

Negotiating enclosures? Local responses to the Swedish enclosure reforms, the case of Västergötland 1804-1860

Paper presented at Rural History, EURHO, Paris, September 2019

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On the 18th of May 1835, the first enclosure session was held in Resville on the Västergötland plains in western Sweden.¹ The applicant Måns Larsson was the owner of one of the smaller farmsteads in the village. Only one of his neighbours supported the application. The others demanded that the application be thrown out, and that Larsson cover all the costs of the session. In their view, the existing open field organisation provided the most suitable framework for farming in the village.

The proceedings from Resville reflect a basic institutional paradox of enclosures, namely the way in which such reforms both promoted and threatened property rights. The aim of enclosures was to create a system of modern, uncontested land ownership. However, the creation of this system required the demolishing of existing property rights. Only if the Swedish authorities disregarded the Resville peasants' wish to keep their present system of land could the reform move forward.

Across Europe, legislators tackled this conflict in different ways. In some countries, the existing property regime was given priority. In England prior to parliamentary enclosures and in 19th century France, unanimity among landowners was required in order to initiate a reform. In several 19th century German states and in England during parliamentary enclosures, the support from qualified majority of landowners was considered sufficient.² Swedish legislators opted for a more radical solution. According to the 1827 *Laga skifte* edict, the application of a single stakeholder was enough to enclose a village. As long as Måns Larson persisted, there was no legal way for his neighbours to stop the reform.

This paper will use the case of the Västergötland plains to discuss the institutional mechanisms of Swedish enclosures. The paper argues that the low threshold to initiate reform

¹ Archive of Lantmäterimyndigheten, 16-NOH-29 (www.lantmateriet.se). *Laga skifte* in Resville, Norra

² See for example Grantham 1980 (France and Germany); Turner 1980: 153-57 (parliamentary enclosures).

created an insecure and unpredictable situation for local farmers. The state invested heavily in modernizing agriculture. But this conviction clashed with conflicting considerations at the local level. To what degree could these different perspectives agree? What strategies were employed by the farmers opposing reform? Was it possible to negotiate enclosures?

The legal framework

Swedish enclosure legislation goes back to the mid-18th century when the first major land reform, the *Storskifte*, was introduced.³ The most revolutionary result of this reform was arguably the enclosing of the commons in parts of the country. When it came to the open fields, the results have often been portrayed as a “half measure”. Common crop systems, fences, and grazing prevailed. However, the number of strips that belonged to each farm was reduced. In 1783, a new paragraph was introduced, offering each landowner the possibility to consolidate his land into one lot. This marked the start of the enclosure of open fields in Sweden. The effects of this paragraph did not, however, extend beyond a few plains areas in the southernmost province of Scania.⁴

In the early 19th century, the state intensified its efforts to modernise the agrarian property system. In 1803, the first *Enskifte* edict was issued for Scania province. An edict for the Västergötland county of Skaraborg followed in 1804 and for the rest of the country in 1807. The *Enskifte* reform was directly aimed at dissolving the open fields. The previously established right to withdraw land from the village system was now complemented with new paragraphs that incited general enclosures, that is the enclosure of all farms in a village.

The next step came in 1827, when both the *Enskifte* and *Storskifte* were replaced with a third piece of legislation, the *Laga skifte*. Here, the institutional support for enclosure was taken one step further. As long as one landowner wanted to enclose his land, all landowners were required to participate in the reform. This precept is known as “the unconditional precedence of enclosure” (*ovillkorligt skiftesvitsord*)

In my research area, enclosures were carried out under both the *Enskifte* and the *Laga skifte* edict. The difference between the two reforms should be noted but not overstated. During the *Enskifte* reform period, it was not yet mandatory that a landowner enclose his property. But in practice, the *Enskifte* edict often made it difficult to avoid land reform. The cost of the enclosure was shared between all landowners, including those who wanted to retain the open fields. In the case of a *partial enclosure*, where part of the land was broken off from open fields, the remaining villagers needed to agree on a new organisation of what was left of the village. This resulted in additional costs and inconveniences. There could still be no guarantees that

³ For a history of the legal framework of the reforms in English, see Gadd (2011: 149-54) and Helmfrid 1961.

⁴ On early *Storskifte* enclosures, Dahl 1941; Svensson 2005.

another stakeholder would not soon ask to enclose his property as well, which would mean that the process would start all over again.⁵ Evidence from this investigation suggests that the institutional pressure to accept a general enclosure was strong. In some cases it is, as we will see, doubtful whether the land surveyors respected the right to stay out of the reform.⁶

Nevertheless, the possibility of a partial enclosure still offered landowners sceptical to the reform a certain amount of room for manoeuvre. This opportunity was definitively eliminated by the *Laga skifte* edict. After 1827, no other redistributions than general enclosures were permitted.

How efficient was the Swedish model?

The drastic legal measures of the *Enskifte* and *Laga skifte* require an evaluation. Was it an efficient way to reform agriculture?

Swedish research has in general offered a confirmatory answer. According to an older school of research, represented by among others the distinguished economic historian Eli Heckscher, Swedish enclosure was mainly a top-down project, driven by enlightened gentlemen farmers and the state. The peasants resisted, burdened by a conservative mindset and unable to understand their own best interests. Only radical legal means could supersede these hindrances.⁷

This “top-down” view on Sweden’s agricultural revolution was later revised. In the 1970s and 1980s, a strong Swedish class of freeholders was identified as a central resource in the country’s modernisation. Several local studies showed how peasant farmers played an active role in the introduction of new technology, such as iron ploughs.⁸ This research tended to emphasize on-the-ground adaptation, with conflicts over enclosures playing out in the background.⁹ Because both freeholders and enclosures themselves were understood as rational and successful, there was a tendency to identify the former with latter. One recurrent argument in this context was the claim that freeholders initiated most enclosures. This research seldom discussed the fact that the overwhelming majority of freeholders did *not* apply for enclosure.

In a 2003 study, the economic historian Ronny Pettersson presents a more complex analysis of the *Laga skifte* edict.¹⁰ The starting point for this investigation is that this reform constituted a

⁵ Stipulations according to the mid-18th century Danish enclosure reform were very similar, see Skrubbeltrang 1978.

⁶ See below, pp. 7-8; Härnqvist 1987, pp. 47-50.

⁷ See for example Heckscher (1941) and Åberg (1953).

⁸ See for example Wiking-Faria (1981) Gadd (1983).

⁹ See for example Wiking-Faria (2009), Svensson (2006), Svensson (2005), and Pettersson (2003). The new paradigm was established by, among others, Gadd (1983) and Pettersson (1983) in accordance with a general re-interpretation of Swedish agrarian history discussed in Winberg (1990).

¹⁰ Pettersson 2003

threat to existing property rights, an argument often put forward by peasant representatives in the Swedish diet. When every stakeholder possessed the right to initiate enclosures, the security of the existing property regime was undermined. The individual landowner could at any moment face a situation where he had to dismantle his farm and start over with a new composition of land. Such a situation might even hamper incentives to invest within the existing property regime, Pettersson argues.

However, after having evaluated other possible institutional solutions, Pettersson still concludes that the provision, where the enclosure of a village, depended only on the application of one single landowner, was the most efficient way to enclose the land. Even if it implied a period of institutional insecurity, unconditional institutional support for enclosure also ensured that this period was as short as possible, speeding up implementation of the reform. According to Pettersson, the uncertainties involved in the process could be managed locally, in the daily interaction between village farmers. In order to avoid conflicts and minimize the risk of costly appeals, farmers were encouraged to gather support for their application of enclosures among fellow villagers before formally submitting an application. The “interest of enclosure” was, as the author puts it, “checked both by informal social control and assessments of the possible benefits of a new division in comparison to the costs”. But, as he also admits, “our knowledge of how applications of enclosure actually were handled is very scarce.”¹¹

Pettersson’s analysis is stimulating but contradictory. On the one hand, he claims that the unconditional priority of enclosures stimulated rapid implementation of the reform, which meant that the period of institutional instability was shortened. On the other hand, Pettersson argues that the stability within the old institutional order was secured by social conventions that restrained the possibilities of individual reform applications – which reasonably must have delayed enclosures and resulted in a longer period of institutional instability. It could also be argued that his analysis ends exactly at the point where it starts to become really interesting. How did the villagers at the local level manage the uncertainties embedded in the reform? Were they able to solve the basic institutional dilemma of enclosures?

The enclosure process in the research area

The subsequent study is based on the proceedings from *Enskifte* and *Laga skifte* enclosures in 88 villages, the acts from few select cases of appealed enclosures, and records from the local court, or *Häradsrätten*. The study is set in a plains area in former Skaraborg county, western Sweden.

¹¹ Pettersson (2003: s. 245).

The area was a typical example of old regime agriculture.¹² Prior to enclosure, virtually all used land was open fields land. Agriculture was organised according to a two-field system. A wooden fence divided village domains into two large fields. Every year, villagers used one of the fields for crops and hay, while the other lay fallow, open for common grazing. Usually, there were no fences between adjacent villages – the cattle were allowed to graze over the village borders. This also implied a common rhythm of cultivation between villages.¹³ The large-scale integration of fields seems to have been driven by a need to reduce fencing costs, because the area lacked sufficient wood resources. Freeholders dominated these plains, while some land was controlled by noble landowners, burghers from nearby cities, or officers, civil officials, or rectors holding crown land as part of their salary.

Enclosures in the research area started shortly after the issuing of the first *Enskifte* edict for the province in 1804. Table 1 gives an overview of the subsequent reform process.

Table 1: Number Enskifte and Laga skifte enclosures in the research area after year of initiation of reform, social status of applicants and number of applicants

Period	1805–19	1820–34	1835–49	1850–64	All periods
Partial enclosures	4	1	-	-	5
General enclosures	15	12	28	33	88
Initiated by freeholders	3	6	14.5	29.8	53.3
Initiated by gentry	16	7	13.5	3.2	37.7
One applicant	16	13	18	15	60
More than one applicant	3	0	10	18	31
Average no of applicants	1.2	1	1.7	2.5	1.8
<i>Mantal</i> affected	105	71.8	137.4	121	435.2

Sources; enclosure acts (www.lantmateriet.se); *Enskifte* registers (enskiftes diarier, Landskansliet i Skaraborg län, Regional Archives, Gothenburg). Note: The *mantal* was the official Swedish measurement unit of land during the period. The median size of a peasant freehold in the research area was ¼ mantal.

During the early phase of the reform, enclosures were mainly a project of the gentry. Notably, almost all early enclosures were initiated at the request of one single landowner. Gradually, the social base of applicants widened. It was, however, not until the final and most intense period of the reform process that we see a more profound change in the pattern of applications. After 1850, freeholders initiated almost all enclosures, and applications were most commonly signed by several landowners. This pattern suggests that enclosures had gained wider support among freeholders on the plains.

¹² For a closer presentation see Nyström & Hallberg (2019). The same research area was used in Gadd (1983).

¹³ See Gadd 2018 and Nyström 2019 for discussion on cross-commoning systems in the Scandinavian context.

The early start and comparably slow advance of the reforms is interesting. Evidently, the villages enclosed at the beginning of the enclosure process must have functioned as test cases for reform.¹⁴ Farmers from the neighbouring villages could study the possible outcomes of an enclosure by examining these villages. From this perspective, it is noteworthy that reform did not gain speed earlier. According to both the *Enskifte* and the *Laga skifte* edict, each individual landowner was entitled to enclose their land. Yet it was not until the 1840s or 1850s that any considerable number of freeholders embraced reform. Why did they not apply for enclosures earlier?

A recent study the economic outcome of enclosures on the Västergötland plains examined 1,200 probate inventories from local freeholders.¹⁵ It shows that reform long failed to generate substantial increases in land productivity. The farmers on enclosed land did not sow more seeds or possess more animals than farmers in the open-field villages. Nor were they faster in the adoption of new technology, such as iron ploughs. Interestingly, farmers seem to have implemented the old two-field system for crops on newly enclosed land throughout most of the reform period. It was not until the early 1850s that productivity on enclosed land started to take off. Driven by the possibilities of massive oat exports to industrial England and by improved access to capital and labour, a major shift in the agricultural technology finally took place. Convertible husbandry was now rapidly adopted and the fields drained. At this stage, almost half a century had passed since the start of the reform.

While the advantages thus long remained unclear, freeholders also had to consider the costs of the reform. These included expenditures for the legal procedures, the reconstruction of houses and farm buildings, and the construction and maintenance of a new system of fields and fences. This last expense seems to have been particularly important. Prior to the reform, crop rotations and grazing were, as previously discussed, integrated, not only at the village level but between adjacent villages as well. This kept fencing costs low. However, enclosure demanded that such structures be broken up. "From the example of the transition in neighbouring villages that have ended up in a highly precarious situation considering the costly maintenance of the fences, we foresee our ruin", claimed the 40 freeholders in the village of Jung, facing the *Enskifte* application from an absent noble landlord in 1825.¹⁶ The state wanted farmers to adopt convertible husbandry after the reform. In spite of the fact that the state offered favourable credit to support such a transition, this option long proved less attractive, probably to a large degree because of the cost of fencing. In the old two-field system, only two fields needed to be fenced off; convertible husbandry required six to eight.

¹⁴ See Nyström & Hallberg 2018 for a further discussion.

¹⁵ Nyström & Hallberg 2018.

¹⁶ *Enskifte/Laga skifte* in Jung, Jung parish, 1825-30, 16-JUN-73, p. 4.

Evidently, some individual freeholders opted for an enclosure early in the reform process. But it was not until the great “leap forward” in agricultural productivity after 1850 that enclosure gained wider approval. According to an old school of research, peasants resisted enclosure because they were conservative and ignorant. In contrast, the situation on the Skaraborg plains suggests that they resisted enclosures on the base of a well-informed evaluation of costs and benefits.

Yet according to the law, an application of enclosure always had priority over the status quo. So what could the reluctant freeholders do to manage the situation?

Legal measures 1: Going through the courts

The first possibility that will be examined is legal. Just as in the case of Resville mentioned in the introduction, villagers often protested against the reform during meetings with the land surveyor.¹⁷ In a few cases, the protests resulted in a temporary moratorium on reform implementation.¹⁸ However, such agreements required the consent of the applicant.

Both the *Enskifte* and the *Laga skifte* edicts allowed villagers to appeal; during the first reform appeals were directed to the Regional Governor, while during the second reform, these cases were sent to the *Ågodelningsrätten*, a court dealing specifically with ownership cases. Most appeals focused on details of a new land partition. But there were also some cases where an entire reform was questioned.

As previously discussed, during the *Enskifte* edict, a person could apply to enclose their own land without affecting the rest of the village. Instead, the applicant's parcel could be individually enclosed, while the remaining land remained within the open fields. Land surveyors tended to try to avoid such a solution, however. According to the records from several *Enskifte* enclosures in the researched area, it actually hard to establish at which point in the process the villagers agreed to a full-scale reform.¹⁹

¹⁷ Apart from the references in footnotes 1, 15, 19, 20, 24, 25, 28, 30, 37 and 41, see *Enskifte* in Västervånga, Norra Vånga parish, 1810-13, 16-NRV-2B, pp. 2-3; *Enskifte* in Åby-Pattorp, Saleby parish, 1808 16-SBY-3B, p 2; *Laga skifte* Edsvära, Edsvära parish 1844-48, 16-EDV-42, § 3, p. 8-9; *Laga Skifte* in Tornum, Kvänum parish 1846-1854, 16-KVJ-21, § 5, pp. 5-6; *Laga Skifte* in Stora Vånga, Norra Vånga parish 16-NRV-66, 1849-1862, § 3, p. 5; *Laga Skifte* in Åsen, Ryda parish 1850-53, 16-RYE-8B, §, 3, p. 4; Härjevad, Härjevad parish, 1847-50, 16-HÄV-9, § 3, p. 3.

¹⁸ See for example *Laga skifte* in Vånga, Norra Vånga parish: 16-NRV-66, § 5, pp 6-7.

¹⁹ See *Enskifte* enclosures in Västervånga, Norra Vånga parish 1810-1813: 16-NRV-2B (heavy protests); *Enskifte* in Önum, Önum parish 1826-1827, 16-ÖNU-5A, (the rector and all freeholders want to stay out of the reform, § 1, p. 4) and Djupedal, Uvered parish 1827, 16-UVE-10B, (no protests). See also the cases mentioned in footnotes 19, 20, 21 and 22 and examples in Härnqvist 1987, pp. 47-50 (including Synnerby). In other villages freeholders who wanted to stay within the open fields were excepted to apply for a *Storskifte* division on the land they received in the *Enskifte* enclosure: *Enskifte* in Jung, Jung parish: 1825-30: 16-JUN-73, § 16, pp. 23-24; *Enskifte* in Skarstad, Skarstad parish 1826-27: 16-SKR-4E, § 8, p. 12, § 9, p. 13. In other villages the right of the individual to stay out of the reform was more clearly respected, see for

In December 1821, most of the landowners in the village appealed the decided enclosure in Bya village. Only one stakeholder had applied for enclosure. As a result, the enclosure of the entire village had been decided, despite opposition from all other farmers. This group now demanded a reversal of the decision. The regional governor ordered an investigation, resulting in a voluntary agreement: the applicant should be able to break out his part, while the rest retained the older village organisation.²⁰ In Synnerby in 1812, villagers were also able to confine what they labelled as “this disgusting enclosure” to a partial reform, but only after years of complicated juridical procedures.²¹

In other cases, the appealing peasants were less successful. In both Hasslösa and Larv, most landowners made it clear that they wanted to retain the open-fields system. The appeal from Hasslösa was rejected on formal grounds.²² In Larv, both the governor and the Royal Majesty accepted the appeal, which only delayed the process, as a new *Enskifte* application resulted in the total destruction the village.²³ One factor that differentiated these cases from the appeals in Bya and Synnerby was the fact that some of the freeholders favoured enclosures, making a partial enclosure more complicated to achieve.

The *Laga skifte* legislation eliminated the option of a partial enclosure entirely. This legislation still allowed villages to stop a reform if the land was “so varying in its nature or so geographically scattered” that an appropriate enclosure was hard to achieve, and if, on this basis, a new partition could not be “more beneficial than an existing *Storskifte* division”.²⁴ This paragraph was employed in claims by villagers in a handful of villages, among them Resville, mentioned in the introduction. All petitions were rejected.²⁵ The proceedings from the *Laga skifte* in Skallmeja in 1839 illustrate that landowners had, at this point, understood how limited the possibilities for appeal were. At the first session, several landowners declared that they opposed reform, preferring the existing village layout. The land surveyor asked if they wanted to forward their claims to the *Ägodelningsrätt*. The villagers declined, “[as] they thought they

example *Enskifte* in Saleby, Saleby parish, 1817-18, 16-SBY-1b (were all landowners in the en joined the reform) or Härjevad, Härjevad parish, 1807-09, 16-HÄV-1 (where three landowners accepted enclosure).

²⁰ [Never settled] *Enskifte* in Bya, Skarstad parish 1817, 16-SKR-7A; Account in the register of enkifte proceedings and appeals (*Enskiftesdiarium*) 1808-1822, pp. 84, 230-231, Skaraborgs läns landskansli, GLA (Regional archives, Gothenburg).

²¹ Documents of decisions (*utslagsakter*), D iv: 430, Skaraborgs läns landskansli, Regional archives. Quotation, missive from the freeholders in the village, July 24, 1810, p 2. The file includes parts of the proceedings from the enclosure. See also Härnqvist 1987, pp 47-50.

²² Documents of decisions (*utslagsakter*), D iv: 553; Decision of the governor (*resolutioner*) October 8, 1819. Skaraborgs läns landskansli, Regional archives, Gothenburg. The fact that most freeholders opposed the reform is not reflected in the proceedings, 16-HHA-1B. See also p. 10/footnote 36 bellow in this paper.

²³ Register of enkifte proceedings and appeals (*Enskiftesdiarium*) 1808-1822, pp. 65. -68, Skaraborgs läns landskansli, GLA (Regional archives, Gothenburg). New *Enskifte* enclosure 1822: 16-LAR-28A.

²⁴ The *Laga skifte* edict, SFS 1827: 62, chapter 12, § 11-12.

²⁵ *Laga skifte* in Resville 1835-39, 16-NOH-26, verdict: attachment B, pp. 26-31; *Laga skifte* in Lanna, Saleby parish, 16-SBY-48, § 5, pp. 16-21, 23-24. Utslag Kung Maj t.- 18 april 1845 KOLLA SFS 9 juni 1832.

probably would not be able to avoid enclosures that way they preferred to continue the process rather than to incur them self also with this cost” the proceedings explain.²⁶

In the end, the possibility of preventing enclosures via the courts was limited. With the noteworthy exception of the appeals of a few doubtfully conducted *Enskifte* enclosure proceedings, the outcome of the lawsuits illustrates the institutional support for reform. Landowners needed to consider other strategies.

Legal measures 2: Buying out the applicant

One possibility was to buy out the applicant with land or money. According to a local historical account from Öttum, locals fended off several applications for enclosure using this tactic, in response to what this source describes as a blackmail strategy propagated by outsiders owning smaller quantities of land in the village.²⁷ What can be found in contemporary documents is an episode in 1845. A city prosecutor who owned a minor farm in the village had applied for enclosure. Yet by the first enclosure session, the applicant had already “through the sale of his farm” effectively nullified the enclosure.²⁸

A similar incident is documented in Naum in 1829. The applicant was a nobleman from a neighbouring parish owning one farm in the village. At the first session of hearings, local landowners strongly voiced opposition to the enclosure. At the second meeting the following morning, the nobleman informed the land surveyor that “he had sold his farm to the villagers yesterday evening and consequently leaves it to the villagers to decide whether to continue the enclosure or not”.²⁹

The prices paid for the farms in these transactions are not known.³⁰ One might however suspect that the applicants were in a strong bargaining position and could demand generous compensation. For the villagers, such an offer could still be more attractive than facing the cost and inconvenience of reform.

These examples point to the strong threat the one-man rule of initiative posed for the village communities, as well as how committed some villages were to overcoming this threat. As a strategy for avoiding reform, buyouts had obvious limitations. There could be no guarantees that new applications were soon to come.

²⁶ *Laga skifte* in Skallmeja, Skallmeja parish 1839-40, 16-SJM-12, § 3, p. 4.

²⁷ Svensson (1958).

²⁸ Cancelled *Laga skifte* in Öttum, Öttum parish, 1845, 16-ÖUM-7, § 3, p. 4.

²⁹ Cancelled *Laga Skifte* in Naum, Naum parish, 1829. 16-NAU-67, p. 15. One case of transactions of land in order to avoid an *Enskifte* enclosure is also recorded: *Laga Skifte* in Borga, Edsvära parish, 1849-52, 16-EDV-48, § 3, pp. 2-6.

³⁰ None of the transactions were recorded at the local court. According to 16-NAU-67, p. 15 the sale of the farm in Naum included the transfer of 27 hectares of land to the applicant.

Legal measures 3: Overriding the one-man rule of initiative

In 1850, the wave of enclosure reached the village of Långjum in the southeastern corner of the plains. The village numbered 43 individual landowners. Only one had signed the application for enclosure. At their first meeting, the villagers presented a contract to the land surveyor, signed by all the villagers six years earlier. The contract stated that whomever applied for an enclosure was to bear all the costs of the reform.³¹ Before the protocol from the meeting was verified, several of the villagers required that the land surveyor include an addendum stating that the applicant should present appropriate financial guaranties for the forthcoming costs of the reform.³²

The contract in Långjum offers an interesting solution to the problem with the one-man rule of initiative, namely to counteract this rule using mutual agreements at local level. Another example of this approach appears in the enclosure proceedings in Attorp in 1839. In this case, the aim was to “prohibit the breaking up of the settlement structure” in the case of an enclosure.³³ Interestingly, the villagers of Attorp chose to register this contract with the local court.³⁴

Similar contracts can also be found during the *Enskifte* period. In Jung, an application of enclosure in 1825 was met with heavy objections from the freeholders.³⁵ In spite of the fact that most of the landowners did not want a reform, the land surveyor planned for a general enclosure of the village. If landowners wanted to stay within an open-field structure, they were asked to initiate a *Storskifte* reform, which would allow them to set up a new village structure on the land they received in the *Enskifte* division. Obviously, this was an insecure project. The new village could at any moment be broken up by new applications for an enclosure. The villagers needed to make sure that this would not happen.

In April of 1826, sixteen of the landowners signed a contract agreeing to enact a *Storskifte* on the land they received in the *Enskifte* reform. According to the document, land would remain divided into two fields. The last paragraph read: “Will this agreement remain undisrupted for a period of 90 years from this day, which is guaranteed by our own signatures”.³⁶

A final example is found in the files of the appeal of the previously mentioned Hasslösa *Enskifte* in 1819. Attached to one of the missives is an agreement signed by 23 of the freeholders. The concluding passage states:

³¹ Cancelled *Laga skifte* in Långjum, Långjum parish, 1850, 16-LÄG-8, § 3, pp. 8-9.

³² 16-LÄG-8, p. 11.

³³ *Laga skifte* in Attorp, Ryda parish, 1839-55, 16-RYE-21, p. 14.

³⁴ 16-RYE-21, p. 14. Kolla även häradsrätten 25 maj 1838.

³⁵ *Enskifte/Laga skifte* in Jung, Jung parish, 1825-30, 16-JUN-73. 40 landowners signed a protest against the enclosure in May 1825 (p. 4-5).

³⁶ 16-JUN-73, pp. 34-35.

We have always wanted to refrain from the mentioned enclosure and to keep the land that in older times has belonged to each of our farms, according to our old map. And we commit not only our self and our children and heirs, but also anyone that through inheritance, exchange or purchase of land will become part of the village community not to at any time possess the right to crave or bother the village community with an enclosure.³⁷

Whether a document like this had any legal validity can be doubted. It might still have had a certain amount of moral or social validity within the peasant community. There was a clear message that applications of enclosure that were not based on consent within the village community could not be tolerated.

So far, the analysis has centred on the legal measures taken by freeholders in order to avoid reform. In the following sections, we will study two cases where resistance went beyond the limits stipulated by the law. The first episode illustrates how enclosures could prompt conflict between peasants and the state; the second section illustrates how enclosures could cause conflict amongst peasants. Both episodes highlight important social forces at work during the enclosure process.

Extra-legal measures 1: The Uvered incident

As common during the first decades of the reform the application of *Laga skifte* in Uvered in 1827 was signed by a noble landowner: the major Ugglas.³⁸ At the first meeting in November, the freeholders in the village declared that they wanted the process halted. The land surveyor and the applicant decided that it should continue.

A central step in the process of enclosure was the establishment of an official map over the village domains. In some villages, the map from the previous *Storskifte* reform was good enough to be used in the new partition, but in most cases, it was necessary to produce a new map. The location of the *Storskifte* map in Uvered was not known. The proceedings were postponed until the old map could be found or a new one drawn.

When the land surveyor returned in June, resistance towards the reform had hardened. As no old map had been found, a new one needed to be produced. According to the *Laga skifte* edict, it was the duty of the landowners to provide the land surveyor with the manpower for this surveying work. The freeholders in Uvered refused. In their view, the land surveyor had no legal right to survey their land without their consent. The land surveyor repeatedly reminded

³⁷ Attachment D, missive signed by 23 freeholders 21 October 1819. Documents of decisions (utslagsakter), D iv: 553.

³⁸ The following account is based on the proceedings of the cancelled *Laga skifte* in Uvered, Uvered parish, 1827, 16-UVE-78 (www.lantmateriet.se).

villagers of the law and warned them about the economic and legal consequences of their refusal. These warnings had no effect.

On June 30, the surveying of the land started on Major Uggla's land. On July 6, it was announced at church that the surveying of the rest of the village should start the day after. No freeholders appeared. The land surveyor contacted the local police for assistance. An outside workforce was hired to replace the reluctant freeholders.

On the morning of the 8th of July, the sheriff arrived at Uvered. As the sheriff's attempts to admonish the freeholders proved useless, the land surveyor declared that the survey should continue with the help of hired workforce and that the freeholders would have to bear the cost. The peasants Magnus Håkansson and Anders Larsson contested this decision, declaring that:

If they [the land surveyor and the hired workforce] walk there one day they will not walk there anymore. If their arms and legs are cut off I guess they will not walk there any more. If it doesn't happen today it will probably happen anyway.³⁹

Work started the following morning. Meanwhile some of the villagers were cutting grass on an adjacent meadow. They approached the land surveyor and explained that "if they did the right thing they should cut off the head of him with the scythe".⁴⁰ At night the land surveying poles were removed from the fields.

Police officers of a higher rank were called in, to no effect. The resistance was not weakened; the land surveying poles were repeatedly removed. Interestingly, official proceedings also mentioned that the freeholders had signed a contract prohibiting any one to help the land surveyor. On July 22, land surveying was temporarily cancelled while "awaiting more severe measures to be taken".⁴¹

Resistance to enclosure in Uvered included civil disobedience, sabotage and threats of violence.⁴² Astonishingly, there seems to have been no legal consequences for the peasants. And in the end, they achieved their goal. The enclosure was not pursued further. Indirect evidence

³⁹ 16-UV-78, p. 11.

⁴⁰ 16-UV-78, p. 11.

⁴¹ 16-UV-78, p. 13.

⁴² Examples of civil disobedience can be found also in other villages but was never taken as far as in Uvered. See for example *Enskifte/Laga skifte* in Synnerby, Synnerby parish, 1827-32, 16-SYN-2C, p 4 (refusal to sign the protocols); Cancelled *Laga skifte* in Naum, Naum parish, 1828 16-NAU-67, p 10; (refusal to sign protocols); *Laga skifte* in Skatofta, Skarstad parish, 1842-43, 16-SKR-8, p 7 (refusal to sign protocols, no other protests against the reform recorded); cancelled *Laga skifte* in Långjum, Långjum parish, 1850, 16-LÄG-8, p 11 (refusal to sign the protocols), p. 19 (refusal to provide manpower for land surveying),

indicates that there was a second failed attempt to enclose the village in 1837.⁴³ Only in the third attempt, in 1839, was the village finally enclosed.⁴⁴

Worth noticing is how the freeholders in Uvered directed all their anger towards representatives of the state. There is no evidence in the official records of any local action or threats against Major Uggla, the person who applied for the enclosure. The social distance between the two parties might have been too wide. One of the major's tenants, Johannes in Fogdegården, was targeted, however. It seems that he had gossiped about what had been said in the freeholders' private meetings. On the night of July the 20th, some of the villagers appeared at the Fogdegården farm, woke him up, and declared that the just thing would be to kill him.⁴⁵

Even if the Uvered incident does not illustrate the most common path of enclosure on the plains, the case clearly illustrates the social tensions that shaped and were shaped by the reform process. In the next example, we will see how these tensions exploded into confrontations between freeholders favouring and opposing reform.

Extra legal measures 2: The Fyrunga incident

"Who will be the first to die?" asked Johannes Jonsson. "The one who has called for enclosure" answered Anders Svensson.⁴⁶

This dialogue between the two freeholders took place, according to court documents, in the Broddehagen croft in Fyrunga on May 11, 1844, while the man who had applied for enclosure, Börje Haraldsson, sat next to them.

The application for enclosure in Fyrunga had been handed in to the regional governor a few weeks earlier.⁴⁷ Since then, other villagers had reproached and pled with Haraldsson to withdraw his application. Earlier on the day of this discussion between Jonsson and Svensson, the village's fences had been inspected for the spring. When work was finished for the day, Haraldsson was waylaid by a group of villagers at Broddehagen croft. After a while, things started to get threatening. Börje asked the crofter if he could stay in the cottage overnight, entered the inner room, and latched the door.

Later, someone let a few other persons into the room where Börje had taken refuge. Negotiations were initiated. If Börje Haraldsson agreed to withdraw his application, some of the

⁴³ *Laga skifte* in Uvered, Uvered parish, 1839-40, 16-UVÉ-21, § 4, p. 14.

⁴⁴ 16-UVÉ-21.

⁴⁵ 16-UVÉ-78, p. 13.

⁴⁶ The account on the occurrences in Fyrunga in 1844 is based on the protocols from trial against three of the freeholders in the village at the local häradsrätten court.: Skånings häradsrätt (GLA, Regional archives Gothenburg): Urtima ting, UT (extra session) June 6-8 1844 § 2; Sommarting, ST (summer session) 1844: § 71, 204 and 205. More than 50 villagers testified during the trial. Quotation: UT June 6, 1844 § 2, witness 4. For more comprehensive analyses in Swedish of the events, see Nyström 2006.

⁴⁷ *Laga skifte* in Fyrunga, Fyrunga parish, 1844-47, 16-FYR-16.

villagers were willing to help cover the legal costs that had accumulated thus far. However, others argued that “the one who has caused the application of enclosure should him self cover all its costs”.⁴⁸

The freeholders left waiting outside during these conversations soon started to get anxious. “If you latch the doors we have reason to belief that you host thieves and rogues”, explained Andreas Andersson to the crofter, continuing that “it is not better to hide than to steal”.⁴⁹ “One should kill him, with the entire village indebted to pay the weregild [a fine for manslaughter] ” explained Anders Svensson.⁵⁰ The fact that someone had brought vodka did not calm the situation. Soon, Sven Andersson and Anders Adamson found a spade, which they intended to use to pry open the door.

In the end, someone unlatched the chamber from inside. The villagers gathered around Börje Haraldsson. Several of them pulled his hair, but no other violence was reported during the hearings that followed.

In an unguarded moment, Börje managed to escape and ran down the slope outside the cottage towards the river. Anders Andersson was close behind and managed to catch his coat, which Haraldsson snatched free. “You are light” said Andersson to Adamson, encouraging him to chase after Haraldsson. Soon, a dozen people were on the chase, shouting, “Catch him!”, “Where is he?”, “Get him!”⁵¹

Exactly what happened down by the river Lidan can never be established with certainty. According to one witness, Anders Svensson, Svante Johansson, and Måns Johansson managed to close in on Börje on one side, and Andreas Andersson and Johan Adamsson on the other. Börje Haraldson went down into the water. When the water reached his waist, he started to swim. Måns Johansson, who was only fourteen years old at the time, recounted:

When I came down to the river .. I could see Börje on his back in the water, snorting several times. Then I could see Börje hitting with both legs and arms in the water. Then he sunk down once but came back up again. Then he hit the water with his right hand. Then he sunk down and was no more seen.⁵²

According to the autopsy, the cause of death was drowning, but there were also wounds on the body that indicated that Börje might have been assaulted prior to his death.⁵³ No witnesses mentioned anyone beating Haraldsson, however.

⁴⁸ ST 1844 § 71, witness 3.

⁴⁹ UT 6–7/6 §2, witnesses 4, 17, 18 and 19.

⁵⁰ UT 6/6 §2, witnesses 4 and 8.

⁵¹ UT 6–7/6 1844 §2 witnesses 3, 4, 7 and 38; ST §71 witness 1; ST: 205 witness 8.

⁵² UT 7/6 1844 §2, Måns Johanssons account follows after witness 38.

⁵³ Autopsy dated June 17 1844: UT June 6 1844 § 2 Attachment D.

Three villagers were charged with Haraldsson's death at the local Häradsrätten court: Anders Svensson, Johannes Adamsson, and Andreas Andersson. They were given heavy fines for involuntary manslaughter. According to the verdict, it could not be proven that they had assaulted Börje or "intended to put him to death". But the court did rule that intimidation and persecution must still have "produced such an agony" for Haraldsson that it contributed to his demise.⁵⁴

Evidently, more than the three convicted persons took part in the incident. According to witnesses, at least eight villagers had declared that "[some]one should kill Börje". Thirteen people were reported to have run after Haraldsson down to the river. All villagers were not equally active in the campaign against the man who had initiated enclosure, and some had obviously chosen to keep away that evening. But there is only one example of a villager who protested the treatment of Haraldsson.⁵⁵ In a rejected appeal, the convicted freeholders stressed that "all of the villagers just as us threatened Börje". They also wanted to make clear that it had never been their intention to kill Börje; they wanted "only to frighten him to refrain from his application of enclosure."⁵⁶

In this case, the objective of stopping the enclosure was not achieved. In August, the land surveyor arrived at Fyrunga. Three years later, the village was enclosed.

Institutions and counter institutions

The events in Fyrunga are both terrible and historically indicative. They highlight the implications of the "unconditional priority of enclosure". According to the laga skifte edict, Haraldsson possessed the full right to initiate an enclosure in the village, regardless of the opinions of other stakeholders. This pre-condition constitutes a starting point for the later developments.

As pointed out in the previously-discussed study by economic historian Ronny Pettersson, farmers in the villages needed to protect themselves from unwanted applications for enclosure. In order for these individuals to make plans concerning agriculture, investments, capital, and family life, it was crucial for them to gain some control over the reform process. This need for control was even more important if an enclosure might not compensate for its costs, as seem to have been the case on the Västergötland plains.

⁵⁴ Verdict August 19, 1844, ST 1844 § 215.

⁵⁵ In his testimony, Anders Flodig contested Anders Svensson's statement "that they should beat him to death anyway" by pledging that "they should pray to God to save them self from such an imposition" (UT June 6, 1844 § 2 witness 8).

⁵⁶ Supreme Court of Sweden (Högsta domstolen): documents attached to resolutions (utslagsakter) 30/10 1845, the appeal of January 13, 1845 of the verdict of the regional court of appeals (Göta hovrätt) October 21, 1844. National Archives (RA), Stockholm.

Formal institutions could offer no such protection – it was precisely these institutions that threatened the institutional stability of freeholders. If landowners wanted to safeguard themselves against unwanted enclosures, they needed to develop *informal* institutional arrangements that could counterbalance the law.

Obviously, it was not typical for enclosure applicants to be driven into rivers to drown. But it is only thanks to this tragic end that we have an insight into the tensions at the local level during the reform. Had Haraldsson not drowned, there would never have been any trial, and without a trial, there would have been no sources to cast light on attitudes and practices among the villagers. In other villages, there is no documentation of local extra legal activities. But according to the amateur folklorist Johannes Sundblad, who had his own experiences of the reform process in the area, applications for enclosure “were always met with animosity and caused many outrages”. In Edsvära, for example, the fruit trees and horse carriages of the applicant were supposedly destroyed. Interestingly, Sundblad identifies high fencing costs on enclosed land as one of the major obstacles for implementation of the reform. It was not until the 1850s that a landowner “could safely apply for enclosure”.⁵⁷

Only threats of violence or sabotage could, however, never lay the groundwork for efficient resistance to the reform. In order to be regarded as legitimate, such measures must also rest on a set of norms that bound the villagers together in a common pursuit and made it socially costly for an individual to deviate. The previously discussed contracts in Långjum and Hasslösa reflect a formalization of such norms. In Fyrunga, no formal, written agreements have been found. But it is perfectly clear that villagers considered applying for a reform to be unacceptable behaviour. Börje Haraldsson “did wrong if he prosecuted his application” Sven Andersson explained⁵⁸; his joints “would become numb with cold in hell” said Anders Svensson.⁵⁹

One ingredient in the local anti-enclosure culture seems to have been that the reform was defined as a tool of the gentry. The villagers in Fyrunga called Börje Haraldsson “the lord” or the “land surveyor”.⁶⁰ To apply for enclosure thus was to consider oneself better than the other village residents. Interestingly, we also find traces of what might be called a moral fatalism among the villagers, the idea that the fate would take revenge on those who mistreated fellow villagers by registering an application for enclosure. If we study the protocols from the local court, the question of who should be the first to die, which was repeated several times during the events in the village, seems to be based on an assumption that a person who applied for an enclosure would suffer an early death. “They die soon, the ones that ask for enclosures, there are

⁵⁷ Sundblad 1888 pp.274-276.

⁵⁸ UT June 6, 1844 § 2: witness 1.

⁵⁹ UT June 7, 1844 § 2, witness 10.

⁶⁰ See for example UT June 7 witness 20, addition of Måns Eliasson.

many examples” stated Anders Svensson.⁶¹ Carl Bro combined the same sentiment with a promise: “The one who calls for enclosure dies, and if he doesn’t die they will kill him”.⁶²

Making the best of the situation

The struggle over enclosure on the Västergötland plains lasted for almost half a century. The resistance towards the reform was strong and stubborn, but in the long run, the laws promoting enclosure prevailed. By 1850, when the enclosed regime finally started to gain wider support among freeholders on the plains, only one fourth of the land was still cultivated under the open-field regime.

Once the land surveyor appeared in a village the questions on how to implement the reform became concrete. On this new playing field, the potential conflicts between landowners were numerous. More importantly, there were also divergences between the ambitions of the state and freeholders,.

The state wanted to use the reform to establish a modern agricultural structure, where open fields gave way to consolidated individual farms, the two-field system to convertible husbandry. Many freeholders had doubts about this solution. Their main concern was the cost of fences. If each farm was to be fenced separately, the total length of fences multiplied. If convertible husbandry was adopted, even more fencing was required. To which degree could these conflicting ambitions be reconciled?

The answer is that the reform was implemented in a way that strongly diverged from the official ideals. According to the *Enskifte* and the *Laga skifte* edicts, the basic unit of partition was the farm. However, on the Västergötland plains, this stipulation was applied flexibly. If the landowners within the same “land register unit” (*jordeboksenhet*) agreed to secure their share of the village in one common allotment, they were, up until about 1840, permitted to do so.⁶³ In general, each land register unit harboured several individual farms. If these farms were treated as one unit during the enclosure process, the costs of the reform could be kept down, an ambition that was sometimes explicitly expressed in the enclosure proceedings.⁶⁴

In practice, this meant that the villages often were divided into blocks of farms rather than into individual holdings. The parties within each block were then left to decide how to divide up their new land between them. From later acts of land surveillance, we know that these units

⁶¹ UT June 6, 1844 § 2, witness 4.

⁶² ST 1844 § 215, witness 4.

⁶³ This practice was first identified by the economic historian Kerstin Härnqvist 1987, pp. 43-47 with reference to the *Enskifte* reform.

⁶⁴ See for example *Laga skifte* in Resville, Norra Härene, 1835-36, 16-NOH-29. The land surveyor advocated an enclosure based on the individual land holdings. Most freeholders disagreed, claiming that the costs of such a partition *would mostly drive us into ruin*. Their request to get their land in one common allotment for each land register unit was respected (§ 48, p. 12; Attachment E, p. 21).

tended to develop into “mini-villages” or hamlets that used a system of shared fences. The field structure on these maps indicates that the old two-field system was commonly used.⁶⁵ Rather than putting an end to the old order, the reform often resulted in the re-establishment of the open-field system, but on a smaller scale.

In some cases, restoration of the old order was taken one step further. As the two-field system was still in use on most farms after the reform, it was also possible to integrate fences between neighbouring land register units. Such systems can be discerned on a number of cadastral maps of farms from the area.⁶⁶ The solution is also discussed in an appeal of decisions regarding fencing after an enclosure in Saleby in 1817. Here, landowners from six land register units declared their common ambition to integrate fences and crop rotations after the reform. Such a project required that the land surveyor reapportion the fencing obligations, separating the outer (to neighbouring villages) and the inner (between the land register units) fences:

Such a division ... would also to a considerable degree contribute to a lesser the burdens for the farmers. When the outer fences have been completed it must be the decision of the farmers if they want to separate their holdings from each other or solely divide them into field and fallow, which is our intention. This way a not insignificant forest saving, which is always necessary in our district, is achieved.⁶⁷

The land surveyor made a new division in accordance with the request.

As far as can be judged from the *Enskifte* proceedings, freeholders in Saleby, after much hesitation, agreed to accept a general enclosure in the village.⁶⁸ However, once the reform was carried out, they made sure that important elements of the old order could be reconstituted in the new regime.

Concluding discussion

The one-man rule of initiative made the Swedish enclosure legislation the most radical regulation of its kind. Nowhere else in Europe were enclosures so easy to achieve, and nowhere else were existing property rights so poorly protected. What were the consequences of this regime? To what extent was it possible for local landowners to negotiate how the reform was implemented? In economic and institutional terms, was this approach to enclosure an efficient way to reform agriculture?

⁶⁵ For example: Tåstorp, Synnerby 1850 (16-SYN-41); Skumpagården, Jung 1851 (16-JUN-22); Stora Brätteberg, Jung 1847 (16-JUN-19); Böljan, Hasslösa 1850 (16-HHA-29); Bengt Jonsgården, Hasslösa 1850 (16-HHA-31); St Västshed, Rycka, Trässberg 1854 (16-TRG-36)

⁶⁶ For example: Stora Brätteberg, Jung 1847 (16-JUN-19); Christiansgård, Toketorp, Järpå 1844 (16-JÄ-38); Svenninggård, Synneråhl, Saleby 1861 (16-SBY-66); Storebacken, Rycka, Trässberg 1847 (16-TRG-21).

⁶⁷ Documents of decisions (utslagsakter), D iv: 607, Missive signed by 19 freeholders 18 February 1819.

⁶⁸ *Enskifte* in Saleby, Saleby parish, 1817-18, 16-SBY-1b, pp. 2, 16-17, 20 and 21.

Historians have long praised the Swedish enclosure legislation as bold and ahead of its time. It broke up old, fusty traditions embodied in village life, making way for individualism and rationality, progress and prosperity. The present study of the *Enskifte* and *Laga skifte* reforms on the Västergötland plains offers a less optimistic view of the Swedish institutional model.

A first observation is that the one-man rule of initiative had an inherent tendency to provoke enclosures that were not yet considered economically viable by the local community. If one stakeholder thought that enclosure might be good business, while the others did not, enclosure still had priority.

A previous study has demonstrated that enclosures in the area under study here long had limited effects on the agricultural productivity.⁶⁹ At the same time, enclosures were associated with heavy expenses, not least for fencing. Many farmers must have concluded that the reform's benefits could not compensate for the costs. Consequently, it was in their interest to avoid enclosures. In order to invest in their land and plan for the future, landowners also needed to maintain a certain level of security within the existing property regime. The Swedish institutional model made this very difficult. When it only took the application of one stakeholder to initiate a reform, landowners could face an imminent enclosure at any moment.

This present study has demonstrated how freeholders employed a number of different strategies in order to control implementation of reform. During meetings with the land surveyor, freeholders frequently protested against the reform. Enclosures were also appealed. Given the strong legal support for enclosures, the prospects of such methods were limited however. In one remarkable case, local freeholders went one step further, employing civil disobedience, sabotage, and intimidations against the land surveyor in order to stop the reform.

More important, however, were the measures taken internally, within the village communities. In many villages, there seem to have been a collective commitment to not support the reform process; this tendency morphed into peer pressure to restrict an individual's legal right to apply. To call for a reform without the support of at least some of one's neighbours came with a high social cost. In some villages, freeholders signed formal agreements in order to avoid enclosures. Even if the legal validity of such contracts was questionable, they certainly had moral and social implications. Intimidation and even sabotage or violence directed against the applicant were also deployed. This resistance probably hampered advancement of the reform in many villages. But given the legal weight behind enclosures, local resistance could not stop the gradual advance of the reform over the plains.

From an international perspective, there are parallels between the resistance to enclosure on the Västergötland plains and the conflicts over enclosures during English parliamentary

⁶⁹ Nyström & Hallberg 2018.

reform.⁷⁰ Institutional structures differed, however. During English parliamentary enclosure, support from landowners representing 75-80 percent of the land was required in order to pursue reform.⁷¹ Such a stipulation ensured both that enclosure was based on an assessment of the possible benefits of a new division of land, and that landowners generally regarded the change as legitimate. Most of the outrage over reform came from groups whose consent was not required in order to enclose the land, most notably commoners fearing the loss of grazing and wood-picking rights. According to Michael Turner's analysis, the need for substantial landowner support might have delayed enclosures that were economically favourable for the landed interests.⁷² Landowners in Sweden faced a reversed risk.

This study argues that weak Swedish protection of existing property rights came with an institutional price. This price included a long period of chronic insecurity for farmers who wanted to maintain the old order, tensions and social unrest within the village communities, the growth of informal institutional arrangements designed to counteract the enclosure edicts and also, potentially, a loss of faith in the state and the rule of law. In line with Heckscher, it could be argued that this was a price worth paying, that it was necessary to "break some eggs" in order "to make an omelette"⁷⁴, that the problems that arose along the way were modest compared to the modernisation achieved by the reform.

Such an interpretation must also take into account that modernisation was delayed. The ambition of the state was to replace open fields with individual land holdings, the traditional two-field system with convertible husbandry. These intentions were not realised until the 1850s, almost half a century after the initiation of reform. In order to reduce fencing costs, most farmers continued to use the two-field system on enclosed land. They also frequently cooperated over fields and fences. The fact that land surveyors supported this solution by dividing land into "land register units" rather than individual holdings must reflect an awareness of the need to negotiate the reform. That farmers chose to reconstitute open field structures in the enclosed regime indicates that they considered this design the best way to organise farming on the plains.

Swedish enclosure laws rested on the assumption that enclosure was by definition the most rational choice. Farmers opposing the reform thus were considered unable to understand what was best for them. If we assume farmers as having been perfectly capable of making a rational choice, the problems embedded in the Swedish institutional approach to enclosure become evident.

⁷⁰ See for example Carter (1998, with convincing evidence from Middlesex, as well as a useful historiographical overview); Yelling (1977: 47-58, 70), Healey (2016).

⁷¹ See for example Turner (1980: 153-57); Dahlman (1980: 180-81).

⁷² Turner (1980: 169-70).

⁷⁴ Heckscher (1941 s. 205).

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Map: the research area

