Common pastures in the UK

- importance, governance, issues

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### The wider agricultural context

<table>
<thead>
<tr>
<th></th>
<th>England</th>
<th>Scotland</th>
<th>Wales</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proportion of farmland</td>
<td>5%</td>
<td>14%</td>
<td>11%</td>
</tr>
<tr>
<td>Proportion of semi-natural farmland</td>
<td>17%</td>
<td>20%</td>
<td>25%</td>
</tr>
<tr>
<td>Proportion of farmers using them</td>
<td>&lt;1% ??</td>
<td>20%</td>
<td>6% ??</td>
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</tbody>
</table>
All land eligible for support; issue is allocation of hectares to ACTIVE farmers
There may be eligibility issues relating to trees – hopefully being reformed....
Historic pattern in some ways similar to SE European countries

- Just like there, common land formerly very widespread
- Just like there, loss of common land over hundreds of years (inclosure, change to single uses, e.g. forestry)
- Just like there, shift over time from local legal rules, customs, courts as power of central state grew; surviving local courts are very unusual
But also major differences from most SE European countries

• No dairy systems on rough grazings, no ‘close’ shepherding – all systems for ‘store’ animal production
• No revolutions, overthrow of ruling classes or peoples, no major land reform in most regions
• Most common land still owned by large landowners, State, NGOs…..
• Use of common pastures is still based on RIGHTS, distinct type of property which are usually, but not always, linked to the tenancy of a certain holding (farm, house)
• These rights are usually over land owned by someone else (exceptionally land owned in common by rightsholders). The owner may be a landlord of the rights holder, or he may have no other connection to him.
The role of the State: recording of rights

• In England and Wales, rights of common are recorded in a register kept by commons registration officers in the local councils.
  – Rights were previously related to other factors (e.g. animals which could be kept over winter, but now the register is the sole authority
  – Law was flawed in that it did not allow for corrections or challenge; this is now being changed
  – Informal use not recognised

• In Scotland, most common grazing rights are on crofters common grazings (crofters are a type of protected tenants in the N & W of Scotland) for whom the existence of common grazings rights should be recorded in the Register of Crofts; temporary leases allowed and recognised
The role of the State in governance of crofters’ common grazings

• Crofters Common Grazings Regulation (Scotland) Act 1891 – *was* a bit of a revolution....!!

• Provides
  – a mechanism for shareholders in common grazings to elect a committee
  – Committee draws up grazings regulations, which set out the number and type of livestock each shareholder can graze (and possibly when) as well as the arrangements for paying for shared costs (e.g. fencing)
  – These are then registered with a Govt. body (with opportunity for people to challenge them)

• Such regulations then have the force of law, i.e. there is no need for unanimity (VERY IMPORTANT!)

• Sheepstock clubs – a sort of cooperative management structure common in certain regions
The role of the State in governance of English and Welsh commons

- State is largely absent – just a matter of property law
- Most common lands have no enforceable rules or body which could enforce them, just recourse to normal courts (and case law from over the centuries)
- Over the last decades, graziers’ associations have grown up, but again, they cannot override the rights except by agreement
- State is getting more involved in enabling change: Slow-moving plans to set up Commons Councils, which would have the power to over-ride rights (i.e. the veto power of individuals against a majority) to regulate for the wider good
Commons and agricultural support

- Direct payments and Less Favoured Area payments paid to individuals based on their share of the rights and therefore of the forage area (sheepstock clubs are claimants in their own right)

- (Any coupled payments are in general independent of the common pasture)

- For measures relating to the grazings themselves (investments, agri-environment....), there needs to be a LEGAL PERSON who can apply and who can deliver the commitments:
  - Common grazings committees in Scotland can do it
  - Graziers associations in England & Wales must be set up as legal persons (not voluntary associations), but must have an internal agreement (i.e. a contract between the shareholders) as otherwise the rights could not be over-ridden
The hare and the tortoise??

• In Scotland
  – Only around half of common grazings are regulated and have committees in office
  – Uptake of agri-environment schemes is really poor (5%, only 20% of uptake levels by farms in general)

• In England
  – Around 74% of commons are in agri-environment

• In Wales
  – Concern that there were insufficient numbers of commons legal persons to apply for agri-env (previous uptake 2%)
  – Appointed Common Land Development Officers using RDP Technical Assistance funding
  – 75% uptake by end 2013, about 400% the general uptake levels
Challenges to farming systems using commons

• Area payments which are not related to historic receipts (i.e. no. of animals) but just to share of rights
• No enough legal persons still – losing out on support and (in Scotland) unable to enforce sensible governance
• Schemes not designed with common lands in mind
• Advisory systems ignore common lands or at least avoid them because of their added difficulty
• Animal movement rules can be more complex (but not necessarily – works ok in Scotland)
• Reduction in use of shares - some ‘rationalisation’ but challenge of labour requirement/costs
• In lowland England, a lot of abandonment, but many non-farming interests nowadays