suggested by a.o. Ostrom (1990) that a specific type of sanctioning, graduated sanctioning, is a good way to prevent future problems.

In literature however the option to use other tools than sanctioning to prevent freeriding is hardly ever seriously considered whereas the results in this article will demonstrate that there is not necessarily a positive correlation between the presence of a repressive apparatus in the form of serious sanctions and consequent implementation. In this paper we will explore the use of sanctioning in a number of very long-lived commons in the Netherlands. European history provides us with examples of institutions for collective action that have managed to survive literally centuries (see De Moor, 2009), both in town and countryside. The longevity of the cases we study varies from 695 to 236 years. The archival sources allow us to retrieve the regulation devised to control who the commoners were (access rules), how the use of their common resources was regulated (use rules), how access and use were managed (management rules) and how the governance of the institution as a whole was arranged (governance rules). Moreover, we can include in our analyses not only the rules as such, but also analyse the type and level of the sanctions that were used to scare off and punish those who did not follow those rules. The mass of data we have collected allow us to approach the above mentioned issues related to sanctioning in a different way, but due to a lack of other studies that deal with longevity and sanctioning in the context of the commons, we also need to create our own methodology. In this article, we consider the total body of rules that each of the commons we use as case-studies as the total effort the commoners have spent to design the regulation of their institution. We assume that commoners wanted to keep this effort as limited as possible, as commoners had to attend all meetings were new rules were decided upon. Making more rule than effectively needed would in this sense be a waste of time. This approach is used to find out which aspects (access, use, management, governance) the commoners found most important to regulate, and as well, to sanction and we relate this effort to the longevity of the case-studies.

In the first part of the article, we will give a brief overview of our case-studies and methodology. Also, we will provide some additional background information on how these commons were organised in terms of the setting of rules, the monitoring of compliance, and the execution of sanctioning. In the second part, we will discuss the design of sanctions, and how this design differs from case to case. In the last part we will concentrate on the dynamics of the rules and related sanctions.

1. Methodology and case studies

So far, experimental methods have as yet proven not to be able to deal with periods of time that are of a sufficient length in order to capture the effects of individual users’ behaviour. To some extent, experiments – e.g. infinitely repeated games (Casari 2007) – can capture experiences from, and the effect of, behavioural choices in previous periods, but it is hard – if not impossible – to incorporate also the many changes in the regulation and sanctioning and the external circumstances that may have induced such changes at the same time. Another problem we face with experimental studies as a way to understand the functioning of
institutions for collective action, is the focus on individual behaviour and the difficulty to relate this behaviour to decisions made on the institutional level. How are individual preferences and choices translated into rules and at which point do changes in those individual preferences lead to a group decision to change the institutional setting? This last question can be answered by intensive field research, as has been demonstrated for the first time by Elinor Ostrom in the 1990s (Ostrom, 1990). But still, capturing and explaining the long-term dynamics of institutions for collective action beyond an institutional life-time of more than 1 century remains out of reach.

In this paper we present another approach that allows us to cover very lengthy periods of time (at least two centuries) of institutional change. We systematically analyse the regulation of eight cases of common pool institutions (CPI's) in the Netherlands and its changes, and try to relate these institutional changes to changes in the environment of the common. Our approach to understanding institutional change has not been tried out before, probably because – although it delivers interesting results and new perspectives – it is a daunting task. Reaching a consensus on how to analyse these regulations for several countries has already proven to be a considerable challenge because of the huge variety in local forms of use and formulation of rules. Entering, translating, and analysing for several cases each rule that had been recorded in the course of several centuries has been extremely time-consuming. This paper is an exploration of the potential value of our data for institutional analysis for just one of the European countries we are dealing with (albeit for a still limited number of cases (eight), all located within a particular region).

Regarding the analysis, we have limited ourselves to very simple methods, whereby we mainly looked at the distribution of different types of rules and sanctions and in particular how this relates to the longevity of the specific cases, thereby including some detailed examples of specific cases. With the small number of cases we are currently dealing with, our current approach does not meet any real problems. In due time, when we have explored the possibilities of our data in various fields, we will seek to develop more specific methods in order to deal with more specific research questions on the dynamics of institutions for collective action. Such methods however are currently not yet well-defined in literature.

Contrary to experimental studies, we cannot identify the role of individual preferences in our sources, but we can determine what type of collective choice to mediate the behaviour of individual members of the common has been preferred over other types. We consider this first attempt to analyse regulation of commons on a large scale as a way to bridge the gaps between experimental studies and fields studies on regulation in general, and on sanctioning in particular. So far, these methodologies are, to a large extent, still isolated. From a merely methodological point of view, our approach is much closer to field studies, but our results make clear that in the past many more instruments for managing common pool resources (CPR's) were available than have been considered so far in experimental studies. We cannot identify the individual preferences, but we can determine how the willingness to cooperate and sanction was translated in collectively set group norms. Although our results will not fundamentally change the possibilities within experimental or present-day field research, long-term historical research could highlight a number of best – or worst – practices. Also as we will show, generally accepted sanctioning instruments, such as graduated sanctioning, although they may have proven to be usefulness in short-term studies, may not necessarily have played an important role in the survival of commons in the very long-term.

In the Netherlands, there are two main forms of commons to be found. In the eastern (particular in the provinces of Gelderland and Overijssel) and more central part of the Netherlands, commons usually took the form of markegenootschappen (also known as marken), which were associations of a number of members that were entirely self-governing (although their organization did need to be formally recognized by the local authority (Beekman 1913-1938; Slicher van Bath 1978, 242; Hoppenbrouwers 2002, 93-4)). Elsewhere in the Netherlands, in particularly in the southern province of Brabant, we also find the so-called meenten whereby the right to use the common was usually reserved to the inhabitants of the village in which the common was situated; the management of such commons was often in the hands of representatives of that village (Hoppenbrouwers 2002, 92). The degree in which
Commoners were actively involved in deciding upon new rules in most cases was probably less for meenten than for markegenootschappen. For our study, we therefore focused on eight markegenootschappen, all situated in the eastern part of the Netherlands; appendix 1 provides a more detailed overview of a number of features of these commons. Notwithstanding the similarities in their “institutional format”, each of these marken could be rather different from the others: in the types of resources they could harvest, in the way they set up their rules and sanctions, in their longevity as an institution. Our interest in this paper, however, is in the common denominators of these commons, and we try to determine these denominators by analysing the regulation of these commons in great detail. The regulation of the selected commons – in total we analysed 2,553 rules for the eight case studies – was entered rule by rule into a database, and was also analyzed rule by rule. Using a pre-set number of variables that allowed us to specify both the content of the rule as well as the sanction that was applied if the rule was breached. On the most basic level, rules were identified as being related to access, use, management or governance structure. Appendix 3 gives a description of the types of rules that were comprised in each category. The content of the rule furthermore was analysed in other ways, related the type of the rule (obligation, permission, etc.), the type of resource (peat, water, hay, grass, etc.), the activities (digging, management tasks, etc.) the rule refers to, and the specific circumstances in which a rule was applicable (time of the day, in case of the use of specific tools, etc.). Furthermore, we analysed the sanction that was to be executed in case the rule was breached. This again was analysed in detail, determining e.g. the party that was breaching the rule, the party affected by the offence, the kind of sanction that was set (fines, penning up of cattle, exclusion from common, etc.), the type of the sanction (singular, graduated, differentiated), the level of the sanction, as well as some specific issues such as the eventual inclusion of a liability clause within the rule.3

Figure 1: Location of the eight case studies: 1) Marke Berkum4, 2) Marke Rozengaarde5, 3) Marke Raalterwoold6, 4) Marke Bestmen, 5) Marke Geesteren, Mander, and Vasse, 6) Marke Coevorden, 7) Dunsborger Hattener Marke7, 8) Marke Exel8

2 The marke Coevorden, one of our case studies, differs a little from this general pattern. The marke was originally managed by the representatives of the town, in a similar way as applied to the meenten. However, over time regulations came to be designed by an external institution. This marke does differ from meenten, as the use of the common was not available to all inhabitants, and the members or their representatives were involved in the decisions about the common.
3 Details on the variables that were included in the analysis can be found in the codebook that was developed for the purpose of this database, see: http://www.collective-action.info/_PRO_NWO_CommonRules_Codebook
4 See also: http://www.collective-action.info/_CAS_COM_NET_Berkum
5 See also: http://www.collective-action.info/_CAS_COM_NET_DivisionRozengaardermarken
6 See also: http://www.collective-action.info/_CAS_COM_NET_Raalterwoold
7 See also: http://www.collective-action.info/_CAS_COM_NET_DunsborgerHattemerMark
8 See also: http://www.collective-action.info/_CAS_COM_NET_DunsborgerHattemerMark
Since written – and other – sources become more and more scarce as we go back in time – and also given the lack of a uniform definition of the concept of the ‘marke’ – it is hardly, if ever, possible to exactly pinpoint the year of origin of the marks (see discussion mentioned by Hoppenbrouwers 2002, 93). Paskamp-van Santen (1997) describes that the buurschappen (hamlets), which became part of the marke later on, already had a form of legal self-governance, having their own jurisdiction, jurisprudence, and its own governance system; however, primary sources from this early stages of this informal institution hardly exist. Hence, a more decisive criterium would be the first appearance of the marke as being a formal institution, usually taking the form of the first (or at least the oldest preserved) set of rules that applied to the access, use, and management of the common. The oldest examples of such regulations often exist of one single document, written on parchment and sealed by the local authority or authorities and date back to the end of the thirteenth and the beginning of the fourteenth century. In cases where the first regulations preserved date from a later period, the first set of rules – sometimes in transcribed form, as was the case for marke Raalterwoold – often cover the starting pages of the so-called markeboeken, in which the regulations – and often also the resolutions taken at annual and other general meetings – were recorded. We know from the case study of the marke of Exel that, in regard to the registration of rules, a combined form was also in use: it appears from the text of the resolutions of this marke that the regulations and resolutions of previous meetings were inserted into the collected body of regulations as being the first point of order at the next meeting. Next to the regulations and resolutions agreed upon at the general meetings, the markeboek was often used for administrative purposes, such as the registration of shares or other, more and for financial matters (see also Van Weeren and De Moor 2012).

Figure 1: picture of a page of the markeboek of the Marke Raalterwoold (Overrijsel), that was started in 1615⁸

These markeboeken are the historical sources on which we have based our analysis for this study. We have made a preselection of cases on the basis of availability of such markeboeken and a minimum longevity of the institution for 200 years. Furthermore, we selected only those cases that had, within those two centuries, at least three changes of regulation (at least one at the beginning of that period, at the end and somewhere in between). Usually more than just one rule at a time was changed and the regulation was often adjusted far more frequently than three times in two centuries. The list of years in which the regulation was changed in Appendix 1 demonstrates this very clearly. This in itself already demonstrates a high degree of “dynamism” of these regulations, but we will come up with more sophisticated ways to evaluate “dynamism” further on in this article.

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⁸ See also: http://www.collective-action.info/_CAS_COM_NET_Exel
⁹ See also http://grotenhuis.natuurlijk.nl/documents/Markeboek%20van%20Raalterwoold.pdf for a complete transcription of this Markeboek.
Fortunately, the historical archives offer us plenty of choice for multiple case studies, but due to the very high labour-intensity of entering data from these markeboeken into databases and analysing their regulation we selected only eight cases. In all but one of the cases, the origins of the common as an institution dates back to at least the middle of the sixteenth century; they were dissolved no earlier than 1847. All of these cases thus managed to survive for at least 236 years, with an absolute record for the marke of Berkum, which common has a documented existence of nearly 700 years. Markedly, the two cases with the shortest (though still considerable) life spans in our selection, the Dunsborger Hattemer marke and the marke of Exel had the most frequent changes during their life-spans when looking at the ratio between the number of occasions when regulation was changed and the total number of years of survival (Please note that this, however, does not relate to the number of rules that were changed per occasion that changes were made; see further). On the whole shorter living commons such as Dunsborger Hattemer marke or the marke of Exel adjusted their regulation less frequent, than longer living commons, like the marke Berkum. The latter had to change the regulation on average every nineteen years (see table 1) and when they did so, they changed relatively few rules. Shorter living commons changed their regulation less frequent and changed a lot of rules every time they did so. Important to note is that changing the regulation required convocating and holding a general meeting, with all the commoners attending, hence causing a substantial amount of administration, and thus also cost for both the individuals attending as for the group as a whole that would have to carry the cost of administration. The graph shown in Figure 1 allows us to visually inspect the moments of rule-change throughout the life of the respective cases discussed here. It shows that each common apparently followed its own strategy: some, like the marke Raalterwoold had continuous changes in their regulation, whereas others, like the marke of Coevorden, had very concentrated moments of rule-change. To some extent, this can also have been influenced by the amount of available sources: for some cases there were more continuous sources left than for others. However, the graph demonstrates that commons in a very similar area – all commons are located within a radius of 40 kilometers from their common (virtual) centre point – were not influenced by external factors in the same way, or at least did not all respond – i.e. by adapting their rules – to specific external factors in a similar fashion. Continuity, constant adaptation to changing circumstances, was clearly far more important than ad hoc-responses to external shocks or crises.

Figure 2: overview of the years new rules were introduced or old rules were repeated or adjusted, per case-study

For marke Coevorden no markeboek has survived, but the changes in regulations have been handed down by several lists with regulations.
The rules and sanctions for the commons in our case-studies were all designed by the commoners or their representatives. Representation was common, as especially in large commons with many members it would have been nearly impossible for all members to be directly involved in designing rules and sanctions. While new rules and sanctions generally had to be ratified by the assembly of the marke at a general meeting, the day to day management of the common was generally entrusted to a small group of representatives ("commissioned members, together with the chairman of the assembly"). Members with shares (and sometimes also owners of partial shares) generally had the right to speak and to vote at the meetings of the marke and were obliged to attend the meeting or send a representative, at the risk of being fined when being absent without a proper reason or without sending a representative. In marke Raalterwoold, for instance, any landlord who failed to attend the meeting without excusing himself would temporarily loosen his vote, and be fined one heren pond – equal to one guilder. Furthermore, to verify that all the members with shares knew that a meeting was being held, other members, often their tenants, or appointed officials were obliged to inform them. In marke Geesteren, Mander and Vasse the tenant farmer from Mander was required to inform all hereditary shareholders of a pending meeting, and he would have to get their signatures and present this at the meeting, to prove that all inheritors were notified. To ensure that all members were familiar with the regulations too, members without shares – or representatives chosen from their midst - were usually required to attend the meeting too. For instance, in marke Rozengaarde the neighbours were obliged to attend the meeting, or if they had a good reason for being absent they could send a replacement, otherwise they would be fined two heren pond – equal to 2 guilders. Decisions made at the meeting were often announced after the meeting – most often in church, and sometimes repeated during several consecutive weeks thereafter, in order to ensure that no one could claim ignorance about the changing of regulations. For instance, in 1609 in the Dunsborger Hattemer marke a publication was made at church about a new regulation for impounding all pigs that would cause damage to the common in order to prevent that any person could claim ignorance about this rule. So, the commoners set the rules and sanctions that they had to obey to themselves, and ensured that all persons to whom these rules and sanctions applied were familiar with the rules or changes in them.

For the years that markeboeken or their equivalent had been preserved, the rules mentioned within these sources were not necessarily new ones. In some cases the books were copied because older versions had become unreadable, but usually this was also used as an opportunity to actually change or adjust some rules to new circumstances. Whether or not rules were mentioned for the first time, repeated, or adjusted, has been included in our database (and will be analysed in this paper, see further). The table underneath gives an overview of the lifespan of each of the cases included in this paper. The marke of Berkum dates back to the beginning of the fourteenth century and was only recently (1995) dissolved, and thus managed to survive over nearly 700 years. At the other side of the spectrum stands the marke of Exel that was active as an institution in the seventeent, eighteenth, and nineteenth centuries, but only for 236 years in total. Most marken were dissolved in the mid-nineteenth century. There are a number of other commons like Berkum, that managed also to survive up until the twentieth (and in one very exceptional case even until the present day (see further), but these

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11 Raalterwoold, 1445: Ten 28. Wanneer de markenrichter laten kerkerspraak doen, dat die erffgenamen te samen sullen komen, sal ider meijer dat sijnen lantheeren laten weten, bij poena, soe die meijer datt versusume, van een heeren punt. Unde soe die lantheer dan niet en quamte, offte sijne sijen gewarnden bade niet, offfe sich niet kerte excusieren, soe verklere hij voortert sijne stemme, unde verbroedede eene heeren punt, unde sulkien broeck salmen van den meijer durch die gewarrten affpenden, unde die mijer salt sijnen lantheeren ahn sijne gelt offte saetpacht soe


13 Example: Rozengaarde, 1481: Item in den eersten dat die markenrichter mijt die erffgenamen allen jaar te samen komen sollen des maenduges voor meetijage bij den Ruitenberch op den brinckt jn x uuren vor middage end wie daer niet en kumpt brecket er heren pond en dat mogen verteren die markenrichter met die gomte die daer comen. Des gelijken breeken oick die loeren die daer niet en comen meer in oorsake mach en yegelijk eren in sijn stede senden. Ende die noetsaek pot die gomte daervan des anderen wegen dan comen wordt den markenrichter seggen en is die noetsake betemich so sall die daer mede vri wesen.

14 Example: Dunsborg, 1609: word hier mede ook belastet den schaeters dat alle vee insonderheyt varkens soo wel in den Enk als andere landen te schuften die sij bevinden schade te doen in ander luyden saiten en om dat nitmanig sie mag gexuseert hebben van enige ignoranti sal dit alles als voornoomt in der kerke gepubliceert worden.
cases are exceptional. Most of the Dutch commons succumbed to the marke-laws that were promulgated during the nineteenth century, which is an evolution to be found all over Europe (Vivier and Démelas 2003). Three legislative measures formed the basis of this “evening tide” of the marks. First, the Royal Decree of 10 May 1810 caused a new financial burden for the marken: all land had to be taxed, including the uncultivated – and previously untaxed – parts of the marke. An additional incentive was the exemption from taxation for newly reclaimed land. However, the status of self-governance of the marken remained intact: it was up to the assemblies of the marken themselves to decide whether or not to divide the common and uncultivated lands of the marke. As the inventarisation performed by Demoed (1987, 65, tab 1) shows, this initial decree seems to have had little effect. The contents of the regulations and resolutions of the assemblies of the marken, however, provide more nuance to this figures: although the number of complete and final dissolutions of marks remained relatively low between 1819 and 1839, the markeboeken show increasing concerns of the members of the marke about the financial status of the marke, often resulting in the decision to sell parts of the common in order to try to solve at least part of the debts owed by the marke. The 1810-law had driven many commons – that had previously not been taxed – into debts, leaving no other options than to sell the common land to cover those debts. The Royal Decree of 24 June 1837 brought the legislation of 1810 to the attention of the marken once more: the final implementation of tax exemption for reclaimed land that was formerly common and uncultivated, as mentioned in the corresponding Law of 1840, may have been decisive for most marken for their decision to divide and sell the remainder of the common land the marke owned, resulting in the final dissolution of the majority of the marken between 1840 and 1859 (Demoed 1987, 65, tab 1; cf. also Van Weeren and De Moor 2012). Most of our case studies, ceased to exist in the course of the nineteenth century.

Although almost all marks had disappeared at the end of the nineteenth century, some marks still survived, either de jure or de facto. One of the case studies we used for this paper, the marke of Berkum, managed to extend its survival well into the 1990s, after which the remaining assets of the marke were used to create a fund for the promotion of specific organizations focusing on the regional heritage. An extraordinary example of survival is shown by the common Wijkerzand: up until today, this common is in use as such. Those who ‘emit smoke from a chimney at Wijk’ still enjoy the right of common pasture on this common; in practice, this means that the revenues of the letting out of this right of pasture are collected and distributed evenly among the commoners of Wijk (Hoppenbrouwers 2002, 108-9; see also Van Weeren and De Moor 2012).

The fact that most of the commons in the Netherlands and all but one in our selection eventually succumbed to the national marke-laws does complicate our discussion about the relationship between rule-making and longevity. If these commoners wouldn’t have experienced the pressure to dissolve, would they have carried on in the way they had been for centuries? Could the dissolution of the marken also be a consequence of institutional malfunctioning? Would they, if the national laws on marken would not have existed, have continued to exist and have proven to be resilient? This remains, with the current state of the debate, still a tricky question. In this paper we will not address that question as such, but start from the premise that a life-span of several hundreds of years deserves an explanation. In the end, examples as the marke Berkum or the marke Rozengaarde could have ceased to exist already after 200 years; but they did not, and managed to survive crises and shocks. The weakness of our dataset rests in a bias towards successful examples, as archival information from cases with a shorter life-span that already have disappeared before the nineteenth century hardly exists. With our analysis we try to find out what characterises long-living institutions in terms of regulation and sanctions, as a way to understand how a dynamic institution deals with external change. In this sense, the comparison between the very-long living institutions such as marke Berkum with the medium-long-living institutions such as the marks of Raalterwold and Bestmen is as important as the comparison with the shorter-living ones such as Exel.

With this in mind, we can do some basic comparisons between the cases and their longevity. The row entitled “number of occasions of change” in the table underneath refers to the number of years for which we have included regulation (for the exact years for which we
have found regulation for each case: see Appendix 1). Some of the cases altered their regulation very frequently, such as the marke Rozengaarde for which we found 34 occasions of change, within its life span of over 442 years. Please note that in all the tables in this paper in which data are presented per case-study, the sequence of the case-studies is from longest-living to shortest-living, in order to make visual analysis a bit easier.

Table 1: Description of years of origins and dissolution, in decreasing order of years of survival

<table>
<thead>
<tr>
<th></th>
<th>Marke Berkum</th>
<th>Marke Rozengaarde</th>
<th>Marke Raalterwoold</th>
<th>Marke Bestmen</th>
<th>Marke Geesteren, Mander, and Vasse</th>
<th>Marke Coevorden</th>
<th>Dunsburger Marke</th>
<th>Marke Exel</th>
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<tr>
<td>Year of origin[1]</td>
<td>1300</td>
<td>1417</td>
<td>1445</td>
<td>1458</td>
<td>1498</td>
<td>1545</td>
<td>1553</td>
<td>1616</td>
</tr>
<tr>
<td>Year of dissolution</td>
<td>1995</td>
<td>1859</td>
<td>1840</td>
<td>1853</td>
<td>1847</td>
<td>1860</td>
<td>c. 1850</td>
<td>1852</td>
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<tr>
<td>Nr. of years of survival</td>
<td>695</td>
<td>442</td>
<td>395</td>
<td>395</td>
<td>349</td>
<td>315</td>
<td>297</td>
<td>236</td>
</tr>
<tr>
<td>Nr. of occasions of changes</td>
<td>37</td>
<td>34</td>
<td>14</td>
<td>17</td>
<td>12</td>
<td>39</td>
<td>8</td>
<td>7</td>
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<tr>
<td>Nr. of years in between regulation changes</td>
<td>19</td>
<td>13</td>
<td>28</td>
<td>23</td>
<td>29</td>
<td>8</td>
<td>37</td>
<td>34</td>
</tr>
<tr>
<td>Nr. of individual rules in total</td>
<td>220</td>
<td>264</td>
<td>751</td>
<td>156</td>
<td>332</td>
<td>211</td>
<td>246</td>
<td>371</td>
</tr>
<tr>
<td>Nr. of rules per occasion of change</td>
<td>6</td>
<td>8</td>
<td>54</td>
<td>9</td>
<td>28</td>
<td>5</td>
<td>31</td>
<td>33</td>
</tr>
</tbody>
</table>

Although commoners designed their own regulation, without the interference of the local or higher authorities and without consultation of commoners of other commons, we do see some remarkable similarities in the way commoners divided their attention in terms of institutional design. We come to this conclusion on the basis of the figures in the table underneath, but starting from the premise that both rule making and sanctioning are costly affairs, in particular if rules need to be discussed and agreed upon by a whole group. We therefore approach the complete body of rules to be found per common as the “total effort” a group of commoners was prepared to spend on rule-making (or designing sanctions, see further) and the implementation of those rules (and sanctions). So far, there are no other adequate methods available to understand the process of institutional design, hence we propose to analyse this effort on a fairly simple basis: by calculating the percentage of rules that was devoted to a
particular objective, as part of the total body of rules designed for the whole life span of the
common.

Although the commons were all situated in the same area, it is unlikely that
commoners from different commons discussed this matter among each other. Still, they seem
to share a similar way in which they dealt with commons-issues. It is striking how consistent
the distribution of the rules over the goals was (Table 2): on average, nearly half of the rules
was dealing with issues of use, while less than five percent (on average) was dealing with
regulating access. The rest of the rules dealt with issues of management and quite a substantial
part, on average almost thirty-five percent, was related to issues of governance of the
commons. Each case did vary, with some – as the common of Coevorden – spending an
exceptionally large part of the “regulatory effort” (eight percent) on distinguishing insiders
from outsiders and a bit less on use. But on the whole, the picture is rather similar.

Table 2: Overview of rules per type divided according to their content (access, use,
management, and governance structure), per common (marke), in percentages of total
number of rules.*

<table>
<thead>
<tr>
<th>Type of rule</th>
<th>Berkum</th>
<th>Rozengoarde</th>
<th>Raalterwoold</th>
<th>Bestmen</th>
<th>Geesteren, Mander and Vasse</th>
<th>Coevorden</th>
<th>Dunsborger hattener marke</th>
<th>Exel</th>
<th>Total</th>
<th>Total N</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access</td>
<td>3</td>
<td>1</td>
<td>7</td>
<td>2</td>
<td>1</td>
<td>8</td>
<td>5</td>
<td>2</td>
<td>4</td>
<td>102</td>
</tr>
<tr>
<td>Use</td>
<td>40</td>
<td>35</td>
<td>43</td>
<td>58</td>
<td>40</td>
<td>46</td>
<td>52</td>
<td>54</td>
<td>45</td>
<td>1,154</td>
</tr>
<tr>
<td>Management</td>
<td>17</td>
<td>25</td>
<td>19</td>
<td>8</td>
<td>18</td>
<td>17</td>
<td>17</td>
<td>10</td>
<td>17</td>
<td>432</td>
</tr>
<tr>
<td>Governance</td>
<td>41</td>
<td>39</td>
<td>31</td>
<td>31</td>
<td>41</td>
<td>29</td>
<td>26</td>
<td>35</td>
<td>34</td>
<td>865</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>2553</td>
</tr>
</tbody>
</table>

*Due to the rounding off of the percentages the total may appear to end up slightly less than or
slightly over 100%.

This analysis of the issues the rules were supposed to regulate suggests that access to the
common was not a major point of attention and was on the whole a matter that did not need
much attention. Apparently, the use by those who had gained access required far more
attention from the rule makers. That most of the attention had to be paid to commoners, and
not to potential non-entitled users also becomes clear on the basis of the subdivision per main
category of party that was addressed in each rule. On average 83% of all rules specified what
the own members could (not) or should (not) do. Contained within this percentage are an
average of 40% of rules set up in which a specific subtype of members was referred to, and an
average of 36% of these rules for members pertained to officials. No distinction was made
between members and non-members in 12% of all cases. Only a very small percentage - on
average 4% - of the rules dealt with non-members (see also Appendix 1). When comparing the
distribution of types of rules over the cases, there are no real marked differences, except for a
larger percentage of the rules about the rights (or the lack thereof) of non-members.

2. Designing sanctions
   a. Introduction

Sanctioning was vital – both in the preventive and in the remediating sense – to assure
compliance with the rules. In all commons in our database, throughout the period we studied,
officials were appointed from among the members in order to monitor the usage of the
common’s resources and to sanction misbehaviour whenever needed. They were obliged to keep a close watch on the common, to ensure that all rules were executed properly, and they performed regular inspections. The most common types of monitors were the cattle pounders (schutters), the sworn members (gezwoorenen, swearen) and commissioned members (gecommitteerde leden). Strictly speaking impounding animals was the main task of cattle pounders. Sworn members were mainly involved in inspections, and commissioned members generally executed ad hoc-tasks for the common or tasks that required a more formal representation of the assembly of the marke. The tasks these specific types of officers fulfilled varied per common, and over time their functions became more extensive, eventually leading to overlap of their tasks with those originally performed by other officials. In almost all of our case studies the officials received some compensation for their efforts, which was usually part of the proceeds of sanctions. In particular towards the end of the period studied (in the eighteenth century), officials were paid wages for monitoring.

Monitors were appointed or elected at the meeting, often on a rotational basis. In four of the eight case studies accepting the task as a monitor was compulsory. For instance, in marke Rozengaarde a person refusing an appointment as sworn member would be fined three heren pond – equal to three guilders – and he would be obliged to accept the appointment in the following year. The appointed officials were also obliged to perform their task properly, again at the risk of being fined. In the marke of Exel, for instance, the cattle pounders were obliged to sanction all offences without connivance, or they would be fined themselves, having to pay (the value of) half a barrel of beer. Offences committed by officials were punished more severely than offences committed by ordinary commoners (see differentiated sanctions). But monitoring was not only the task of those appointed as monitors. In all of our case studies members that had not been appointed as officers were also required to assist in the monitoring, in the form of social control. Commoners were liable for allowing (or not preventing) other persons to commit offences, or for actively participating in the crime. For instance, in the marke Bestmen landlords and tenants who granted access to the common could belong to a person from outside the common were fined four kromstaart – twelve guilders — for every sheep. In all but one of our cases, the person reporting the offence received part of the proceeds of the sanction as incentive.

The actual execution of the punishment was left up to the persons appointed to monitor the common. They generally fined offenders, impounded and confiscated animals or resources stolen from the common (see further). The chairman of the assembly generally only got involved in executing the sanctions when assets were confiscated or destroyed. Commoners – often also involved in executing sanctions – were allowed to shut in animals and remove illegal constructions from the common.

b. Frequency of sanctioning

Not all types of regulation that were mentioned in the markeboeken needed sanctioning. Circa 12 percent of all rules were general rules and appointments. A sanction is rarely attached to these types of rules – in less than 5 percent of all cases. Especially rules on administration, financial matters, and the management system – which make up almost a third of all rules recorded - were often not sanctioned. This is not surprising, as these rules often specified tasks to be performed and procedures to be followed. On average 62 percent of the rules were not accompanied by a sanction, but this varied quite substantially per common. The picture that emerges when comparing the number of sanctioned with the non-sanctioned rules is most

15 Elsewhere it has been noted that gradually external monitors were appointed, who were paid for their efforts. However, no explicit mentioning has been found of third parties being appointed. In general only the names of the appointed monitors were recorded. Therefore, it is possible that some of these persons were external parties (Van Zanden 1999, 133).
16 Only in Marko Berkum no division of the proceeds of sanctions in favour of the officials was made, although the sworn members did receive a wage for inspecting. It is not unreasonable to assume that the regulation on the division of sanctions is lost, rather than to assume that monitors did not receive a part of the fine.
17 Rozengaarde, 1481: Item de to swearen gezoren wort ende des nicht doen en wolle brecket ii heren pond ende die sall he ter stant afdelen daer die markentschidter vul erfg: des hogenen, ende edele hie des niet so salmen hem des anderen dages penden vor iii heren pond sunder einighge weer daer tegens toden ende des naesten jares sall hie die erste wesen.
18 Exel, 1662: Sjno mede to schutteren gestelt voor dit jayer Lambert Broockman, Arent Wilmericx ende Reijnt Menger, die alle misbruicken sullen sonder constirventie executieren bij poente van een halve tome hier.
19 Bestmen 1438: Item zoo en sal geen landbeheer jamand van buiten wharen, anders dan sijen mejer wie hier hoven de den, de brecket aen elk scheep iii (4) kromstaardt, ende des gelijks ende sullen de mejer ook niets als voorschreven is op sulken breaken
interesting: there seems to be a relationship between longevity and sanctioning. On the whole, the commons that survived longest had far more rules that were not accompanied by a sanction than those that survived a shorter period of time. Only one-third of the rules in Berkum was accompanied by a sanction whereas Exel had a sanction for more than half of their rules. This seems to be a trend across all cases as well, although there are some exceptions to this rule.

Table 3: Percentage of rules accompanied by a sanction, per case study.

<table>
<thead>
<tr>
<th>Case</th>
<th>Non-sanctioned</th>
<th>Sanctioned</th>
<th>All</th>
<th>Total N</th>
</tr>
</thead>
<tbody>
<tr>
<td>Berkum</td>
<td>70</td>
<td>30</td>
<td>100</td>
<td>220</td>
</tr>
<tr>
<td>Rozengaarde</td>
<td>67</td>
<td>33</td>
<td>100</td>
<td>264</td>
</tr>
<tr>
<td>Raalterwoold</td>
<td>66</td>
<td>34</td>
<td>100</td>
<td>751</td>
</tr>
<tr>
<td>Bestmen</td>
<td>51</td>
<td>49</td>
<td>100</td>
<td>156</td>
</tr>
<tr>
<td>Geesteren, Mander, and Vasse</td>
<td>60</td>
<td>40</td>
<td>100</td>
<td>211</td>
</tr>
<tr>
<td>Coevorden</td>
<td>69</td>
<td>31</td>
<td>100</td>
<td>334</td>
</tr>
<tr>
<td>Dunsborger Hattemer marke</td>
<td>52</td>
<td>48</td>
<td>100</td>
<td>246</td>
</tr>
<tr>
<td>Exel</td>
<td>48</td>
<td>52</td>
<td>100</td>
<td>371</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>62</strong></td>
<td><strong>38</strong></td>
<td><strong>100</strong></td>
<td><strong>2,553</strong></td>
</tr>
</tbody>
</table>

Apparently, more sanctioning does not guarantee a longer institutional life span. But if that is not the key-incentive for good behaviour, in what other way were the commoners then stimulated to follow the rules? In order to find out what really mattered, we start by making a subdivision of the sanctions according to the distinction between sanctions applying to rules concerning access, use, management, and governance, and compare the division of sanctions according to these categories per case, to the division of regulation per category per common. Out of all the analysed sanctions, on average 80 percent was related to a rule on the use of the resources. In principle this should not be a surprise, as we already found that more than half of the rules were about use; but the even greater share of the related sanctions indicates that the rules on use were also the ones most violated, and as Table 4 demonstrates, this was pretty much the same for all the commons.

Table 4: Overview of sanctions per category (use, access, management, governance) per common (in percentages)*

<table>
<thead>
<tr>
<th>Type of rules</th>
<th>Berkum</th>
<th>Rozengaarde</th>
<th>Raalterwoold</th>
<th>Bestmen</th>
<th>Geesteren, Mander, and Vasse</th>
<th>Coevorden</th>
<th>Dunsborger Hattemer marke</th>
<th>Exel</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access</td>
<td>0</td>
<td>2</td>
<td>8</td>
<td>1</td>
<td>1</td>
<td>6</td>
<td>3</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>Use</td>
<td>89</td>
<td>67</td>
<td>78</td>
<td>86</td>
<td>78</td>
<td>73</td>
<td>75</td>
<td>87</td>
<td>79</td>
</tr>
<tr>
<td>Management</td>
<td>7</td>
<td>14</td>
<td>6</td>
<td>9</td>
<td>14</td>
<td>13</td>
<td>13</td>
<td>6</td>
<td>9</td>
</tr>
<tr>
<td>Governance</td>
<td>4</td>
<td>17</td>
<td>8</td>
<td>3</td>
<td>7</td>
<td>8</td>
<td>9</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

*Due to the rounding off of the percentages the total may appear to end up slightly less than or slightly over 100%.
However, if we look at table 5, a clearer pattern emerges. The commoners of the commons on the left hand side – of the ones who with the longest life spans – clearly spent a much larger part of their sanctioning efforts on issues dealing with use than commoners of commons that had a shorter life-span (on the right). The difference between the percentage of rules and that of sanctions on use was exceptionally large in the case of Berkum. This means that abuse of resources in Berkum received more attention than in cases like Exel. On the other hand, the longer living commons apparently needed far less sanctions related to management, and also far less related to governance, both in comparison to the percentage of their “rule-making” effort they had spent. A tentative conclusion that can be drawn is that a good management system requires the design of fewer sanctions as a means of threat and that successful managers spend most of their effort on regulating and sanctioning the use of the resources.

Figure 3: comparison between effort spend on rules and on sanctions, per type of rule, and per case-study.

Table 5: Difference (subdivided between cases) between percentage of rules per category and sanctions per category *

<table>
<thead>
<tr>
<th>Type of rule</th>
<th>Berkum</th>
<th>Rozengaarde</th>
<th>Ruiterwold</th>
<th>Bestmen</th>
<th>Geesteren, Mander, and Geesteren, Vasse</th>
<th>Coevorden</th>
<th>Dunsborger, Hattemer mark</th>
<th>Exel</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access</td>
<td>-3</td>
<td>1</td>
<td>1</td>
<td>-1</td>
<td>0</td>
<td>-2</td>
<td>-2</td>
<td>-1</td>
<td>0</td>
</tr>
<tr>
<td>Use</td>
<td>49</td>
<td>32</td>
<td>35</td>
<td>28</td>
<td>38</td>
<td>26</td>
<td>23</td>
<td>33</td>
<td>34</td>
</tr>
<tr>
<td>Management</td>
<td>-10</td>
<td>-11</td>
<td>-13</td>
<td>1</td>
<td>-4</td>
<td>-3</td>
<td>-3</td>
<td>-4</td>
<td>-8</td>
</tr>
<tr>
<td>Governance</td>
<td>-37</td>
<td>-22</td>
<td>-23</td>
<td>-28</td>
<td>-34</td>
<td>-21</td>
<td>-17</td>
<td>-28</td>
<td>-26</td>
</tr>
</tbody>
</table>

*This (and the rest of the numbers) number is obtained by subtracting the percentages (as representation of the effort spent on rule making) in Table 2 from the figures in the above table. Due to the rounding off of the percentages the total may appear to end up slightly less than or slightly over 100%. 

14
3. Dynamics in rule-making

In order to check whether commons were managed dynamically or not, we will take a look at the degree in which rules were adjusted. We designed for categories: some rules were mentioned just once (singular mentioning), other rules appeared for the first time (first mentioning) but were subject to change (adjusted rules) or repetition (repeated rules) later on. Although such a distinction between rules had not been made before in studies about rule change, we believe there are good reasons to study the dynamics of institutions in this way, even though the interpretation of our results is still preliminary.

We interpret an adjustment as an indicator that commoners took changes in their environment into account or realised that the sanction that had been set before was not appropriate (either too high or too low). In our view, a repetition indicates that rules were too frequently trespassed and that a warning was in place; hence the rule was repeated to make sure that everyone was informed about the rule again. Therefore, repetition of regulation is indication of failure of the implementation of the rule, rather than an indication of dynamism.

Adjustment of the rules took up a far larger share of the regulation than repetition. In all types of rules, except for governance rules, about one-quarter of the rules were included as a form of repetition, whereas half of the rules (or nearly half) per type was an adjustment. This can be interpreted in two ways: it can be considered as a positive sign of the commoners’ dynamism; those who frequently adjust their rules are really on top of things, and by changing the rules they manage to avoid trouble. A negative interpretation could be that commoners who had to change their rules all the time, were incapable of making rules that lasted, rules that were sufficiently flexible to deal with such changes. The question whether the positive or the negative interpretation is in place can be answered, if we look at the combination of adaptations with repetitions, and with the longevity of the institution.

In order to understand the above results better, we look at the division between singular mentioning, first mentioning, adjustment, and repetition on the level of the case study. The figure underneath gives us some very clear indications on how to consider adjustment and repetition: there was not much variation between the cases in terms of the effort they spent on adjusting the rules (on average 61 percent of the rules were adjustments to previously mentioned rules). However, there is a clear difference in terms of the repetition of the rules that was needed. The longer an institution survived, the lesser its rule-making was devoted to stressing that the regulation has to be respected (via repetition of the rules). Whereas Marke Berkum spent less than five percent of its total rule-making effort on repeating rules, the rules of the commoners of the Marke Exel consisted for about twenty-five percent out of repeating previous regulation. The overall picture is consistent with the conclusion that the need to repeat rules set previously might be a good indicator of the survival potential of an institution.
4. Conclusions

In our paper, we have systematically analysed the regulations of eight Dutch commons, known as *markegenootschappen* or *marken*. These *marken* were self-governing: the members regulated and sanctioned their own use of the common, and they ensured that all persons to whom these rules and sanctions applied were familiar with the rules and rule changes. The longevity of our case studies varies significantly: marke Berkum was active as a – documented – institution for almost 700 years, while marke Exel only functioned for 236 years. Perhaps these commons would have survived if not for the pressure of the *marken*-laws. In any case, a lifespan of several hundreds of years deserves an explanation.

We started from the premise that both rule making and sanctioning are costly affairs, in particular because the rules needed to be discussed and agreed upon by the whole group of members. Therefore, we approached the complete body of rules found per common as the “total effort” of a group of commoners. We used this concept as a way to link the rules and accompanying sanctions to the longevity of each of the cases.

All commons in our case study made frequent changes to their regulation system, although some more often than others. There was little difference between the cases in terms of the effort they spent on adjusting the rules – on average 61 percent of the rules were adjustments to previously mentioned rules. This and the continuous effort to adjust their rules most of the cases demonstrated shows that all cases were essentially “dynamic”. But still, their longevity varied substantially. This can be explained by several factors.

First of all, it appears that sanctioning was not a decisive factor in the longevity of these commons. Rather the contrary seemed to be the case: cases that lived longer had a lesser need to come up with sanctions for the rules they had. Secondly, it seems that most of their rule-making effort went to designing the governance structure of the institution well. This also links nicely to the earlier made conclusion that longer-living institutions made changes to their regulation more frequently but less rules per occasion were changed. There is also a clear difference in terms of the repetition of the rules that was needed: longer-living institutions needed to repeat less, but concentrated on adjusting the rules.

Taken all these analysis results together one might tentatively claim that the secret of a long-living institution seems to be hidden in making sure that -instead of threatening people with sanctions- people meet frequently so that they “internalise” the new rules and adjustments easily. Whenever commoners wanted to change the rules, they had to convene and approve of the changes. If this is done frequently, commoners will also be more frequently confronted
with their moral duty to behave towards others, than if they meet only once in a while. We thus assume that high levels of participation thus may have been more important for the longevity of the institution than sanctioning.

**Archival sources used for this article**

Drents Archief [Archives of the province of Drente], Archief van stad en heerlijkheid Coevorden [Archives of the City and seigniory of Coevorden], toegang 0116

Inv. nr. 1047. Willekeur van drost en stadsbestuur op het gebruik van de gemene weide [Byelaw issued by bailiff and city council regarding the use of the common pasture], 1545

Inv. nr. 1048, Willekeur van drost en stadsbestuur waarbij de in 1545 vastgestelde willekeur op het gebruik van de gemene weide wordt bevestigd en het burgergeld van Coevorden verhoogd [Byelaw, issued by the bailiff and the city council, confirming the byelaw regarding the use of the common pasture of 1545 and raising the *burgergeld* (tax paid by residents) of Coevorden].

Inv. nr. 1049, Willekeur van drost en stadsbestuur op afbraak en herbouw van behuizingen, het hakken van telgen uit het Broeck en het gebruik van de gemene weide [Byelaw issued by the bailiff and the city council regarding the demolition and rebuilding of housings, the cutting of sprouts in the area called Broeck and the use of the common pasture].

Inv. nr. 1050, Overeenkomst tussen de drost en het stadsbestuur over de regeling van stads- en markezaken [Agreement between the bailiff and the city council regarding the arrangement of issues concerning the city and the marke].

Inv. nr. 1051, Verordening van drost en stadsbestuur op het gebruik van de marke, de rechtspraak, het burgerrecht en de bevoegdheden van bestuursorganen, 1586; afschrift, 1617 [Ordination, issued by the bailiff and the city council regarding th use of the marke, jurisdiction, the right to be a citizen, and the competences of administrative organisations].

Inv. nr. 1052, Willekeur van het stadsbestuur op het gebruik van de gemene weiden, 1617 [Byelaw, issued by the city council regarding the use of common pastures].

Inv. nr. 1053, Willekeur van de gezamenlijke eigenaren van de Saetvenen op de afwatering van hun landerijen, met goedkeuring door het stadsbestuur [Byelaw, issued by the common owners of the Saetvenen, regarding the drainage of their farmlands, approved by the city council].

Inv. nr. 1054, Besluit van het stadsbestuur waarbij vastgesteld wordt wat de individuele weiderechten van de rechthebbenden op de Coevorder Mars behelzen [Decision by the city council, establishing the individual rights of pasture of those having use rights on the Coevorder Mars].

Inv. nr. 1055, Willekeur van de eigenaren van de Coevorder Loo waarbij bepaald wordt dat op de Loo geen schapen, varkens en ganzen geweid mogen worden, 1695; afschrift met nieuwe ondertekeningen, 1773 [Byelaw, issued by the owners of the Coevorder Loo, stating that on the Loo no sheep, pigs, and gooses are allowed to be grazed, 1695; excerpt with additional signatures, 1773].

Inv. nr. 1056, Willekeur van de eigenaren van de Coevorder Loo waarbij het jaarlijks toezicht op de sloten, veldscheidingen enz. geregeld wordt [Byelaw, issued by the owners of the Coevorder Loo, arranging the annual inspection of ditches, fences, etc.].
Inv. nr. 1057, Verklaring van het stadsbestuur, zich uitsprekend voor toepassing van de willekeur van 1778 op het gebruik van de Coevorder Mars [Declaration of the city council, in which the council expresses its support for the execution of the byelaw of 1778 regarding the use of the Coevorder Mars].

Historisch Centrum Overijssel [Centre for History of province of Overijssel], Stadsarchief van Zwolle 1230-1813, deel III [Archive of the City of Zwolle 1230-1813, part III], index 700C

Inv nr. 12599, Markeboek met willekeuren van Berkum 1300-1611.

Inv nr. 12603, Resoluties van de markegenoten van Berkum 1722-1777.

Historisch Centrum Overijssel [Centre for History of province of Overijssel], Archief van de marken in de provincie Overijssel [Archive of the marks within the province of Overijssel], index 0157

Inv nr. 148, Markeboek Berkum, 1300-1656

Inv nr. 149, Markeboek Berkum, 1819-1865.

Inv nr. 157, Markeboek Besthmen, 1458-1748

Inv nr. 158, Markeboek Besthmen, 1841-1852

Inv nr. 159, Markeboek Besthmen, 1458-1840

Inv nr. 350, Markeboek Geesteren, Mander en Vasse, 1498-1647

Inv nr. 353, Markeboek Geesteren, Mander en Vasse, 1649-1772

Inv nr. 1109, Markeboek Rozengaarde 1417-1509

Inv nr. 1110, Markeboek Rozengaarde 1417-1572

Inv nr. 1111, Markeboek Rozengaarde 1480-1572

Inv nr. 1112, Markeboek Rozengaarde 1608-1704

Inv nr. 1113, Markeboek Rozengaarde 1693-1766

Inv nr. 1114, Markeboek Rozengaarde 1767-1808

Inv nr. 1115, Markeboek Rozengaarde 1809-1866

Transcribed sources


**Literature cited**


Appendix 1: Overview of features of the 8 cases

<table>
<thead>
<tr>
<th>Year origin</th>
<th>Year dissolution</th>
<th>Evolution size</th>
<th>User types</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marke Berkum</td>
<td>1300</td>
<td>1630: lands of Broeck and Ooyte were divided among the owners of, in total, 838.5 shares.</td>
<td>Caretaking farmers on behalf</td>
</tr>
<tr>
<td>Marke Rozengaarde</td>
<td>1417</td>
<td>1653: Berckmerbergen and Nemelervelden as well as the Berckmervelden near Dambrugge were divided among the owners of 390.5 shares.</td>
<td>Members of the marke</td>
</tr>
<tr>
<td>Marke Raalterwoold</td>
<td>1445</td>
<td>1819: division of the marke of Berkum into a southern and a northern part, each part to be regarded as an individual entity.</td>
<td>Inhabitants of hamlets of Tije,</td>
</tr>
<tr>
<td>Marke Bestmen</td>
<td>1458</td>
<td>From the middle of the 19th century up until 1994, some parts still remained as being common land.</td>
<td>Members of the marke</td>
</tr>
<tr>
<td>Marke Geesteren, Mander, and Vasse</td>
<td>1498</td>
<td>Throughout the centuries land from the common has been reclaimed and enclosed. In 1664 and 1764 lists were constructed of reclaimed land that had to be bought from the common.</td>
<td>Members of the marke</td>
</tr>
<tr>
<td>Marke Coevorden</td>
<td>1545</td>
<td>In the eighteenth century the Rode Hart at Ancum was sold.</td>
<td>Members of the marke</td>
</tr>
<tr>
<td>Dünsborger Hattemer Marke</td>
<td>1553</td>
<td>In the fifteenth century the marke contained almost 4800 ha. There were 77 shares in 1417 of which 76 were still known in 1866.</td>
<td>Owners of Solsteden</td>
</tr>
<tr>
<td>Marke of Exel</td>
<td>1616</td>
<td>Between 1445 and 1600, part of the original marke of Raalterwoold was split off and became the marke Luttenberg, this split off was not recognized by the marke Raalterwoold until 1722.</td>
<td>Members of the marke</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Number of users did increase slightly: in the 16th century 53.5 shares over 67 farms, in 1840 55.5 shares over 71 farms</td>
<td>Owners of farms</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A few individual plots were sold in the late eighteenth century</td>
<td>Lord of Ampsen</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The marke contained 231 ha. at divisions in 1853</td>
<td>Stayed the same</td>
</tr>
<tr>
<td></td>
<td></td>
<td>There were 9 shares in 1458 and 9 ¼ shares at the final division.</td>
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<tr>
<td></td>
<td></td>
<td>Throughout the centuries plots of common land were sold.</td>
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<td></td>
<td>The forest called Werent was cut over the centuries and made place for heath land</td>
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<tr>
<td></td>
<td></td>
<td>1847: Division of 883 ha. common land and dividing Geesteren, Mander and Vasse in three separate marks.</td>
<td></td>
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<td></td>
<td></td>
<td>1851: Division marke Geesteren, 2676 ha.</td>
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<td>1857: Division marke Mander</td>
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<td></td>
<td></td>
<td>1871: Division marke Vasse, 794 ha.</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Parts of the marke were sold in 1509, 1575, 1590 and 1616.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>An almost final division took place in 1650-51 in which the Pagen at Steenwijck Moer, the fens south of the Coeverd, Saaxveerenen, Holwurt, Grote Loo, KLeine Loo, Matmegoor, Groenenden east of Coeverden next to Daler Osselhaar, the undivided fens and broek next to Schoonebecker Moer, Weyerswolt and adjacent fen, the Grote Coeverder Mars and the Kleine Scher were divided.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>The Mars, consisting of 292 ha. was the last part of the common and was dissolved in 1860.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Common of this marke decreased in size during first half of 19th century</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Stayed the same</td>
<td></td>
</tr>
<tr>
<td>Resource Types</td>
<td>Hay</td>
<td>Arable land</td>
<td>Peat &amp; Topsoil</td>
</tr>
<tr>
<td>----------------</td>
<td>-----</td>
<td>-------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Hay</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Peat &amp; Topsoil</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Peat &amp; Drift Sand</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clay</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Soil</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wood</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grass</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Heath</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Rules applying to: Everybody or unspecified:**
- Hay
- Arable land

**Resource types:**
- Hay
- Arable land
- Peat & Topsoil
- Peat & Drift Sand
- Clay
- Soil
- Wood
- Grass
- Heath

**Owners of Farms surrounding Ekselse Enk:**
- Peasant farmers

**Rules applying to:**
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- Hay
- Arable land
- Peat & Topsoil
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- Clay
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- Wood
- Grass
- Heath

**Resource types:**
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**Resource types:**
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- Peat & Drift Sand
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- Soil
- Wood
- Grass
- Heath
| Animal types | Sheep | Cows | Geese | Horses | Pigs | Cows | Geese | Horses | Pigs | Sheep | Goats | Bees | Horses | Pigs | Sheep | Geese | Horses | Pigs | Sheep | Bees | Horses | Pigs | Sheep | Geese | Horses | Pigs | Sheep | Bees | Horses | Pigs | Sheep | Geese | Horses | Pigs | Sheep |
|---------------|-------|------|-------|--------|------|------|-------|--------|------|-------|-------|------|-------|------|-------|-------|--------|------|-------|------|-------|------|-------|-------|--------|------|-------|------|-------|------|-------|-------|--------|------|-------|------|-------|------|-------|-------|--------|------|-------|------|-------|
| Regulations available over years; years mentioned with hyphens mean that regulations are available over every year within the period | 1300; 1492; 1571; 1602-04; 1606; 1608-11; 1631-32; 1647; 1649; 1651; 1656; 1692; 1725; 1763; 1766; 1772; 1777; 1819; 1830 | 1480-81; 1543; 1548-49; 1556-58; 1560-61; 1564-66; 1571-72; 1601; 1698; 1700; 1759-60; 1762-64; 1767 | 1445; 1541; 1560; 1604-05; 1608-11; 1614-16; 1618; 1620; 1623; 1625; 1627-28; 1631; 1633; 1635-36; 1639-40; 1642-45; 1647; 1649-50; 1653; 1654-55; 1657; 1660; 1662; 1664; 1670; 1676; 1681; 1686; 1696; 1704-05; 1707; 1710; 1713-14; 1719; 1725; 1731; 1738; 1755; 1758; 1760-61; 1763-64; 1767; 1770; 1775; 1789; 1791; 1793-94; 1797-98; 1800; 1802; 1804-06; 1809-16; 1819; 1924; 1927; 1829; 1831-32; 1834-35; 1839-43 | 1458; 1529; 1537; 1634; 1649; 1656; 1661-62; 1670; 1681; 1687; 1725;1747; 1770-71; 1783; 1786; 1790; 1793; 1797; 1804; 1808-09; 1817; 1827; 1842 | 1498; 1509; 1533; 1546-49; 1551-57; 1559-65; 1569-72; 1574; 1576; 1582; 1600; 1603; 1605; 1610-11; 1615; 1618; 1650; 1733; 1740-42; 1744; 1749; 1751-1753-54; 1758; 1760-61; 1767;1769; 1770-72 | 1545;1579;1582; 1586; 1617; 1649; 1695; 1774 | 1553; 1558; 1576-77; 1608-09; 1612; 1616-17; 1619; 1621-22; 1637; 1640; 1642-43; 1677; 1683-84; 1686-88; 1690-92; 1694-97; 1699; 1701; 1703-04; 1708; 1711; 1719; 1721-23; 1726-29; 1731-32; 1735-37; 1739; 1741; 1745; 1747-48; 1752-54; 1766-67; 1769-70; 1772; 1775; 1785; 1789; 1792; 1800-01 | 1616; 1618; 1628; 1634; 1636; 1642-43; 1645; 1647; 1650; 1654; 1656; 1659-63; 1667; 1671; 1677-79; 1681; 1684; 1686; 1691; 1695; 1697; 1700; 1703-04; 1708-07; 1714; 1734; 1737; 1740-41; 1745; 1747; 1749; 1751-52; 1768; 1772; 1810-11; 1829; 1835-37 | 22 |
Appendix 2: screenshot of the forms used to analyse the data.

Screenshot of main table form for the description of each case

Screenshot of the form to enter the rules in their original format and, linked to that, to analyse each individual rule comprised in the original rules.
Appendix 3: description of the types of rules that were considered as access rules, use rules, management rules and rules related to the governance structure.

<table>
<thead>
<tr>
<th>INDIVIDUAL RULES &gt; CATEGORY OF RULE</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Access</strong></td>
<td>Regulations specifying who was entitled to use the marke, either implicitly or explicitly excluding all other persons.</td>
</tr>
<tr>
<td></td>
<td>Regulations specifying the conditions for being admitted as entitled user.</td>
</tr>
<tr>
<td></td>
<td>Regulations forcing those not entitled to correct their unjustified use (e.g., the obligation to remove their animals from the lands of the marke).</td>
</tr>
<tr>
<td></td>
<td>Regulations prohibiting the use of resources by non-members who are using 'strawmen'.</td>
</tr>
<tr>
<td></td>
<td>Regulations prohibiting non-members to gain any profit from resources of the marke (e.g., the prohibition to export any resource or to sell these resources outside of the marke).</td>
</tr>
<tr>
<td><strong>Use</strong></td>
<td>Regulations prohibiting specific use or action to all, regardless whether being a member or not.</td>
</tr>
<tr>
<td></td>
<td>Regulations providing specifications on the way to use resources to those being entitled to use these resources.</td>
</tr>
<tr>
<td></td>
<td>Regulations prescribing obligations concerning physical action (e.g., maintenance of drainage system, maintaining fields properly, covering up lands).</td>
</tr>
<tr>
<td></td>
<td>Regulations granting permission to specified members.</td>
</tr>
<tr>
<td><strong>Management</strong></td>
<td>Regulations granting general management permissions to the benefit of the members as a whole (e.g., the permission to sell land to the benefit of the marke).</td>
</tr>
<tr>
<td></td>
<td>Regulations specifying obligations concerning non-physical action (e.g., being present at meeting, notifying superiors).</td>
</tr>
<tr>
<td></td>
<td>Regulations regarding financial obligations for members.</td>
</tr>
<tr>
<td></td>
<td>Regulations based on 'higher' regulations, sometimes originating from ancient times (e.g., exemption from taxes for 'havezaten').</td>
</tr>
<tr>
<td></td>
<td>Regulations about procedures of meetings.</td>
</tr>
<tr>
<td><strong>Governance structure</strong></td>
<td>Regulations with a direct link to the management structure of the marke (e.g., the frequency of meetings, the way regulations were notified to the public).</td>
</tr>
<tr>
<td></td>
<td>Regulations determining who should execute sanctions and/or in which way.</td>
</tr>
<tr>
<td></td>
<td>Regulations regarding appointment of officials.</td>
</tr>
<tr>
<td></td>
<td>Regulations specifying the tasks of officials within the marke.</td>
</tr>
<tr>
<td></td>
<td>Regulations regarding the authorization of officials to act on behalf of the marke.</td>
</tr>
</tbody>
</table>