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Common land and collective property in pre-Alpine and Alpine Switzerland

Tensions regarding access to resources and their allocation (Middle Ages–twentieth century)

The varying importance of the commons in upland Switzerland until the twentieth century

In pre-Alpine and Alpine Switzerland, there is a considerable variation in the relative importance attributed to common land and collective property. A large area of upland territory is still owned collectively and in some mountainous cantons, even nowadays, nearly all pastures, meadows, forests and other resources are common and collective property. In the 1960s and 1970s this was the case for 94 per cent of the area in the Canton of Uri and for nearly 80 per cent of the cantonal area of Ticino, while further west this proportion was much lower: only 54 per cent in the Canton of Vaud and only 42 per cent of the pre-Alpine and Alpine area in the Canton of Fribourg.[1] The picture is not significantly different if we consider the situation at the end of the nineteenth and the beginning of the twentieth century.

But in the context of the cantons the picture becomes far less uniform with the breakdown of the data by district and reveals quite striking differences. In the Canton of Ticino, for example, the general situation is that 81 per cent of the pre-Alpine and Alpine grazing rights and most forests belong to the *Patriziati*, the local citizens' communities. However, between the south and the north of this canton there are huge contrasts. In the Mendrisio district, situated in the south, a very high proportion of the grazing rights are owned privately (85 per cent), while in some more northern districts, all rights, without exception, are owned by the *Patriziati*, that is by the corporations of burgesses. The same huge differences exist in the Canton of Vaud, only in reverse. In the district of the Pays-d'Enhaut, 83 per cent of the grazing rights are owned privately compared to 49 per cent in the Aigle district.

This state of affairs in specific cantons is often the result of both a historical process – the territory of a canton being sometimes a patchwork of former independent entities – and a number of variables, such as the role of commerce, the degree of remoteness, the establishment of strict rules concerning the access to resources and the power of state institutions as opposed to communal autonomy. It is in the upland parts of western Switzerland that the privatisation of common land and pastures was most intensive, as can be observed from the first enclosure records in the Fribourg pre-Alpine region as early as the end of the fourteenth century.[2] In the regions where peasant communities had inadequate regulations to protect their agricultural and pastoral resources from the investments of external entrepreneurs,

hardly any rules prevented the alienation of Alpine pastures in favour of private ownership. The tendency towards privatisation accelerated in the seventeenth and eighteenth centuries, as can be seen in parts of canton Fribourg, in pays de Vaud, in Emmental and in Saanenland in canton Bern.[3] This private appropriation of Alps allowed the ruling urban families of the lowland to invest in commercial pastoralism with its two main exports for international markets: hard cheese and livestock on the hoof.

It is notable, however, that such investments were more intensive in the pre-Alpine region with its better grazing opportunities than in the higher Alpine regions. For example, even as late as the second half of the nineteenth century in the Alpine closed corporate communities of the Canton of Bern, the attempts by external entrepreneurs to buy all upland pastures with a view to developing a more commercial pastoralism encountered considerable difficulties. The successful resistance of the mountain populations in the Bernese Oberland, such as in the valley of Grindelwald or the Haslital,[4] was due to their statutes and strict rules concerning the appropriation of upland pastures, which had been established at the end of the Middle Ages and continued to be recognised by the cantonal government.

The emergence of institutions: rural corporations and closed corporate communities aimed at making use of common resources

In most pre-Alpine and Alpine Swiss communities until the fifteenth century, sometimes up to the sixteenth century, newcomers helping with the colonisation of the land, the regulation of the course of mountain torrents and the building of dams – as in the Canton of Glarus – or helping with the building of *bisses/Suonen* (water channels) for irrigation purposes in order to provide an adequate distribution of water in the drier intra-Alpine region – as in the Canton of Valais – were welcome and received the entitlement to use the resources of the common land. In addition, the progressive emancipation from seigniorial and ecclesiastical domination allowed the mountain populations to organise themselves on a largely autonomous basis. This was made possible by greater market involvement due to a growing demand for cattle and cheese from the urbanised Swiss and European lowlands. This demand explains in part the change in the use of the land in several regions, for example in the Canton of Fribourg, from sheep pasture to cattle pasture, in Unterwalden from arable to pasture land, or in Appenzell where there was a first phase of grain crops reduction in favour of cattle-breeding.

However, in the course of the fifteenth and sixteenth centuries, in most parts of highland Switzerland, a combination of institutional and economic factors were to result in a new and more restrictive management of property rights relating to common resources. This in turn led to the creation of closed corporate communities. But in fact demographic growth was a decisive element, since the population of highland Switzerland grew much more rapidly than was the case in the lowlands. At the beginning of the sixteenth century the mountain population outnumbered those living in the plain. This growth in population and the decision at the 1551 annual conference of the cantonal governments obliging each village community or parish to be responsible for its own poor was an important determinant for the establishment of legal rules defining who belonged to the community and who did not,

who would be assisted in case of need, and who in the highlands would be entitled to use the common resources when the personal requisites imposed by local legislation were fulfilled.[5] It was a distinctive characteristic of most mountain regions that the rights to use common resources were personal rights – sometimes with some specific rules regarding the use of Alpine pastures – and not, as was often the case in the lowlands, the occupancy of a specific farmstead (*rights in rem*). Over time, rules dealing with the acquisition of local citizenship – and its loss – became more and more restrictive, and in the course of the seventeenth and eighteenth centuries the acquisition of local citizenship at one's place of residence became nearly impossible for financial reasons. Consequently, those whose ancestors had failed to acquire local citizenship (*droit de bourgeoisie/Bürgerrecht*) at the time when it was created remained excluded from all participation in the common-rights economy, a point to which we shall return below.

The autonomy which was characteristic of upland regions and the disparate origins of Alpine institutions explain to a large extent the complexity of property rights arrangements with regard to access to and organisation and types of common resources. The significant regional differences were to be at the very root of an autonomous entity's chances of survival right up to the present time. The regulation of the common land corporations still falls within the jurisdiction of the relevant cantonal constitution and not within that of the Federal Constitution. In some pre-Alpine and Alpine cantons, the cantonal constitution delegates this competence to the rural corporations themselves.

Well before the sixteenth century, a number of mountain populations were already organised as independent bodies. The relevant arrangement with its two decisive requirements – residence and descent – could be based on the parish (as was often the case in Obwalden), on the village community organised as an association (*Tagwen*, *Allmend-Korporationen*), on individual sections when conflicts led to the division of the community as with the *Teilsamen* (in Obwalden) or when the settlements were dispersed (the *vicine* in Ticino, for instance), or on a group of families (*Genossame*, *Geschlechterkorporationen*) with the result that in some municipalities we find up to eight common land corporations. On the other hand, the corporation could include the population of an entire valley with all its villages organised as a single association of users, as in the valleys of Uri and Urseren (*Alpkorporationen*), or it could comprise only one part of the territory, mostly the upland pastures (*Alpgenossenschaften*), the water distribution (as was sometimes the case in Valais) or the management of the forests as in Appenzell. Alongside these different institutions, there also existed associations and cooperatives, typically in the Cantons of Valais (*consortages/Geteilschaften*), Nidwalden (*Kapitalistenalpen*) and Appenzell, where the grazing rights, besides being transferred through inheritance, could also be purchased. However, at least up to the middle of the nineteenth century, nearly all the statutes of these associations drastically limited the circle of potential buyers either to the members of the association or to residents of neighbourhood villages of the same valley.

For those other communities that had not been organised formally by then the decisions of 1551 had a considerable impact, since everywhere in Switzerland they led to the creation of local citizens' communities or corporations (*Bürgergemeinden, bourgeoisies/Tagwen*). They were, and often still are, territorial entities with an identifiable category of local citizens descended from ancestral families similar to those existing in the French Alps, where they are called the *originaires* or those in the Italian Alps called the *originari*, and whose status

was passed on from father to son and daughter. Only these local citizens were allowed to use the common resources of the local territory such as livestock grazing, plots of arable land, orchards on the commons, the resources of the forest and whatever other natural resources the territory possessed.

What all these different forms of rural corporations or associations have in common is that their assets, the common property resources, were and are owned in common by the group of co-owners and the decisions concerning the management of the common land are still taken by the assembly of the members or by a council elected by the members of the association. In practically all cantons the users of the common land in the valley and the Alpine pastures, sometimes all the co-owners or lessees, were obliged, and are sometimes still obliged, to participate in the 'cleaning' of the pastures. This mostly means tidying up shrubs, bushes and rocks; the time required for this purpose is fixed by the corporation's statutes. When they did not participate in the work, being absent or unable to because of incapacity, which was sometimes the case with widows who were not in a position to provide a strong enough young man to do the work, they had to pay a fine, as was specified in some seventeenth and eighteenth centuries legislations of the Canton of Glarus.

In the case of these many different types of association, all based on user rights inherited from one's ancestors before the end of the eighteenth century, the collective resources were not available for the use of all those living in a community in upland Switzerland. The short-lived Helvetic Republic created a new political entity, the political municipality, which had to include all residents living in a commune, but failed to endow it with any collective or communal assets. Particularly from the second part of the nineteenth century onwards, the communal dualism thus created was at the root of significant tensions between corporations and cantonal governments, the latter wanting and sometimes, but rarely, managing to curtail the power of the local corporations in order to end their restrictive practices and so to use the income provided by the rural corporations' wealth to benefit the totality of the residents of a community.

The extent and nature of common resources

As rural corporations often possessed very large territories distributed at different altitudes, their resources were by no means limited only to grazing land, meadows, wood and forest. They sometimes also included vineyards, sand extraction, peat, stone pits and quarries, roads, rivers and lakes and, in the driest parts of the Alps, the management of irrigation, too. All these elements have played an important part in the economic development of the corporations. But it is also evident that the management of the forests and of the grazing rights in the valley and on the summer pastures were among the most important activities as long as dairy-farming and cattle-breeding remained the principal activity of the mountain population.

With regard to grazing rights, though, it was usual to differentiate very clearly according to the use and the situation of the land in question. On the one hand, there was the so-called valley common land (*Allmend*, *Talallmend* or *Bodenallmend*), used to pasture only a limited number of animals, mostly cows, and often divided partially or totally into individual plots when the need arose in times of scarcity and high prices. This policy was already sometimes

practiced in the sixteenth century and then more systematically as from the eighteenth century. On the other hand, there were upland common land, Alpine pastures and forest, where most of the community's cattle summered. Thus, at the beginning of the twentieth century, in the case of the *Allmend-Korporationen* of the commune of Sarnen (Canton of Obwalden), about 306 hectares (ha) – of which 50 ha were wooded – constituted the valley common land, whereas the Alpine pasture totalled nearly 4,000 ha, and, in addition, the woods and the forests accounted for about 2,200 ha.[6]

As the twelve valuations for tax purposes made in 1711 in the Linth valley (Canton of Glarus) demonstrate, the common resources varied widely depending on the corporations. Tax ranged between 2,000 and 56,000 Gulden, the evaluation being below 7,500 Gulden for six *Tagwen* and above 20,000 for the other six. Similar differences existed with the co-ownership of the forests. The consequence of this was that in the 1770s and 1780s in the Canton of Glarus the land allocated to a single household could vary up to four times from one *Tagwen* to another and, in the case of the wood needed to build a house, up to six times. There were comparable discrepancies in other cantons in the nineteenth century: In the corporations of Nidwalden, the size of plots varied threefold, and this was also the case in some parts of Graubünden at the beginning of the twentieth century, where certain of the plots allotted, with a size of nearly 1.5 ha, appear to have been the largest in the Swiss mountain regions. Then, at the end of the nineteenth century, among the 28 corporations which existed in the eight communes of the March district (Canton of Schwyz) the estimated value of the common resources of the least well endowed corporation represented ten francs for a household and in the best endowed between 160 and 190 francs.

This economic imbalance was at the origin of the latent tensions, which existed between neighbouring corporations, both in demographic terms (reduction of the influx of 'foreigners') and economic terms, as nearly all corporations had a policy of increasing their common resources due to the rising number of their members. This tendency is very noticeable as from the fifteenth and sixteenth centuries. Clearing land and cutting timber were the usual methods, but also buying up land and pastures was an option, when it was financially possible, and this often meant encroaching on the property of neighbours, on that of private individuals and of corporations. Right up to the beginning of the twentieth century this active policy of a number of corporations was often a source of enduring litigations. The same is true for the strategy of acquiring Alpine pastures outside the communities' own territory, which some corporations practised from the sixteenth to the twentieth century.[7]

The rural corporations were also characterised by considerable demographic diversity. It is no easy matter to obtain precise and detailed data of the total sum of the people and households considered to be members of the local citizens' communities or corporations (*Bürgergemeinden*), which still own common resources. Clearly, the number of rights-holders is frequently dependent on the size of the territory owned as common land. In the Canton of Ticino, at the end of the twentieth century, there were about 250 *Patriziati* encompassing 38,000 households and some 80,000 members entitled to vote. But, taking into consideration just those resident in the canton, these represented only about 24 per cent of all inhabitants.[8] In the Canton of Schwyz, where the Oberallmend is the largest owner of land (with more than 13,000 ha), the number of co-owners amounted to more than 5,000 men at the beginning of the twentieth century and is more than 18,000 nowadays (both female and male), while in 2006 there were 778 co-owners of the Unterallmend-corporation with its 2,400 ha, the corpo-

ration Pfäffikon had 516 members in 2001, and the Genossame Lachen 243 in 2006.[9] In 2007, 41 out of the 75 corporations that still exist in the Canton of Schwyz decided to create an association of the corporations. This then comprises about 25,000 to 30,000 voting members.

Access to common land and patterns of restrictive regulation as a means to counter demographic pressure

Where demographic pressure affected the balance between the holders of rights to common land and the natural resources, which was the case in some places even before the sixteenth century, a number of restrictions were progressively adopted in certain cantons, despite the different measures already taken to increase the size of both the valley common land and that of the Alpine pastures. There was no universal pattern for monitoring access.[10] One can, however, detect two main types of restriction in mountain areas: those which specifically affected the persons and families living or wanting to live in a rural corporation and those related to the way the common resources were used. Both were a source of permanent conflict and only began to diminish in importance with the economic development of the mountain regions and the creation of new labour opportunities at the end of the nineteenth century.

As already mentioned above, the first type of regulation, which sometimes persisted up to the beginning of the twentieth century, involved the creation of a number of legal barriers in order to stem the settlement of those considered to be outsiders. Some of these outsiders, however, were *Beisäss,* that is the descendants of families which for generations had lived in the corporation without possessing its membership, simply because they had not been able to acquire it, often for financial reasons. The very limited rights of these long-established families and their members – they might sometimes be allowed to use the resources of the upland forests and to graze a cow on the common pasture in the valley out of charity[11] – were at the heart of controversies which lasted up to the beginning of the twentieth century, when it was decided that the competence of the administration of the corporations would be left to the cantons and the communes (1907 Swiss Civil Code, art. 59).

It must be noted that the controversy regarding entitlement did not concern only those permanent residents who lacked access rights because they did not possess local citizenship. There is abundant evidence that there were also very important restrictions within the corporations sometimes even as early as the second half of the sixteenth century. They concerned especially the entitlement to rights of the adult children of a rights-holder. Beside the requirement of being married, an adult son had to be the head of an independent household with its own hearth – a factor excluding all those people working in service.

But, as the corporations were free to organise themselves as they chose, there were often additional constricting requirements for members: a minimum age, which mostly varied between 22 and 25 years, but was even fixed at 30 years in some places, the presence on the territory of the corporation during the previous year or parts of the year, only one married son allowed to take over the right inherited from his father. Sometimes the restrictions could be even harsher: As long as the father was alive and entitled to access, his adult descendants, even when fulfilling all legal requirements such as marriage and an independent household – were nevertheless excluded from the usufruct of the common resources, a clause still

existing in some places even in the twentieth century.[12] It is evident that where the requisites to obtain a parcel of land were only being married and living in an independent household without any other conditions attached, the number of corporation members grew rapidly, especially in proto-industrial regions, while where the corporations increased the internal restrictions, such as age to access, the father still alive, etc. the marriage rate was very low and the population increase moderate.

In several mountain regions the debate on the modalities for attributing partial or total common property rights to unmarried adult children who lived in an independent household apart from their parents was frequently virulent. Often, the controversies lasted from the seventeenth up to the beginning of the twentieth century, as can be observed in the case of the corporations in Glarus, Nidwalden or Graubünden. Where proto-industry developed, such rights were more likely to be accorded to adult unmarried sons, as in the Canton of Glarus, but with the corporations' decisions being made on an autonomous basis, the result in the seventeenth and eighteenth centuries was either the categorical refusal to confer such rights, or the insistence on the requirement of a minimum age, varying as in Glarus from between 30 to 50 years. This measure could also sometimes be rescinded due to a too great increase in the number of individuals benefiting from such rights, as in the *Tagwen* of Mollis in 1832, 112 years after the single male had been granted such a right. Whether these rights were granted or not depended largely on the extent to which the survival of a member of a corporation depended on the natural resources available. Perhaps this also explains why, in some rare cases and in very well-endowed corporations such as that of Lachen (Canton of Schwyz), unmarried women are mentioned as being independent holders of rights to a plot of land and a portion of straw in 1780.[13] In Obwalden, already in the seventeenth century single daughters were sometimes allocated 'half a right' as were widows living on their own. Following the same principle, at the beginning of the twentieth century in some communes of the Canton of Graubünden, the celibate daughters had a much smaller plot than their brothers and often had to wait longer before being entitled to one.

With regard to the way in which common resources were used, it is important to realise that the corporations made a distinction as to the type of common land available. In respect of the *Allmend* in the valley, one can observe different patterns of access for cattle. There could be unregulated access for all the cattle wintered with the owner's own hay, as was the case, for instance, in some corporations of the Canton of Obwalden at the end of the eighteenth century. Here, the sanctions for overstocking were low, so the consequence was a systematic overuse of up to 30 per cent of the carrying capacity of the *Allmend*, a situation that still existed at the beginning of the twentieth century.[14] Elsewhere, however, strict rules prevented the overgrazing of the commons as in several *Tagwen* of canton Glarus. There the grazing period was flexible, with an opening and closing date according to the condition of the grass. A further option to remedy the overuse of the pasture was to reduce the number of cattle each user was allowed to graze on the commons so as to adapt the herd to the capacity of the land on a yearly basis. One can also observe some unexpected rules as when in 1777 two households were obliged to share a cow grazing on the *Allmend* in Netstal (Canton of Glarus),[15] or a household allowed to graze a cow on the *Allmend* only each second year, as in 1616 in Alpnach (Canton of Obwalden).[16] In all these cases the control mechanism was very clear to all and the rules, when not observed, were severely sanctioned. Lastly, there were corporations that sometimes took into account the situation of the poor who did not possess

a cow of their own and nevertheless allowed them to graze one free of charge, as was often the case in Obwalden.

Regulations with regard to Alpine pastures and forests, however, differed widely depending on the balance between local winter fodder and summer pastures. In Glarus and Graubünden, the imbalance between local winter fodder and summer pasture land was such that very early on cattle had to be imported from the lowland outside the cantons in order for them to summer on the Alps. Nevertheless, for fear of overuse, the cantonal government of Glarus fixed the number of grazing rights for each Alp as early as the beginning of the sixteenth century and at the same time defined the type of cattle allowed to pasture, a policy which has remained in place up to the present day. Where there was no surplus of mountain summer pastures (in Obwalden, some parts of the Bernese Oberland, Uri) the arrangements varied: Either the number of animals to be sent to the Alpine pastures was determined by the size of the farm holding in the valley or only those animals could be summered which had been fed during winter with the farmer's straw and hay harvested on his own holding. The breach of the norm was fined severely.

Growing tensions concerning rights of access and entitlements to common usufruct

Tensions concerning the right to access the commons and the right to benefit from a usufruct increased as the centuries passed. There were recurrent problems intrinsic to the creation of the corporations and they culminated in the nineteenth century because of population growth and pauperisation in the mountain areas. But there was also the evident endeavour of some cantonal governments to curtail the autonomy of the corporations. The controversies had a double dimension: an endogenous one which related to the apportioning of the usufruct of common resources to the members of the corporations; and an exogenous dimension, the conflict between the corporations and the seigniorial, and subsequently, the state authorities as well as the conflicts with those excluded from the common resources.

Let us first examine the endogenous controversy. This dimension was reflected in the growing polarisation between the haves and have-nots within the corporations and reveals the true importance of the common resources for a large proportion of the households. The most controversial points concerned the use of the *Allmend* as pasture land or for individual plots, the collecting of firewood and the cutting of timber for the use of the members themselves as opposed to the public auction of this wood to replenish the corporation fund, and then the amount of indemnity to be paid to those who did not possess an animal to graze. As of the seventeenth century, but increasingly so in the eighteenth century, it became usual to distribute part of the *Allmend* as plots for individual use and in times of crises to distribute more plots or to increase the size of the already allocated plots, as the policy of the *Tagwen* of Glarus exemplifies. In 1769, 273 milk cows were allowed to graze on the communal land, but in 1771, a difficult year, despite the opposition of the cattle owners the authorities reduced the space available for grazing purposes. In order to increase the number of plots for distribution, only 150 cows could be pastured on the commons. In any case, access to the valley common land for cattle owners became more controversial in the last third of the eighteenth century.

This was because there was a growing number of landless corporation members everywhere in the mountain areas. In proto-industrialised Glarus these represented nearly 40 per cent of the total membership at the end of the eighteenth century; these members put pressure on the corporations' administration, insisting on a permanent policy for common land distribution for individual use rather than considering this option only in difficult times. As mentioned before, the response of the corporations to both the growing number of corporation members and the demand for individual plots was to try to increase the size of their common land in order to satisfy both the owners of cows and those without, and to shorten the waiting time before a household had the right to an individual plot of common land. Most corporations seem to have paid an indemnity to those who were waiting for a plot and to those who, for lack of a cow, could not make use of the grazing opportunities provided by the *Allmend* or the summer pastures. The indemnity was correlated to the tax the cattle owners had to pay and over time the tax became progressive and related specifically to the number of animals that were pastured. However, as from the beginning of the nineteenth century, with the increased stabling of the cattle, more land became available to be distributed and the size of the plots increased. Nevertheless, in some corporations, such as the *Tagwen* of Glarus, even then the demand of the new members of corporations could not always be satisfied, despite the fact that it was essentially the policy of some *Tagwen*, such as Ennenda, to create 'reserve' plots for future married couples.[17] In most regions, if a plot had not been cultivated within a fixed time-span it had to be given up and such conditions were imposed rigorously.

A second point of controversy arose in the second half of the nineteenth century, when some corporations began to auction part of their summer pastures and part of their woods in a more systematic manner. Then, the discussions were mainly about the use of the capital thus accumulated – should it be used for the improvement of the communal Alps, for instance? – and about the circle of beneficiaries. In some corporations, a new concept prevailed to the effect that all adult members of the corporation should be entitled to a part of the money distributed every year and not just the households. But this in turn increased the tensions within the municipalities which comprised all inhabitants and which were in need of money to balance their budget without increasing taxes.

The source of the exogenous controversy which the rural communities had to cope with is to be found in the decision on the part of the Helvetic Republic to create a new institution, the municipality, a political body that was to include all the inhabitants settled within its territory. The intention was to solve the old and recurrent problems existing in many regions resulting from the absence of political and economic rights for those not belonging to a rural corporation. Such people were impeded in their daily life by the fact that they were scarcely able to acquire the very costly local citizenship, which gave access to common resources. They were not assisted by the rural corporation in which they lived since they did not belong to it. Moreover, they were not free to migrate to places where they thought they might find work, since it was for the rural corporation to allow or forbid establishment on its territory. For most of the nineteenth century the simultaneous existence of these two institutions – the rural corporation and the municipality – in the Swiss uplands with its pastoral economy, proved to be a source of contention.[18] The controversy, involving holders and non-holders of access rights, took distinct and varied forms, depending on the canton. The dispute was to emerge afresh after the 1830s at a time when in several cantons intra-cantonal and inter-cantonal migration was on the rise. But it was especially after the adoption of the two Federal Constitutions of

1848 and 1874, which promulgated the liberty of establishment and the equality of all citizens, that the question of local citizenship with all its rights and privileges in respect of common resources became a pre-eminent political issue. In fact, it often became a central issue with the forces of communal traditionalism on one side and those of cantonal centralism on the other.

In pre-Alpine and Alpine regions themselves, depending on the context, a number of factors played a decisive role in the disappearance or maintenance of the rural corporations. There was the position of the cantonal government with regard to the legal entitlement for individuals to use the common resources and its view of the financial requirements of the municipalities. Then we have the question of the capacity of a migrant population from outside a canton to influence the outcome of a vote on both the adoption of a cantonal constitution and the law of residence. We must also note the importance of the size of the pre-Alpine and Alpine territory in a canton. And finally, there was the importance of tradition and the will among the rural corporations to keep a well-organised self-governing administration.

For the area under discussion, we can observe three main approaches. Firstly, there were those upland cantons where closed corporate communities succeeded in retaining their mode of entitlement and access – apart from allowing the daughters of rights-holders to have access to common resources in the second half of the twentieth century. Such corporations maintained a considerable degree of autonomy in the governance of their common resources right up to the beginning of this century, although they often accepted a share of the financial burden of the municipalities, especially in social matters.[19] Thus, communal dualism remains very much in evidence in parts of central Switzerland, as well as St. Gallen, Valais and Ticino. Secondly, there were the cantons where the common resources pertaining to the prerogatives of citizenship under the Old Regime were transformed into collective resources belonging to the relevant political municipality (in the Canton of Vaud and part of the Canton of Fribourg). Thirdly, there was the Canton of Graubünden, where the rural corporations used an ingenious compromise to allow all inhabitants settled in a municipality to access the common resources, while maintaining legal status for themselves as an autonomous self-governed body.[20]

In the Canton of Vaud three factors were decisive in curtailing the rights of the old rural corporations as from the 1880s after long discussions, which had lasted for more than a generation.[21] First, as in Fribourg, their economic role had been limited as early as the eighteenth century due to the increase in privately-owned land and the buying up of pasture land by outsiders. Second, the priority policy of the cantonal government was to endow the political communes, the municipalities, with additional financial means. The objective of the cantonal government in this was to be relieved as far as possible of any financial involvement in helping the poorer communes of the cantons to fulfil their general public obligations in addition to providing assistance, which had already been the case since the Old Regime. The income from the common resources should thus be used exclusively to balance the budgets of the political communes and access to common resources should in no case be the prerogative of all those settled in a community. Third, there was a considerable immigration from other cantons. Coupled with this was the fact that, for historical reasons, a significant proportion of the inhabitants of Vaud possessed multiple local citizenships, which only served to complicate the allocation of common resources still further.

The situation was very different in Graubünden. But here, owing to the physical and ideological remoteness of the cantonal government, the latter's proposals to strip the many corporations of their liberty and autonomy in self-government failed to gain support until the last

decades of the nineteenth century. Since the problem of those living in municipalities where they had to pay taxes and were subject to communal work, but lacked any entitlement to the common resources, needed a solution, the acceptance of the settlement law (*Niederlassungsgesetz*) offered a compromise. The residents could use the communal pasture, but had to pay up to one third more than the members of the corporations. In return, apart from providing assistance for their members and the right to parcel out land, the rural corporations kept significant prerogatives in their hands such as the right to dispose of common resources as they thought fit and the right to fix a different level of tax for the local citizens as opposed to that for the residents.[22]

Conclusion

The importance of communal rights in the mountain areas of Switzerland until the nineteenth century cannot be stressed enough. This was especially the case at a time when the free movement of labour within the borders of Switzerland was hampered by diverse cantonal legislations, a state of affairs that persisted right into the second half of the nineteenth century despite the adoption of the Swiss Constitution in 1848. For the landless members of the corporations and those with little land the resources gathered from the commons were extremely valuable as this provided them with the means to survive where there was little and only casual employment, a point often stressed in the statutes of the seventeenth and eighteenth centuries. But what has been emphasised far less is the vital role played by common resources even in proto-industrial mountain regions, such as in Glarus, Toggenburg or Appenzell. In the Canton of Glarus, with its well-developed proto-industry dating from the eighteenth century, the level of wages was such that the income in kind provided by the commons was a vital addition to the wage income of the spinners and weavers. And this was also the case during the first phases of industrialisation when wages in manufacturing were kept low for products to be competitive on world markets.

However, with the progressive economic development of the mountain areas and the improvement in transport, the opportunities to work in the tourist sector or in industry within or outside the region increased. Interest in commonly owned property began to fade on the part of those working outside the primary sector, especially after World War II. The fate of the *Allmend* of the *Tagwen* of Elm in the Canton of Glarus, situated at an altitude of nearly 1,000 metres, is a case in point. In 1971, it was decided to stop the allocation of 0.04 ha of *Allmend* land and put an end to the right to gather the fallen dry leaves on half a hectare of forest to which each newly-wed member of the corporation had until then been entitled. It has also become generally accepted that the policy of distributing pecuniary benefits must be limited and that the profits a corporation makes must be re-invested for socially compatible activities and for the maintenance of its resources, especially in respect of the *Allmend* near the villages. During the twentieth century the federal forest policy brought about significant changes in the management of forests to which rural corporations have had to conform. Summer pastures remain important for pastoral farming, but the rapid reduction in the number of farm holdings has also affected the use and the management of common resources, but this is hardly the case for the institutions themselves, which continue to survive in most pre-Alpine and Alpine regions.

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