

The Commons: A New Narrative for Our Times

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It is a challenging undertaking to introduce new political and cultural perspectives amid the transformation to a knowledge-based society and intensifying multiple crises. Not only must these concepts be theoretically and substantively sound, they must be capable of changing political and social realities. This essay investigates whether the concept of the commons can succeed in becoming ingrained in the political discourse and thinking.

The commons are, as Jonathan Rowe puts it, “the hidden economy, everywhere present but rarely noticed.”² They are that often invisible third element, beyond the market and government. The discourse on the commons focuses on three interrelated realms -- a set of resources or resource systems, the communities that use them, and the social practices and property regimes for managing the resources.

We start by explaining our understanding of the concept of the commons and its relationship to debates about property rights. We then look at the complex relationship between common pool resources and the communities that use them. This presentation is only a rough sketch of current political and social conflicts, it suggests how the commons profoundly challenges the neoliberal economic worldview.

The Commons at the Center of Major Social Conflicts

Many conflicts of our time revolve around the erosion of common pool resources, on the one hand, and the concentration of rights to use and dispose over those resources, on the other. The erosion of common pool resources and the concentration of control over them affect the individual in his environment in very different ways. As biological diversity and cultural traditions decline, there is a corresponding loss of languages³ and thus the stores of knowledge about specific ecosystems and benefits of plant and animal species. Forty-nine per cent of the seed market is concentrated in the hands of only four companies,⁴ and five companies control 90 per cent of the copyrights in the music industry.⁵ Whatever area we look at, we are confronted with growing concentrations of control, money, and power.

Such concentration limits the use rights of everyone and erodes the vitality and diversity of the commons. To be sure, there are counter-movements to uphold centuries-old traditions in the seed exchange between farmers and the “wondrous expansion”⁶ of

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² Rowe, Jonathan: *The Hidden Commons*, 2001: <http://www.yesmagazine.org/article.asp?ID=443>

³ Six thousand living languages currently exist. Between 30 and 90 per cent of them are threatened with extinction by the end of the millennium. (http://de.wikipedia.org/wiki/Bedrohte_Sprache).

⁴ ETC Group: The World's Top 10 Seed Companies - 2006. http://www.etcgroup.org/_page24?pub_id=656

⁵ Nuss, Sabine: Copyright & Copyriot. Münster 2006.

⁶ Cf. Drossou, Olga; Kreml, Stefan; Poltermann, Andreas: *Die wunderbare Wissensvermehrung. Wie Open*

knowledge, culture, and innovative potential made possible by digital technologies.

But critics of privatization and commodification of countless resources – “the enclosure of the commons” – are generally locked into a debate about whether solutions require “more government” or “more market.” These demands can no longer be so predictably attributed to particular political camps in a left/center/right spectrum. In the wake of the 2008 financial crisis, among other things, libertarians, for example, do not have a problem with government intervention to stabilize the status quo.

The problem may be that the ideologies of the fading 20th century are losing their explanatory power. They are gradually dying because they are no longer valid. State socialism has failed and the governments of nominal democracies in many parts of the world are often corrupt and unable to address enclosures of the commons. Nor can the neoliberal economic model, through key trade liberalization projects such as the Free Trade Area of the Americas (FTAA), address these problems.

The logic of “either-or” has also failed in light of contemporary events. For decades, government institutions have actively advanced private economic interests worldwide at the expense of ordinary people. Numerous commons have fallen and are falling victim to this unholy alliance of government and business. For example, resources that for centuries were perceived as “belonging to everyone,” were actually only recently turned into commodities through negotiable “intellectual property rights,” which now authorize private ownership of human and plant genetic resources, “business methods” and the mathematical algorithms of software code.

Conflicts are intensifying for at least three major reasons:

1) *The finite supplies of natural resources is becoming more evident.* As large parts of the populations of emerging economies such as China and India have transformed themselves to promote mass consumption, it has become painfully clear that what until now have been widely assumed to be virtually “inexhaustible” resources are, in fact, finite. This applies to fossil fuels and minerals (“peak oil”) as well as to biotic resources (forests, soils, fish stocks). Soaring material consumption has also dramatically overtaxed lakes and oceans as repositories for greenhouse gases.

Climate change is the culmination of this dramatic trend, which has now been forcefully catapulted onto the global political agenda. Biofuels are another example of how the inability of society to manage finite oil reserves and atmospheric repositories has an immediate impact on the availability of water, land, forests, etc. For wherever the extensive and widely monopolized production of farm crops is used to generate energy or to improve trade balances, not simply energy or crops are exported but also the resources necessary for their growth. In other words: common pool resources like water, soil, and biodiversity will, de facto, be exported from the country of cultivation along with the biofuels and crops themselves.

The challenge is therefore threefold: first, to safeguard vital resources from the growing pressure to exploit them; second, to ensure that politically and economically marginalized population groups have access to these vital resources; and, third, to

Innovation unsere Welt revolutioniert (The Wondrous Expansion of Knowledge. How Open Innovation is Revolutionizing Our World). Hannover 2006.

distribute the profits that arise from the commercial use of common pool resources in a fair and socially controlled manner – be it oil (think “resource curse”⁷) or emission allowances.

2) *Economic success is increasingly based on knowledge and information, which are gaining unprecedented importance in the production process.* The value created by many companies largely consists of the intelligent use of knowledge and information. Sectors that particularly rely on knowledge resources are growing very rapidly. Products are becoming more knowledge-intensive, and innovation and product life cycles are growing shorter. This process is also fostered by the fact that intentional weak elements are frequently integrated into product designs, creating even shorter life cycles.

Unlike natural resources, knowledge and information are not limited as a raw input of production. When I pass on information, it also remains with me, even though a third person simultaneously has the same information. But this basic fact about information creates a special problem for capitalists: If something is not finite and is always available, it cannot command an attractive price because it is so abundant. To rescue the industrial society’s rationale of capitalist utilization in the knowledge economy and to make knowledge a profit-making product, knowledge goods are artificially made scarce –through copyrights, patents and trademarks -- even though this runs counter to their essential nature, as described above.

The lockdown of knowledge has produced a paradox, however. By using technological and legal strategies to make knowledge scarce, intellectual property law is also hindering innovation, creativity, and productivity in society as a whole.⁸ It significantly limits people’s access to knowledge and culture, interfering with everyday habits of culture and civic life.

There are other production and business models, however, which are based on the assumption that barriers to knowledge, information, and culture should be kept to a minimum. They challenge the central institutions of the market economy (contracts, private property, and hierarchies) with a system in which no one is hindered from producing due to the property rights of another, as Yochai Benkler writes. Under these scenarios, cooperation does not arise as a byproduct of material incentives or vertical command structures. Instead, sequential and collective production processes offer the freedom for individuals to share and create. People are motivated not only by material incentives but also through a sense of community and reputation.⁹ Licenses like the General Public License (GPL) for free software¹⁰ and the Creative Commons licenses for music, video, text and other creative works (which require *distribution under same conditions – the ShareAlike license*), legally ensure that content does not revert to the industrial production and distribution paradigm. Content is kept open and accessible, and can continue to be collectively developed and available for all.

⁷ Most of the developing countries rich in mineral resources have the world’s lowest growth and highest poverty rates. Corruption indices in these countries are also very high.

⁸Cf., et. al.: Lessig, Lawrence: *Free Culture. The Nature and Future of Creativity*, The Penguin Press 2004.

⁹ Benkler, Yochai: *Commons-Based Strategies and the Problems of Patents in Science* 20, August 2004, vol. 305, no. 5687, pp. 1110-1111.

¹⁰ The General Public License (GPL), the third version of which has been published in June 2007 by the Free Software Foundation, licenses free software and other content.

3) Technical progress is tapping ever new spheres and spaces for economic exploitation. Genetic information acquired through gene technology,¹¹ synthetic molecular biology, and nanotechnology are examples of this trend. Technologies are also colonizing space, minerals in the deep sea, and the electromagnetic spectrum as a means of information transmission. Whatever resource can be appropriated for market use is fragmented, fenced in, or enclosed.

Following an age-old paradigm, as in the days when land was handed over to the conquistadors of distant continents, the newly “developed”, supposed “no man’s land” – de facto the common of the indigenous populations or global common resources – is granted to the “pioneers of the conquista” for private utilization. Communications expert Rainer Kuhlen¹² called this trend “venterization,” in reference to the biochemist and gene technician Craig Venter. The term describes the perfected process of controlled private appropriation of knowledge and its conversion into products that are then traded on information markets.

As technological revolutions converge with dramatic imbalances in the various players’ ability to assert their interests, this controlled private appropriation now reaches into the most intimate and remote spheres of our lives – our genes, relationships, and way of thinking and into the resources that are spatially so very distant from us (outer space, deep sea) -- that we barely perceive them as being *ours*.

The battles for clean water and air and preservation of biodiversity in the 1960s were first conceptualized as a struggle to protect “the environment.” The cultural invention of that term has been highly useful in advancing a political agenda to guard air, water and soil from marketplace abuses. But now it is time to broaden the scope of our political paradigms. The modern-day commons debate focuses attention on both the erosion of natural resources and the loss of rights by “the commoners” to use and manage the cultural and social resources that belong to them. Our thesis is that the commons discourse can help stimulate cultural awareness and reframe political debate, which in turn can help promote the greening of society and broader access to knowledge and culture. A convergence of movements, as called for by GRAIN, the sustainable agriculture NGO,¹³ triggered by the core ideas of the commons discussion, could shake up current political discourse and advance a new vision and paradigm.

Clarifying the Concept of the Commons

We use the term *commons* to refer to a central political concept. It describes goods and

¹¹ Craig Venter is said to have created a synthetic chromosome in October 2007. Venter became known through his project on sequencing the human genome. For decades, he has been working on creating artificial life, which would lead to the limitless availability and use of the building blocks of human life (<http://www.spiegel.de/wissenschaft/mensch/0,1518,509848,00.html>).

¹² Kuhlen, Rainer: *Napsterisierung und Venterisierung. Bausteine zu einer Politischen Ökonomie des Wissens (Napsterization and Venterization. Building Blocks to a Political Economy of Knowledge)*. PROKLA – Zeitschrift für kritische Sozialwissenschaft (Journal on Critical Social Science), special edition on the topic of knowledge and property in the digital age. 32, 4, 2002, pp. 57-88.

¹³ GRAIN is an international nongovernmental organization dedicated to the sustainable use of biodiversity. *GRAIN: Convergence of Movements to Fight IPRs on Information* in: Seedling. October 2005. <http://www.grain.org/seedling/?id=409>.

resources that share a special relationship with a group of people, a community. This group perceives or views these resources as being “theirs.” In other words, they embrace them as their own -- not in the sense of libertarian property law which sanctions whatever one wants to do, but in the sense of stewardship of the resource and ongoing access and use. In this sense, when we talk about the commons, we are referring to the power of the little word “ours,” which encompasses both individual *and* collective needs. The commons is about not only utilizing but also caring for resources and goods, whether they be social, cultural, or natural.

The concept of the commons accordingly refers to a shared ownership relationship, which, at the same time, entails a shared responsibility and shared beneficiary relationship. This relationship does not exist “in and of itself,” that is, it is not inherent in the resource or the good. It is a social convention; it is law and norm, whether formal or informal. Or it is a behavioral pattern. In other words, the commons is fundamentally about social relationships. Commons are not the resources themselves but the set of relationships that are forged among individuals and a resource and individuals with each other.

Often public goods and commons are mentioned together in the same breath. While the two concepts overlap, a distinction is to be made between the two:

- *The commons* describe certain patterns of relationships between a good or resource and a group of people. They are inherited or collectively developed and passed on over generations; they are initially invented, but have to be nurtured, maintained, protected, and replenished. “There are no commons without commoning” is one of the central phrases of the commons debate in the English-speaking world. Commons evolve in social practice. They are a verb, not a noun.

- *Public goods*, by contrast, always need a formal decision to be produced and tends to emphasize the economics of a shared resource. Like the *commons*, public goods often serve the function of ensuring the availability of resources to society. The public water supply (as a public good), for example, ensures the availability of the common resource water; libraries (as a government institution) ensure people’s access to knowledge and ideas. This, in turn, requires stable political conditions and efficient – mostly governmental – institutions. Both are nonexistent in many parts of the world.

Public goods are determined by the “triangle of publicness” -- public consumption, public distribution, and public decision-making.¹⁴ Public consumption is defined such that it is generally difficult to exclude “freeloaders” from using this good. Public goods share this feature with some, but by no means all, commons. Local and regional natural resources that are subject to complex administrative regimes generally have very clear access restrictions.

Public goods are mostly services that use and distribute common pool resources such as healthcare, water provision and public electrification.

¹⁴ Martens, Jens; Hain, Roland: *Globale Öffentliche Güter. WEED-Arbeitspapier (Global Public Goods. WEED Working Paper)*. World Summit Papers of the Heinrich Boell Foundation No. 20., p. 12.

A distinction must also be drawn between the (common pool) resources, the property regime, and the “benefit stream” or the products resulting from the resources – in other words, between common pool resources, common property, and the flow of resource units.¹⁵

Common pool resources are understood to mean the broad diversity of collectively inherited or produced resources (and resource systems) which citizens have a political and moral interest in controlling and managing within their communities. These resource systems can be natural, social, or cultural in nature.

There are good reasons to view resources as common pool resources and to administer and manage them in various forms of collective property (which include common property and public property). These include:

- Resources that constitute our “collective heritage.” Natural common pool resources in particular are inherited, not made. Groundwater and surface water; genes; the atmosphere, with its (limited) ability to absorb greenhouse gases; lakes; oceans; a priori land; the electromagnetic spectrum (as a medium for wireless communication); and mineral resources – no individual, no company, and no government has “produced” them. Therefore, no one can rightfully claim them as his sole property and no one is entitled to a larger share of them than anyone else.
- Certain cultural and knowledge goods are similarly inherited and not made by an identifiable subject. These include our spoken and written language. Notes, chords, rhythms in music. Folk songs, fairy tales, and proverbs. Traditional knowledge about medicinal herbs, healing practices and seeds, religious customs, and meditational techniques. In these cases, too, it can be said that no one can rightfully claim what has not been “made” by anyone. The rights of disposition and use are understood as a priori collective rights.
- Common pool resources, furthermore, are fundamental to human life and to any kind of production and reproduction. Sustainability and ensured availability for humanity should be fundamental principles of any common pool resource management.

Notwithstanding these facts, administering common pool resources as common property is not a natural law. Rather, the question of how to arrange property rights to common pool resources is the subject and result of ongoing and fierce social struggles worldwide.

We are positing the political need to establish and maintain societal or community control over common pool resources. That offers the best way to stabilize and continuously revitalize the relationship between resources and society. This is true no matter what sort of property regime is established. One of the most important findings of empirical commons research is that the crucial political question is *not* how to allocate property rights. Public, private, and common property regimes have all

¹⁵ Hess, Charlotte; Ostrom, Elinor: *Artifacts, Facilities, and Content: Information as a Common-Pool Resource*. Bloomington: Indiana University. Workshop in Political Theory and Policy Analysis, 2001. pp. 55-57.

succeeded and failed to ensure long-term, efficient commons management.¹⁶

There are, however, numerous historical examples of communities managing common property resources sustainably over the long term. It is difficult to generalize from these examples, but there are many instances of complex, self-organizing processes in which citizens develop management systems that secure and manage shared resources effectively. These cases reveal an often overlooked third approach to resource management, one that protects human rights and social equity while preventing concentrated control by a few individuals or groups.¹⁷

Property rights are bundles of rights to access, extract, manage, exclude, and sell, in various combinations. This list is not complete, but, for our purposes, it is sufficient. The generally understood notion of “property” today – the unlimited right of rule in the sense of “dominion” – implies disposal over movable and immovable things at one’s pleasure, without impediment. This notion of absolute ownership – stemming from Roman law – has found its way into nearly all modern legal systems. The owner may use and consume or destroy the property at his pleasure so long as it does not conflict with the law or the rights of others.

In contrast to this practice, there are collective property systems that take into account the unique feature that several people have a right to dispose over the particular resource. Under these systems, it is not possible to destroy or sell the resource without harming the co-owners.

Thus, a crucial point is how extensively the rights of disposition are defined within a particular property regime. In our view, absolute individual property rights (“dominion”) must be ruled out in respect to common pool resources. This results in the need for a commons-based property regime, for example, by elevating undivided co-ownership in combination with private rights of use. In other words, the restrictions on dominion over common pool resources must be redefined.¹⁸

Normative Claims Relating to Common Pool Resource Management

To talk about the commons is essentially to address the quality of the relationship between social beings and resources. Regardless of whether something is managed by the community (e.g., springs, streams, forests, pastures, traditional knowledge); by the government or multilateral institutions (national parks, stores of knowledge, fish stocks in an exclusive economic zone, atmosphere); or even privately managed, a number of normative claims arise (which vary according to the nature and function of common pool resources):

- *Fair access*: All members of the respective community, the co-owners, gain the same access. This implies fair access restrictions, especially in the case of

¹⁶ Cf., et. al. van Laerhoven/Ostrom: *Traditions and Trends in the Studies of the Commons* relating to forests, in IASC Journal, vol. 1, No. 1, 2007, pp.3-28.

¹⁷ Cf. esp. Ostrom, Elinor: *Governing the Commons: The Evolution of Institutions for Collective Action*, Cambridge University 1990. Also, Rowe, Jonathan: *The Parallel Economy of the Commons*, in State of the World 2008, pp. 138-150.

¹⁸ Cf. Simonis, Udo Ernst: *Ökologischer Imperativ und privates Eigentum (Ecological Imperative and Private Property)*. Discussion paper FS-II 97-403, Wissenschaftszentrum Berlin, 1997.

natural resources.

- *Equitably shared benefit*: Like the historical commons, today's common pool resources are also economically productive. The proceeds¹⁹ derived from a common pool resource should benefit everyone in a fair manner.²⁰
- *Responsibility for preserving the resource*: "We have only borrowed the earth from our children," was an early slogan of the environmental movement. It expresses the idea that we must pass on all that we have inherited, undiminished – ideally even replenished, healthier, and more productive – to future generations. A right to sell the resource itself is thus incompatible with this idea, because it would betray the principles of stewardship.
- *Democratic and transparent decision-making*: The beneficiaries of the common pool resources, in principle, have the same rights of participation. Decision-making pertains to all major questions of access, control, use, and distribution of the generated wealth. It is to be understood as a process whose function is also to make people constantly aware of their shared responsibility for the commons. Exercising these decision-making rights in actual practice is what, in fact, makes a resource a commons.

So, when we speak of something as a commons, when we think of it as generally belonging to the community, we simultaneously voice claims and requirements about the process of managing it and for what ends, thus distinguishing it from a private good. These requirements are the key elements of the concept of the commons as a political paradigm.

Ideas and concepts are increasingly becoming the core and source of innovative, creative, and productive activities. Cultural and knowledge goods that can be attributed to a certain author or a certain creator, inventor, composer, researcher, or programmer are an expression of an individual creative process that is always based on stores of collective knowledge and culture. Music is created from basic elements: notes, rhythms, chords, accents, and motifs. These are the "common pool resource." Anyone who composes a musical piece – creating from countless past musical works, the result of similar individual and collective creative processes – produces something new in the special arrangement of pre-existing resources: new music. It is that author's work – but it draws upon a cultural commons of the mind.

From the individual creative process, certain rights accrue to the author. They are laid down in copyright law. Here, a distinction is to be made between the author's personal right²¹ and the author's licenses. If the use of licenses follows the logic of exclusion – or, as copyright law puts it, "All rights reserved" – it will have a direct, extremely restrictive

¹⁹ This refers to solid cubic meters of wood extracted from forestland, rations of animal feed mowed from meadowland, the kilograms of food fished from waters, the information and products derived from traditional stores of knowledge or scientific databases.

²⁰ In terms of both access and use, the benchmarks used to measure "fairness" would be the subject of the general theory of fairness and are not specifically discussed here.

²¹ Under European law, the author's personal rights (right to publish, right of authorship, right to prohibit the distortion of the author's work, the title, etc.) are tied to the author and are inalienable.

impact on access and the possibility of further creative development by consumers and society. “All rights reserved” is still the cultural and legal norm. Industries that rely upon copyright law use many legal and technological measures to try to enforce this norm in an age where the costs of reproducing digital information and works are approaching zero.

Music, for example – whether burned onto CDs and sold through conventional retail stores or as a fee-based download on the Internet – is recorded and marketed by production companies (the labels) according to the functional principles of industrial society. This business model of the labels is based on making music artificially scarce and artificially increasing the cost of gaining access to it.

The question, from the perspective of the commons, is, How legitimate are such strategies of making products scarce? To create a work or new content, authors cannot avoid drawing on the pool of common resources, which are then inevitably made “scarce” along with the created work. One must also ask, Who assures that “too much” is not taken from the cultural commons and made private? Who looks out for the interest of the general public by assuring that newly created music will at some point be made available to enrich the cultural commons?

The public-domain rule for authored works and compositions is a generally appropriate tool to limit the author’s licenses and thus ensure a fair balance of interests between authors and society. However, these periods, which have been constantly expanded over the past 80 years, need to be significantly shortened in order to promote the commons of the mind. Currently, works enter the public domain and can be used by everyone seventy years after the death of the author – an extraordinarily long period of privatization that usually exceeds the commercial viability of works.

A significant and ingenious set of solutions to this problem are the free licenses such as the GPL and some Creative Commons licenses that enable authors to make their works available to the general public while preserving their personal rights. People can access and use knowledge and culture without the normal copyright restrictions, which allows an ethic of “share, reuse, remix” -- the commons of the mind -- to flourish. In contrast to natural resources, which tend to be finite and depletable, open access to knowledge and culture is an important precondition for developing the commons of the mind.

Common Pool Resources and Communities

*By the social element I mean the whole range from the right to share in a modicum of economic welfare and security to the **right to share to the full in the social heritage** and to live the life of a civilized being according to the standards prevailing in the society.*

Thomas H. Marshall²²

Managing common pool resources in a practical sense requires a community that becomes aware of its relationship to the resources in a social context and names the

²² Marshall, Thomas H.: *Citizenship and Social Class*, in *Citizenship and Social Class*, Frankfurt/Main 1992, p. 40 (author’s emphasis).

resources as *its own* – a community that claims them, a community that presses for and helps enforce rules to respect this co-ownership. That is why the slogan of onthecommons.org²³ is so apt, for one of the first tasks of the commons debate is “to name it, to claim it, and to protect it!” We can only be aware of that which we can name.

Yet it is not always easy to answer the question of what specific community is related to what resource and what rights arise from this relationship. For example, indigenous communities worldwide act and heal with their knowledge about the power of the plants within their respective ecosystems. They live and feed themselves from their ecosystems. It is their every right. Local communities are especially entitled to use the resources of their ecosystems. But, at the same time, the genetic information that is inscribed in the substance of plants is intangible information that has global significance and arguably belongs to all of humankind. The expansion and transmission of traditional knowledge is also tied to the existence and use of physical materials.

It thus becomes clear that natural, intangible and cultural resources are closely intertwined. They can be both specific and local (the plant itself) *and* infinitely reproducible and global (the information encoded in every plant). The local people are directly entitled to the one; the other only belongs to them as part of humankind. This ambiguity means that the scope of a given community’s rights of disposition and use of plants and plant genetic information is often hotly contested. The Convention on Biological Diversity (CBD) and other international agreements on plant genetic resources are attempts to draw lines between what belongs to a community and what to humankind. According to the CBD compromise, biodiversity is assigned to the respective nation states; the plants are thus defined as “public property” managed by governments. That may be a form of progress, but it does not guarantee preservation of plant resources.

Without preservation of small-scale natural ecosystems, without acceptance of the rights of the people and communities living there, the global biodiversity to which we all have a claim cannot be preserved. The one is inextricably linked to the other. However, to make matters more complicated, the communities that share a relationship to a particular resource is not always clearly identifiable and it is not always clear which communities should have privileged access or not. Therein, among other things, lies the special complexity of the commons debate, which defies simplistic answers.

It appears that we can only answer the crucial question of which specific community is committed to which common pool resource on an individual basis, as the case arises. Nonetheless, it is possible to cite some of the dimensions that prove helpful in making more intelligent judgments:

- *Spatial dimension*: The existence of physical boundaries, to define the relevant community – say, the inhabitant community of a watershed.
- *Temporal dimension*: Ownership rights inherited over generations, a value that common law has traditionally honored; knowledge and natural resources preserved by indigenous communities.

²³ See <http://onthecommons.org/>

– *Dimension of (already assumed) responsibility*: This dimension applies to production, preservation, and reproduction of the resource; e.g. programmers who, without constraints, maintain and expand software code in an international network or indigenous communities who, in addition to their local ecosystems, have been maintaining global immaterial common pool resources for centuries. Such demonstrated stewardship is seen as presumptively entitled.

– *Dimension of functionality*: Communities can only assume concrete responsibility for common pool resources when they are able to agree directly on the rules, principles, and institutionalization of management. The principles of management must be established and accepted. This is also conceivable under traditional democratic governments, through the principle of delegating responsibility to a trust, a government agency or other trustee institution.²⁴

Global common pool resources in particular, such as the oceans, seabed, universe, and atmosphere, cannot be assigned to any definable community, but belong to all human beings equally.²⁵ They have been historically treated as “no man’s land.” So the “tragedy” is not inherent in the commons but rather a more general problem of human society co-existing with the Earth. The Garrett Hardin metaphor of the “tragedy of the commons” is, as has often been analyzed, a tragedy of territory that is open to all, without rules or restrictions.²⁶

This is well illustrated by the example of the atmosphere. So long as there was no risk of overuse, it was treated as nobody’s concern. It could be viewed as an orphaned commons. The same applies to outer space, which is littered with space debris, as well as to the deep sea or the Arctic.

In the case of the atmosphere, the climate crisis now calls for a shift in perspective. It is urgently necessary that we all voice the same claim of entitlement, which arises from our understanding of the atmosphere as a commons, instead of surrendering this resource, by virtue of our inaction, to arbitrary misuse by individuals. The perspective we need to adopt is that the atmosphere belongs to all of us. This collective claim of entitlement implies that my individual rights of use are limited by the collective interests of everyone else.

Beyond the complexity of assigning a resource to an entitled community, the concept of the commons must also be updated in light of the “new commons” created through digitalization and the transformation to a knowledge society. As already seen, we are not just talking about local communities. In addition to urban communities worldwide or to indigenous communities defending their natural resources, we are, at the same

²⁴ These dimensions are also described in the text by Jean Pierre Leroy: *The Guardians of our Future. Territorial Management in Gurupá*. In this web-dossier.

²⁵ For example, a “moon treaty” stipulating this right does, in fact, exist (follow-on to the Outer Space Treaty). All ownership claims to the resources of the moon are assigned to the international community – or to all people equally – in this treaty. No one is to be privileged through personal ownership of outer space. However, only 16 states have signed the treaty, which was submitted to the United Nations in 1979. It is thus considered to have failed. The next generation will determine what consequences that will have, because claims will not be staked out until the technology is suitable to exploit the mineral resources of the moon.

²⁶ Cf., among others, Lerch, Achim: *The Tragedy of the Tragedy of the Common*, in this web dossier.

time, talking about delocalized, global communities that exist in cyberspace. People who are linked from Sydney, Mexico, and Namibia via the Internet are accessing, using, and expanding *their* shared resources. As more people around the world participate in online communities, they are developing a new kind of global citizenship. Our traditional understanding of modern citizenship must begin to incorporate new realms of our lives, new commons, and the “right to share to the full in the social heritage,” as expressed by Thomas H. Marshall in his classic essay on citizenship.

“There are no commons without commoning,” as Peter Linebaugh puts it. There are no commons without caretakers interacting in various social relationships. Yet it is essential that the commoners assume concrete responsibility for the resources. There can hardly be any assumption of collective responsibility without communication between members of the community; without a high degree of acceptance of the rules, reciprocity, and cooperation; and without a functioning and transparent decision-making process. These are high expectations for the quality of communities and thus – on an individual level – for the quality of citizenship. This quality is rather rare in heavily individualized societies or in societies under enormous socioeconomic pressure.

Yet, by the same token, when groups of people assume responsibility for managing common pool resources, it also generates a sense of community, because the necessary communication processes create a bond. These processes (re)produce social cohesion, foster responsibility and public spirit and, thus, common welfare. A community that protects its watershed, that maintains its public places and has spaces to preserve and expand its traditional stores of knowledge creates a social fabric, a web that sustains it.

Also, some things, by their mere existence, foster a sense of community: the village fountain, the legendary baobabs of West African village squares, cafes, and lively public places. Today, remarkable innovations in software are creating new spaces in which new types of communities around the globe can grow.

The vital role that commons play in production and social cohesion should be developed as a crucial line of argumentation: We believe that commons must not be disassociated from their unique relationship to the community. Commons *are* communities, and they help promote personal responsibility, social cohesion, and sustainable management of often-endangered resources.

We are not speaking out in favor of a romantic idea of society. We are not referring to premodern concepts of community that are opposed to the idea of the modern individual. But we do, indeed, reject the notion of reducing the individual to his role as a consumer, contractual partner, and seller of his labor. The individual also achieves self-realization by taking responsibility for common welfare and the commons – local, regional, and global. This, too, is part of a modern understanding of citizenship. In contrast to the objectifying assumption that the individual is a strictly utility-maximizing *homo economicus* – “Economic Man” – people are also guided in their actions by reputation, a sense of solidarity, and reciprocity. Or as Karl Polanyi expresses it, “Man’s economy, as a rule, is submerged in his social relationships. He does not act so as to safeguard his individual interest in the possession of material goods; he acts so as to safeguard his social standing, his social claims, his social assets. . . . In every economic

system, the maintenance of social ties is crucial.”²⁷ Polanyi furthermore asserts that when economic activity is detached from social relationships, this brings with it catastrophic social uprooting. The truth of this dynamic is vividly clear worldwide.

We think that the quality of the commons, as a special aspect of the relationship between resources and the community (communities), is closely tied to these processes of uprooting. We assert that there is a clear causal connection between social division and access to common pool resources and public goods, which can be empirically shown.

We assume that the ability of society, every society, to develop, vitally depends on how it succeeds in meeting the challenge of ensuring fair access to and active participation in the commons and of guaranteeing ecological and social sustainability. The debate on who is responsible for our collective resources is thus also a debate on some fundamental principles of social organization.

The Commons as a Subject for Political Discourse

As we have seen, the discourse on the commons sheds new light on numerous processes of establishing political and legal rules. One example of this is emissions trading. It makes a difference whether one assumes that the atmosphere belongs to everyone a priori as a common pool resource or whether one rejects this assumption. In the latter case, the decision on how to distribute emission allowances becomes an administrative act, which can be measured solely by criteria of economic rationality. If, on the other hand, one views the atmosphere as a common pool resource, citizens have concrete claims to access and democratic co-decision-making. One proposal based on this idea is elaborated in the model of an alternative emissions trading scheme – the Sky Trust.²⁸

In the case of providing populations with potable water, social and political conflicts are often sparked only in later stages of production and distribution – when the question arises as to who will specifically dig the well, lay the lines, and collect the fees. There is abundant empirical evidence that, when social controls are lacking, private provision and distribution result in significant tradeoffs in the quality of service, resources, and fair access.²⁹ On the other hand, the government also does not always guarantee that the principles of responsible commons management will be respected. Inefficiency, co-opting for individual interests, mismanagement, and corruption are ubiquitous in the world. The critical first question is whether private property rights shall be considered the paramount value or whether the citizenry’s co-ownership and shared responsibility for a resource is more critical. The choice made will affect what sorts of access and usage rights people will enjoy, and under what terms.

As important as it is (and will remain) to discuss the pros and cons of various property

²⁷ Polanyi, Karl: *The Great Transformation. The Political and Economic Origin of Our Time*, Frankfurt/Main 1990, p. 75.

²⁸ Barnes, Peter: *Carbon Capping – A Citizen's Guide*. Tomales Bay Institute 2007.
http://www.capanddividend.org/files/CarbonCapping_CitizensGuide.pdf

²⁹ HALL, David & LOBINA, Emanuele: *Agua, privatización y ciudadanía*. In: ESCH, Sophie et al. (eds.): *La gota de la vida: „Hacia una gestión democrática del agua“*. Ediciones Böll, 22, Mexico 2006.

regimes, the discussion often runs the risk of repeating underlying patterns of ideological debates. It seems more productive to take up the central impetus of the commons debate, in other words, to begin concretely from the nature of the disputed resources.³⁰ Thus, we should start by considering the socioeconomic and cultural circumstances of the relevant community (communities) as well as the effectiveness of existing formal and informal legal systems for managing and defending (social) control over the resources.

The one who is entitled to common pool resources is not always the one to whom they belong in a property rights sense. Differentiating claims of use as participants and co-owners from de facto allocated property rights thus sheds new light on the problem. To talk of the commons is to move beyond the dichotomy of *public* versus *private*. The commons helps focus attention on rights and duties, on freedoms and responsibilities of citizens in making sure the resources remain commonly available. It focuses attention on the quality of the bond between us and our collective heritage.

To speak of bytes and genes, water or the atmosphere, and many other resource systems as commons, is anything but trivial. We are not splitting hairs but describing a fundamentally distinct concept that leads to new sorts of political arguments and a diversity of institutional solutions. The commons debate always posits the sovereignty rights of the respective community, this and future generations, to dispose over their common pool resources. That is the main shift in perspective made possible by the debate.

Commons and Diversity

Commons management must be diverse – as are the various resource systems in their varying relationships and legal systems. “We cannot be purist with the commons. It is never only about *one* commons and never only about *one* community,” says Christine von Weizsäcker.³¹

The manner in which common pool resources are managed will depend on numerous variables – especially in respect to the quality of the resource and the degree to which the relevant community is rooted in its culture, society, and economic system. Commons theory does offer models of successful collective action but not universally applicable political prescriptions. Rather, the institutional solutions will always be multifaceted and complex.

If it is true that diversity is the most important stabilizing principle in nature and society -- that it is the only principle which provides humankind and nature with many possibilities and solutions -- then the strength of the commons debate is that it defies simplistic prescriptions for political action. This strength is, at the same time, its limitation. For when politically charged conflicts demand solutions, the commons – for

³⁰ Are natural or immaterial resources at issue? Are cultural or social systems involved? Local, regional, or global? Are the resources disappearing or multiplying through use?

³¹ *Gemeingüterschutz zwischen Diversität und globaler Verantwortung (Protecting the Commons: Between Diversity and Global Responsibility)*, conference of the Freiburg Kant Foundation and the Institute for Political Education, Baden-Württemberg e.V., Nov. 30 – Dec. 1, 2007. Transcript of the working group meetings.

now – does not provide a suitable battle cry. It supplies direction and a nuanced analysis of the circumstances. The commons debate offers not a blueprint but a programmatic bracket, a new vision.

Conclusion

When we reflect on the commons, it expands the classic dichotomies of the haves and have-nots, of owners and non-owners, of public and private to include the missing third element: the participants, co-owners, and citizens within their communities. Awareness of co-ownership – as a relationship of responsibility and participation by *everyone* – contrasts with the fundamental (social) division into owners and non-owners.

The discussion on rights to access and use the common pool resources is based on questions that are constituent to all social systems – regardless of whether those systems are agriculturally, industrially, or post-industrially structured. The commons debate also picks up on the motives of political action taken by both the progressive and conservative camps, which are embedded in the history of ideas. What the conservatives perceive as protecting creation, is viewed in the leftist tradition as defending collective ownership against private appropriation.

In the search for a modern, progressive political program, the commons debate also makes possible an alliance-building and, exceptionally productive link between milieus which otherwise share little in common. We refer to all milieus which are coalescing around concepts such as sustainability, knowledge society, democracy, and fairness. They offer new approaches under the changed conditions.

The concept has the potential to evolve into a new, big story: for a future of social cohesion, supported by ties to our natural, social, and cultural resources.